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Ministry of Justice

**LAW ON SEIZURE AND
CONFISCATION OF THE PROCEEDS
FROM CRIME**

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Prepared by: Javna ustanova / Public Agency *Jugoslovenski pregled /Yugoslav Survey*
Dečanska 8, Beograd; Phone/Fax: + 381 11 / 32 33 610, 32 32 295; 32 41 953, 32 40 291;P.O.B. 80
www.pregled-rs.rs • www.survey-rs.rs • e-mail: info@pregled-rs.rs

LAW ON SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME

I BASIC PROVISIONS

Article 1

This Law shall govern the requirements, the procedure and the authorities responsible for tracing, seizing/confiscating and managing the proceeds from crime.

Article 2

Provisions of this Law shall apply to the following criminal offences:

- 1) Organised crime;
- 2) Showing pornographic material and child pornography (Article 185, paragraphs 2 and 3 of the Criminal Code);
- 3) Against economy (Article 223 paragraph 3, Article 224 paragraph 2, Article 225 paragraph 3, Article 226 paragraph 2, Article 229 paragraphs 2 and 3, Article 230 paragraph 2, and Article 231 paragraph 2 of the Criminal Code);
- 4) Unlawful production, keeping and distribution of narcotics (Article 246 paragraphs 1 and 2 of the Criminal Code);
- 5) Against public peace and order (Article 348 paragraph 3, and Article 350 paragraphs 2 and 3 of the Criminal Code);
- 6) Abuse of office (Article 359 paragraph 3, Article 363 paragraph 3, Article 364 paragraph 3, Article 366 paragraph 5, Article 367 paragraphs 1 through 3, 5 and 6, and Article 368 paragraphs 1 through 3, and 5 of the Criminal Code);
- 7) Against humanity and other goods protected by international law (Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Article 379 paragraph 3, Articles 388 through 390, and Article 393 of the Criminal Code).

Provisions of this Law shall apply to criminal offences provided under Article 185 paragraphs 2 and 3, Article 230 paragraph 2, Article 348 paragraph 3, Article 350 paragraphs 2 and 3, Article 366 paragraph 5, Article 367 paragraphs 1 through 3, 5 and 6, Article 368 paragraphs 1 through 3, and 5, Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Articles 388 through 390, and Article 393 of the Criminal Code if the material gain acquired from crime, that is, the value of objects acquired from crime exceeds the amount of one million five hundred thousand dinars.

Article 3

The following terms in this Law shall mean:

- 1) "Assets" shall denote goods of any kind, tangible or intangible, movable or immovable, estimable or of inestimably great value, and instruments in any form evidencing rights to or interest in such good. Assets shall also denote revenue or other gain generated, directly or indirectly, from a criminal offence as well as any good into which it is transformed or which it is mingled with.
- 2) "Proceeds from crime" shall denote assets of an accused, cooperative witness or bequeather being manifestly disproportionate to his/her lawful income.
- 3) "The accused" shall denote a suspect, a person against whom criminal proceedings are instituted or a person convicted for a criminal offence constituted under Article 2 of this Law.
- 4) "Bequeather" shall denote a person against whom, due to his/her death, criminal proceedings are not instituted or are discontinued, whereas it has been demonstrated in criminal proceedings against other persons that he/she had committed a criminal offence under Article 2 of this Law together with the persons concerned.
- 5) "Legal successor" shall mean an inheritor of a convicted person, cooperative witness, bequeather or inheritors thereof.
- 6) "Third party" shall mean a natural person or a legal entity to which the proceeds from crime have been transferred.
- 7) "Owner" shall refer to an accused person, a cooperative witness, a bequeather, and a legal successor or a third party.
- 8) "Confiscation" shall denote temporary or permanent seizure of the proceeds from crime from the owner.

Article 4

Unless otherwise stipulated by provisions of this Law, the Criminal Procedure Code provisions shall be applied by analogy.

II COMPETENT AUTHORITIES

Article 5

The authorities competent to trace, seize/confiscate and manage the proceeds from crime shall include the public prosecutor, the court, Financial Intelligence Unit of the Ministry of Internal Affairs, and the Directorate for management of seized and confiscated assets.

Jurisdiction of the public prosecutor and the court in the proceedings specified in paragraph 1 of this Article shall be determined pursuant to jurisdiction of the court for the criminal offence wherefrom the assets concerned are derived.

a) Financial Intelligence Unit

Article 6

The Financial Intelligence Unit (hereinafter "Unit") is a specialised organisational unit of the Ministry of Internal Affairs responsible for detecting the proceeds from criminal offences, and performing other tasks in accordance with this Law.

The tasks specified in paragraph 1 of this Article are undertaken by the Unit *ex officio* or at the order of the public prosecutor and the court.

Government and other authorities, organisations and public services are required to extend assistance to the Unit.

Article 7

Minister of Internal Affairs shall pass a separate act on the internal organisation and job classification in the Unit.

Minister of Internal Affairs shall assign Head of the Unit upon acquiring an opinion from the Republic Public Prosecutor.

b) Directorate for Management of Seized and Confiscated Assets

Article 8

The Directorate for Management of Seized and Confiscated Assets (hereinafter "Directorate") is hereby established as a body within the Ministry of Justice to perform the tasks provided for under this Law.

The Directorate shall perform tasks *ex officio* under the competence thereof or at the order of the public prosecutor and the court.

Government and other authorities, organisations and public services are required to extend assistance to the Directorate.

Article 9

The Directorate shall:

- 1) manage the seized/confiscated proceeds from crime, objects resulting from the commission of a criminal offence (Article 87 of the Criminal Code), material gain obtained by a criminal offence (Articles 91 and 92 of the Criminal Code) and assets given as pledge in criminal proceedings;
- 2) conduct professional assessment of the seized proceeds from crime;
- 3) store, safeguard and sell provisionally the seized proceeds from crime and administer funds thus obtained in accordance with the law;
- 4) maintain records of assets managed in terms of paragraph 1, subparagraph 1 of this Article, including the records on court proceedings deciding on such property;
- 5) participate in extending mutual assistance;
- 6) participate in training of civil servants and magistrates on seizure of the proceeds from crime;
- 7) perform other tasks in accordance with this Law.

The Directorate shall perform tasks under paragraph 1 of this Article also in relation to material gain deriving from commercial felony and/or misdemeanour.

Article 10

The Directorate shall have the capacity of a legal person.

The seat of the Directorate shall be in Belgrade.

The Directorate may establish separate organisational units outside its seat.

Article 11

The Directorate shall be managed by a Director, to be appointed and released from office by the Government at the motion of the Minister of Justice.

A person meeting general requirements for service in government authorities, who has graduated from the Law School or the Faculty of Economy, and who has minimum of nine years of professional service may be appointed a Director.

The Director shall have the status of a civil servant in accordance with regulations on civil servants.

The Director may not be a member of any political party.

Provisions of regulations governing matters of conflict of interest shall apply to the Director.

The Director shall be accountable for the work of the Directorate and his work to the Minister of Justice.

Article 12

Regulations on public administration shall apply to the functioning, internal organisation and job classification in the Directorate, whereas regulations on general administrative procedure shall apply to administrative matters.

Regulations on civil servants and appointees shall apply to the rights and duties of the Directorate staff.

Article 13

Funds for the Directorate operations shall be secured from the Budget of the Republic of Serbia and other revenues, in accordance with Law.

Article 14 Supervision of the Directorate operations

shall be conducted by the Ministry of Justice.

III PROCEDURE a)

Financial Investigation

Article 15

Financial investigation shall be instituted against the owner when reasonable grounds exist to suspect that he/she possesses considerable assets deriving from a criminal offence.

During financial investigation evidence shall be collected on assets, lawful income and costs of living of the defendant, cooperative witness or bequeather, evidence of assets inherited by the legal successor, that is, evidence on assets and compensation transferred to the third party.

Article 16

It is the duty of all authorities and persons participating in a financial investigation to act with particular urgency.

Information relating to the financial investigation shall be classified as confidential and shall represent an official secret. In addition to officials such data may not be disclosed by any other person who gets access to such information. An official is required to notify other persons that this information is strictly confidential.

Article 17

Financial investigation shall be instigated at the order of the public prosecutor.

A public prosecutor shall manage such financial investigation.

Evidence specified in Article 15, paragraph 2 hereof shall be collected by the Unit at the request of the public prosecutor or *ex officio*.

Article 18

Search of the apartment and other premises of the owner or other persons may be undertaken upon decision made by the competent court, if evidence specified in Article 15, paragraph 2 of this Law is likely to be found.

Search of the owner or other persons may be undertaken if evidence specified in paragraph 1 of this Article is likely to be found.

Article 19

Objects that may serve as evidence under Article 15, paragraph 2 of this Law shall be provisionally impounded.

Government and other authorities, organisations and public services are required to enable the Unit to conduct inspection, and to transmit information, documents and other objects referred to in paragraph 1 of this Article.

Inspection and transmission referred to in paragraph 2 of this Article may not be denied by invoking the duty of confidentiality in respect of business, official, state and/or military secret.

Article 20

The public prosecutor may order banking or other financial organisation to transmit to the Unit data on the status of the owner's business and private accounts, and safety deposit boxes.

The public prosecutor may by the order specified in paragraph 1 of this Article permit the Unit to undertake automatic data processing on the status of the owner's business and private accounts, and safety deposit boxes.

b) Temporary Seizure of Assets

Article 21

If there is a risk that subsequent seizure of the proceeds from crime could be hindered or precluded, the public prosecutor may file a motion for temporary seizure of assets.

The motion referred to under paragraph 1 of this Article shall contain data on the owner, description and legal qualification of a criminal offence, designation of assets to be seized, proof of assets, circumstances establishing reasonable grounds to suspect that assets derive from a criminal offence, and reasons justifying the need for temporary seizure of assets.

The motion specified under paragraph 1 of this Article shall be decided upon, depending on the phase of proceedings, by the investigating judge, president of the trial chamber and/or the trial chamber conducting the main hearing.

Article 22

Should there be a risk that the owner will make use of the proceeds from crime before the court decides on the motion referred to in Article 21, paragraph 1 of this Law, the public prosecutor may issue an order banning the use of assets, and on temporary seizure of movable assets.

The measure specified in paragraph 1 of this Article shall be in force until ruling of the court on the prosecutor's motion.

The order specified in this paragraph 1 of this Article shall be enforced by the Unit.

Article 23

Prior to the ruling on the motion for temporary seizure of assets the court shall schedule a hearing to which the owner, his/her defence counsel and/or attorney, if any, and the public prosecutor shall be summoned.

The summons shall be delivered to the known address and/or seat of the person specified in paragraph 1 of this Article with a caution that the hearing will be held irrespective of his/her appearance. If the summons has been delivered directly to the owner or his/her defence counsel and/or attorney, it will be considered that the delivery to the owner has been thereby duly performed.

If the summons cannot be delivered in the manner specified under paragraph 2 of this Article, the court shall assign an *ex officio* lawyer to the owner for the purposes of the proceedings on the temporary seizure of assets.

Article 24

The hearing referred to in Article 23, paragraph 1 of this Law shall be held within five days from the day of filing of the motion for temporary seizure of assets. A hearing once commenced shall be concluded without being discontinued.

The public prosecutor shall present evidence on assets in possession of the owner, circumstances regarding reasonable grounds to suspect that the proceeds derive from a criminal offence and circumstances indicating a risk that subsequent seizure thereof would be hindered or prevented.

The owner and his/her defence counsel and/or attorney shall challenge contentions of the public prosecutor.

Article 25

On conclusion of the hearing the court shall pass a decision sustaining or rejecting the motion for temporary seizure of assets.

The decision on temporary seizure of assets shall contain information on the owner, description and legal qualification of criminal offence, information on assets being seized, circumstances giving rise to reasonable grounds to suspect that the assets derive from a criminal offence, reasons justifying the need for temporary seizure of assets and the duration of seizure.

The court may by decision referred to in paragraph 2 of this Article leave the owner a part of the assets if sustenance of the owner or persons he/she is obliged to support in compliance with the provisions of the Law on Enforcement Procedure would be brought into question.

The court shall deliver the decision referred to in paragraph 1 of this Article to the owner, his/her defence counsel and/or attorney, the public prosecutor and the Directorate.

Article 26

The decision referred to in Article 25, paragraph 1 of this Law may be appealed within three days from the day of delivery of the decision.

The appeal shall not stay enforcement specified in Article 25, paragraph 2 of this Law.

The pre-trial chamber and/or a higher instance court shall decide on the appeal against the decision.

Article 27

Temporary seizure of assets may be in force until ruling on the motion for permanent seizure of assets. The court may reconsider the decision thereof in case of death of the owner or if circumstances emerged that would question whether temporary seizure of assets was justified.

c) Permanent Seizure of Assets

Article 28

After legal entry into force of indictment and not later than one year following the final conclusion of criminal proceedings the public prosecutor shall file a motion for permanent seizure of the proceeds from crime.

The motion under paragraph 1 of this Article shall contain information on the defendant and/or the cooperative witness, description and legal qualification of the criminal offence concerned, designation of assets to be seized, evidence on assets in possession of the defendant and/or cooperative witness and lawful income thereof, circumstances indicating a manifest disproportion between assets and income, and grounds justifying the need for permanent seizure of assets. The motion against the legal successor shall contain evidence that he/she has inherited the proceeds from crime, and the motion against the third party shall contain evidence that the proceeds from crime were transferred without compensation or with compensation that is not commensurate with an actual value in order to deter seizure.

The chamber holding the main hearing and/or president of such trial chamber shall decide on the motion specified in paragraph 1 of this Article.

The proceedings for permanent seizure of assets shall be a matter of urgency

Article 29

Should the request under Article 28, paragraph of this Law be filed during the first-instance proceedings the court shall summon the owner to the main hearing to state whether he/she will challenge the motion.

If the owner who was duly summoned fails to appear at the main hearing or fails to give a statement on the motion or he/she states that he/she will not challenge the motion, a decision on the motion shall be passed within the judgement. The decision on the motion may be contested in the appeal against the judgement.

Should the owner state that he/she challenges the motion the decision shall be taken in separate proceedings.

The court shall by a judgement rejecting the indictment or acquitting of charges refuse the motion for permanent seizure of assets and revoke the decision on temporary seizure of assets. The court may transmit the data on assets of the owner's to the relevant tax authority.

Article 30

When the owner states that he/she is challenging the motion specified in Article 28, paragraph 1 of this Law or if the motion has been filed after the final conclusion of criminal proceedings, the court shall conduct the main hearing to rule on the motion.

Prior to the hearing referred to in paragraph 1 of this Article the court shall schedule a preparatory hearing within 30 days from the day of finality of a convicting judgement or from the day of the filing of the motion by the public prosecutor, to make evidence proposals.

Article 31

The court shall summon to the preparatory hearing the owner, his/her attorney, if any, and the public prosecutor. The summons shall be sent to a known address and/or seat of the person summoned, with a caution that the hearing will be held irrespective of his/her attendance.

If the summons has been delivered directly to the owner or his/her attorney, it will be considered that the delivery to the owner has been thereby duly performed. In case the summons cannot be delivered in this manner, the court shall assign an *ex officio* lawyer to the owner for the purposes of the proceedings on the permanent seizure of assets.

The summons will be delivered to the owner allowing minimum eight days between delivery of summons and the date of hearing.

The court shall by means of summons invite the persons referred to in paragraph 1 of this Article to present facts at the preparatory hearing and propose evidence their motion is based on or which they use to challenge the motion of the adverse party.

Following the presentation of evidence referred to in paragraph 4 of this Article, the court shall schedule the main hearing within the period of three months from the day the preparatory hearing was conducted on. If circumstances exist giving rise to an assumption that some evidence cannot be collected within the mentioned period or if evidence should be provided from abroad, the day of the main hearing may be postponed for the maximum of another three months. Upon expiry of the period of six months the main hearing shall be conducted irrespective of failure to collect some evidence.

Article 32

The court shall summon to the main hearing the owner, his/her attorney if any, the public prosecutor and other persons required to attend. The summons shall be delivered to a

known address and/or the seat of the person summoned, with a caution that the hearing shall be held irrespective of their appearance.

The summons shall be delivered to the owner allowing minimum 15 days between the delivery date and the date of the hearing.

Should the public prosecutor fail to attend the hearing the latter shall be postponed. President of the Chamber shall so notify the competent public prosecutor.

Article 33

The main hearing shall commence with presentation of the contents of the public prosecutor's motion. A hearing once commenced shall be concluded without adjournment.

If the motion is directed against the assets of a convicted person and/or a cooperative witness, the public prosecutor shall present evidence on assets owned by the convicted person and/or the cooperative witness, on lawful income thereof, and circumstances indicating a manifest disproportion between the assets and lawful income. The convicted person and/or the cooperative witness, and his/her attorney shall challenge thereafter contentions of the public prosecutor.

If the motion is directed against assets of legal successor or the third party, the public prosecutor shall present evidence that the legal successor has inherited the proceeds from crime and/or that the latter has been transferred to a third party without compensation or with compensation that is manifestly disproportionate to the actual value, to frustrate seizure of assets. The legal successor or the third party and his/her attorney shall challenge thereafter contentions of the public prosecutor.

Article 34

Upon conclusion of the main hearing the court shall pass a decision sustaining or rejecting the motion for permanent seizure of assets.

The ruling on permanent seizure of assets shall contain data on the owner, description and legal qualification of a criminal offence, data on assets to be seized and/or the value being seized from the owner if he/she possessed the proceeds from crime with the objective to frustrate seizure of assets thereof, and the decision on costs for managing temporarily seized assets.

The court may by the ruling specified in paragraph 2 of this Article pass a decision on the property claim of the injured party the existence of which has been determined by a final decision. The court may decide to leave a portion of assets to the owner if the sustenance of the owner or persons he/she is required to support in terms of the Law on Enforcement Procedure would otherwise be brought into question.

The court shall deliver the decision specified in paragraph 1 of this Article to the owner, his/her attorney, the public prosecutor and the Directorate.

Upon receiving the decision specified in paragraph 2 of this Article the Directorate shall without delay undertake measures for safeguarding and maintaining the assets seized. The Directorate shall manage the seized assets until final conclusion of the procedure for permanent seizure of assets.

Article 35

The decision specified in Article 34, paragraph 1 of this Law may be appealed by authorised persons within eight days from the date of delivering the decision.

The appeal shall not preclude the Directorate to proceed in conformity with Article 34, paragraph 5 of this Law.

The appeal against the decision shall be decided upon by a higher instance court.

Article 36

In deliberating the appeal the court may reject the appeal as untimely or disallowed, refuse the appeal as unfounded or sustain the appeal and reverse or revoke the decision and refer the case for reconsideration.

If in the same case the decision has been revoked once, the second-instance court shall schedule a hearing to decide on the appeal, insofar as the decision may not be revoked and the case referred for reconsideration to the first-instance court.

The decision on permanent seizure of assets shall become final where the court rejects as unfounded the appeal filed against said decision or sustains the appeal filed against the decision rejecting the motion for permanent seizure of assets, and passes a decision on permanent seizure of assets.

IV MANAGING SEIZED ASSETS

Article 37

On receiving the decision on temporary and/or permanent seizure of assets the Directorate shall without delay proceed in accordance with Article 9 of this Law.

Until revoking the decision on temporary seizure of assets and/or until final conclusion of proceedings for permanent seizure of assets, the Directorate shall manage the seized assets with due diligence and/or due and reasonable professional care.

Article 38

Records shall be made of seized property that shall include data on the owner, information on assets and the state thereof at the time of takeover, information on the value of assets to be seized (Article 34, paragraph 2), notice whether the assets are temporarily or permanently seized, whether the temporarily seized assets have been retained by the owner or entrusted to another natural person or legal entity (Article 39, paragraphs 3 and 4) as well as other data.

Minister of Justice shall specify the detailed content of the records referred to in paragraph 1 of this Article, and the content and the manner of keeping records on tasks discharged by the Directorate in terms of Article 9, paragraph 1 of this Law.

Article 39

Temporary seizure of assets shall be implemented through analogous application of provisions of the Law on Enforcement Procedure, unless otherwise provided for herein.

The Directorate shall bear the costs incurred during the safeguarding and maintenance of temporarily seized assets.

The Director may decide to leave temporarily seized assets with the owner under the proviso that he/she undertake due diligence in care of the assets. The owner shall bear the costs incurred during the safeguarding and maintenance of the assets concerned.

In justified circumstances the Director may on basis of contract entrust another natural person or legal entity with the managing of temporarily seized assets.

Article 40

Temporarily seized objects of historical, artistic and scientific value shall be handed over for safeguarding by the Directorate to institutions competent for safeguarding of such objects until ruling on the motion for permanent seizure of assets.

Temporarily seized foreign currency and foreign cash holdings, objects of precious metals, precious or semi-precious stones and pearls shall be handed over by the Directorate to the National Bank of Serbia for safekeeping until ruling on the decision specified in paragraph 1 of this Article.

The Directorate shall conclude a contract with competent institutions and/or the National Bank of Serbia on the safekeeping of the objects referred to in paragraphs 1 and 2 of this Article.

Article 41

If movable or immovable assets have been temporarily seized from the owner the Directorate may offset essential safeguarding and maintenance costs for immovable property from money and/or funds obtained by sales of movables.

Should the decision on temporary seizure of assets be revoked, the Republic of Serbia shall bear the costs specified in paragraph 1 of this Article.

Article 42

In order to safeguard the value of temporarily seized assets the Directorate may upon approval of the competent court and without delay sell movables and/or entrust a particular natural person or legal entity to effect the sales procedure.

Unless otherwise specifically stipulated by provisions of this Law, the provisions of the laws governing the enforcement procedure and the enforcement of penal sanctions shall be applied by analogy for the sales procedure of assets specified in paragraph 1 of this Article.

Exceptionally, the court may agree to accept a pledge offered by the owner or another person instead of selling the assets referred to in paragraph 1 of this Article. The levels of the pledge shall be determined taking into account the value of the assets temporarily seized. After the deposit of the pledge, the assets shall be surrendered to the pledge depositor.

Article 43

Sales of assets referred to in Article 41, paragraph 1 and Article 42, paragraph 1 of this Law shall be effected by oral public bidding to be advertised in the "Official Gazette of the Republic of Serbia" and/or other public journal. Perishables and animals may be sold without publishing the oral public bidding.

Movables shall be sold at equal or higher price than evaluated by the Directorate. If the assets were not sold after two oral public biddings the sales may be effected through direct agreement.

Sales of stocks and other securities shall be effected in conformity with regulations governing securities trading.

Article 44

Movables that are not sold within a period exceeding one year may be donated for humanitarian purposes or destroyed.

The decision on donation of assets referred to in paragraph 1 of this Article shall be passed by the Government at the proposition of the Director following an opinion obtained from the Health Minister or the Minister of Social Policy.

The decision to destroy the assets referred to in paragraph 1 of this Article shall be taken by the Director also due to presence of health, veterinarian, phyto-sanitary, safety or other reasons stipulated by law. Assets shall be destroyed under supervision of the Directorate, in accordance with separate regulations.

Costs of destroying shall be borne by the Directorate.

Article 45

Pecuniary funds acquired through sales of assets referred to in Article 42, paragraph 1 of this Law shall be kept on a separate account of the Directorate until revoking of the decision on temporary seizure of assets.

Pecuniary funds referred to in paragraph 1 of this Article shall be used for restitution of assets and compensation of damages and costs specified in Article 44, paragraphs 3 and 4 of this Law. If pecuniary funds are insufficient the outstanding amount shall be paid from the Republic of Serbia budget.

Article 46

Pecuniary funds obtained by sales of assets augmented by *a vista* average interest for the relevant period shall be promptly returned to the owner of temporarily seized assets that in conformity with this law are determined not to derive from any criminal offence.

Pecuniary funds referred to in paragraph 1 of this Article shall be returned by the Directorate *ex officio* or upon request of the owner.

Article 47

The owner to whom pecuniary funds have been returned in accordance with Article 46, paragraph 1 of this Law may within thirty days from the day of return of funds file a claim with the Directorate for compensation of damages resulting from temporary seizure of assets.

If the damage compensation claim is not approved or the Directorate fails to pass a decision thereupon within three months from the day of filing such claim, the owner may file a lawsuit with the competent court for compensation of damages against the Republic of Serbia. If the claim has been approved only in part, the owner may file a lawsuit in respect of the unapproved part of the claim.

Article 48

Assets and pecuniary funds obtained from sales shall become the property of the Republic of Serbia once the decision on permanent seizure of assets becomes final.

Based on decision of the Ministry of Science and/or Culture, permanently seized objects of historical, artistic and scientific value shall be assigned by the Directorate without compensation to institutions competent for safekeeping such goods.

The Government shall pass a decision on handling permanently seized objects specified in Article 40, paragraph 2 of this Law.

Provisions of the law governing the handling of assets in ownership of the Republic of Serbia shall apply to permanently seized immovable assets.

Article 49

Upon deduction of managing costs in respect of seized assets and the payment of damages to the injured party, pecuniary funds obtained by sales of permanently seized assets shall be paid into the Republic of Serbia budget and allocated in the amount of 20% each to finance operations of courts, public prosecutor's offices, the Unit and the Directorate.

Remaining pecuniary funds specified in paragraph 1 of this Article shall be used for financing social, health, educational and other institutions, in accordance with the Government Act.

V MUTUAL ASSISTANCE

Article 50

Mutual assistance aimed at seizing the proceeds from crime shall be granted pursuant to an international agreement.

If such international agreement does not exist or certain issues have not been regulated by an international agreement, mutual assistance shall be granted pursuant to the provisions of this law.

Article 51

Mutual assistance in terms of the provisions of this law shall include extending assistance in tracing the proceeds from crime, ban on disposal, and temporary or permanent seizure of the proceeds from crime.

Jurisdiction of domestic public prosecutor's offices and/or courts in the mutual assistance procedure specified in paragraph 1 of this Article shall be determined through analogous application of corresponding provisions on mutual assistance and enforcement of international treaties in criminal matters.

Article 52

Prerequisites for extending assistance in terms of Article 51 of this Law are that:

- 1) the requested measure not be contrary to fundamental principles of domestic legal system;
- 2) enforcement of request of a foreign authority not be detrimental to sovereignty, public policy or other interests of the Republic of Serbia;
- 3) decision-making within foreign proceedings on permanent seizure of assets meet the standards of a fair trial.

Article 53

The letter rogatory for assistance submitted by a foreign authority in terms of the provisions of this law shall be transmitted to a domestic public prosecutor's office and/or court via the Ministry of Justice. The letter rogatory and/or decisions passed by domestic public prosecutor's offices and/or courts shall be transmitted to a foreign authority in the same manner.

In urgent cases, subject to reciprocity, the request to trace assets, ban disposal and/or to temporarily seize relevant assets may be transmitted through the Unit.

Article 54

The request for assistance in terms of the provisions of this law shall contain as follows:

- 1) title of the authority submitting the letter rogatory;

- 2) information on the person the letter rogatory relates to (name, date and place of birth, citizenship and address), and in case of a legal entity also data on the seat of such legal entity;
- 3) information on assets that are subject of the assistance sought, its connection with the person specified in paragraph 2 of this Article;
- 4) concrete actions to be undertaken and listing of statutory provisions of the requesting state that represent the grounds for undertaking particular coercive measures.

The letter rogatory to trace the proceeds from crime shall, in addition to information specified in paragraph 1 of this Article, also contain circumstances wherefrom reasonable grounds result to suspect that the assets derive from a criminal offence.

The request to ban disposal and/or to temporarily seize the proceeds from crime shall, in addition to information specified in paragraph 1 of this Article, also contain the decision to institute criminal proceedings or the motion for instigating the procedure for permanent seizure of the proceeds from crime from the person referred to in paragraph 1, subparagraph 2 of this Article.

The request for permanent seizure of the proceeds from crime shall in addition to information specified in paragraph 1 of this Article also contain the decision on permanent seizure of the proceeds from crime from the person referred to in paragraph 1, subparagraph 2 of this Article.

Article 55

Upon receiving the letter rogatory mentioned in Article 54 of this Law the public prosecutor and/or the court shall examine whether the prerequisites specified in Article 52 of this Law have been satisfied.

If the letter rogatory does not contain all required elements the foreign authority shall be requested to provide a complete letter rogatory within the maximum period of one month.

Article 56

Upon passing the decision to approve the letter rogatory for tracing the proceeds from crime the public prosecutor shall transmit a request to the Unit to undertake necessary actions aimed at detecting and tracing the assets concerned.

Proceeding in compliance with the letter rogatory specified in paragraph 1 of this Article the Unit shall, in conformity with the provisions of Articles 15 through 20 of this Law undertake measures aimed at finding and securing evidence on the existence, location or movement, nature, legal status or value of the proceeds from crime.

Article 57

If the letter rogatory to ban disposal, for temporary or permanent seizure of assets contains all elements stipulated under Article 54 of this Law the decision shall be passed by the pre-trial chamber of the competent court. The public prosecutor and appointed defence counsel and/or attorney shall be notified of the chamber's session.

If there is a risk that the person specified in Article 54, paragraph 1, sub-paragraph 2 of this Law will make use of the proceeds from crime before the decision on the letter rogatory referred to in paragraph 1 of this Article is passed, the court may order the handling of such property to be banned. This ban shall remain in force until the court decides on the letter rogatory.

Article 58

The court may by decision approve or refuse the letter rogatory specified in Article 57, paragraph 1 of this Law.

The decision on temporary seizure of assets shall contain information specified in Article 25, paragraph 2 of this Law, whereas the decision on permanent seizure of assets shall contain information specified in Article 34, paragraph 2 of this Law.

The court shall transmit the decision specified in paragraph 2 of this Article to the appointed defence counsel and/or attorney, the public prosecutor and the Directorate

Article 59

The decision specified in Article 58, paragraph 1 of this Law may be appealed before a higher instance court.

The appeal against the decision ruling on the letter rogatory for temporary seizure of assets shall be submitted within the period of three days from the day of delivery of the decision, whereas the appeal against the decision ruling on the letter rogatory for permanent seizure of assets shall be submitted within the period of eight days from the day of delivery of the decision.

The appeal shall not stay enforcement of the decision on temporary seizure of assets.

Article 60

Temporary seizure of assets shall be in force until conclusion of criminal proceedings in the requesting state and/or proceedings instituted on the motion for permanent seizure of assets.

If the proceeding referred to in paragraph 1 of this Article is not concluded within the period of two years from the date of issuance of the decision on temporary seizure of assets, the court shall revoke the decision *ex officio*.

The court shall, six months before the period referred to in paragraph 2 of this Article has expired, notify the foreign authority on consequences relating to the elapse of the specified timeline. Exceptionally, should the foreign authority provide required evidence before the elapse of the timeline, the court may pass a decision stating that temporary seizure of assets may be in force not longer than another two years

Safeguarding and maintenance costs of the assets temporarily seized shall be borne by the requesting state.

Article 61

The decision on permanent seizure of assets shall become final once the court has rejected as unfounded the appeal filed against such decision or it has sustained the appeal filed against the decision rejecting the motion for permanent seizure of assets, and passed a decision on permanent seizure of assets.

Permanently seized proceeds from crime shall be administered in accordance with the provisions of this Law unless otherwise determined by an international treaty.

VI TRANSITIONAL AND CLOSING PROVISIONS

Article 62

Minister of Internal Affairs shall issue an act on internal organisation and job classification in the Unit within 30 days from the date of entry into force of this Law.

Following an opinion acquired from the Republic Public Prosecutor, Minister of Internal Affairs shall assign Head of the Unit within 15 days from the date of issuance of the act specified in paragraph 1 of this Article.

Article 63

The Government shall within 45 days from the date of entry into force of this Law designate the Director of the Directorate.

Minister of Justice shall within 45 days from the date of entry into force of this Law issue an act on internal organisation and job classification in the Directorate.

Article 64

Bylaws for implementing this Law shall be enacted within three months from the date of entry into force of this Law.

Article 65

Provisions of this Law shall apply to the criminal offences referred to in Article 2 of this Law, stipulated by the Criminal Code ("Official Gazette of the RS", no. 85/05, 88/05 and 107/05), and/or earlier Basic Criminal Code ("Official Gazette of the SFRY", no. 44/76, 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90 and 54/90, "Official Gazette of the FRY", no. 35/92, 16/93, 31/93, 37/93, 41/93, 50/93, 24/94 and 61/01 and "Official Gazette of the RS", no. 39/03) and the Criminal Code of the Republic of Serbia ("Official Gazette of the SRS", no. 26/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89 and 42/89 and "Official Gazette of the RS", no. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 80/02, 39/03 and 67/03).

Article 66

The provisions of this Law shall not apply to persons who have entered into the status of cooperative witness until the day of entry into force of this Law.

Article 67

This Law shall enter into force on the eighth day of publication thereof in the "Official Gazette of the RS" to be implemented as of 1. March 2009.