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L A W

Nr. 10 192, dated 3.12.2009

ON PREVENTING AND STRIKING AT ORGANISED CRIME, TRAFFICKING, CORRUPTION AND OTHER CRIMES THROUGH PREVENTIVE MEASURES AGAINST ASSETS

(Amended by Law no. 24/2014)

(Amended by Law no. 70/2017)

(Title amended by Law no.70/2017, article 1)

In reliance on Articles 78 and 83, point 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I GENERAL PRINCIPLES AND PROVISIONS

Article 1

Object

(Words added by law no. 70/2017, article 2)

This law defines the procedures, competences and criteria for the implementation of preventive measures against the assets of persons who are subject to this law as suspected of participation in organised crime, trafficking, corruption and in committing other crimes pursuant to the provisions of this law.

Article 2

Purpose

(Words added by law no. 70/2017, article 3)

The purpose of this law is preventing and striking at organised crime, trafficking corruption and other crimes pursuant to the provisions of this law, through the confiscation of the assets of persons who have an unjustified economic level as a result of suspected criminal activity.

Article 3

Field of application

(Amended by Law no.70/2017, article 4)

1. The provisions of this law are applicable for the assets of people, which are possessed completely or partially, directly or indirectly, as provided for in point 2 of this article, for whom there is a reasonable doubt based on indicia for:

- a) the participation and the committing of crimes by armed gangs, criminal organizations and structured criminal group, provided for by Chapter XI of the Criminal Code;
- b) the participation and the committing of crimes by terrorist organizations and crimes for terrorist purposes, provided for by chapter VII of the Criminal Code;
- c) the committing of crimes provided for by articles 109, 109/b, 110/a, 128/b, 278/a, 282/a, 283, 283/a and 284/a of the Criminal Code;
- ç) the laundering of the proceeds of the criminal offence or of the criminal activity, provided for by article 287 of the Criminal Code;
- d) the committing of the crimes provided for in articles 164/a, 164/b, 183, 244, 244/a, 245, 245/1, 256, 257, 257/a, 258, 259, 259/a, 260, 312, 319, 319/a, 319/b, 319/c, 319/ç, 319/d, 319/dh and 319/e of the Criminal Code, in the cases when there are indicia regarding the illegal asset profit.

2. The provisions of this law are applicable even regarding the assets of the people mentioned in paragraph 1 of this article, in the ownership or possessed indirectly by:

- a) relatives (husband, children, the antecedents, the descendants, brothers, sisters, cohabitant) for whom the false registration is presumed, unless proved otherwise;
- b) natural or legal persons, for whom there is sufficient data that their assets or activities are possessed, completely or partially, indirectly by the people mentioned in paragraph 1 of this article or are used, have facilitated or have influenced in a certain form the realization of the illegal activities by them.

3. The presumption of the false registration of the assets and of the economic activities of the persons mentioned in paragraph 1 of this article, in the name of the relatives mentioned in letter a) of paragraph 2 of this article shall apply, when there are useful data, obtained in a lawful way, which create the reasonable doubt on the illegality of the origin of the assets.

4. The sufficient data that the assets or the activities of a natural or legal person referred to in the letter "b" of point 2 of this article, are owned completely or partially, indirectly, by the persons referred to in paragraph 1 of this Article, are coming from the relationship between the natural and legal persons with the persons referred to in paragraph 1 of this Article and from the useful data, obtained in a lawful way, which create the reasonable doubt on the illegality of the origin of assets.

5. The preventive measures may be requested even against the heirs of the person who is the subject of the application of this law, but in any case no later than 5 years from the date of death.

6. This law is applied even for the assets of the people, which have been gained before it entered into force, providing that there are significant indicia for their inclusion in criminal activities at the moment they obtain the asset.

Article 4

Preventive measure

(Amended by Law no. 70/2017, article 5)

In the meaning of this law, a “preventive measure” is any measure of a property nature that the court orders in judicial proceedings through the sequestration of assets, the economic, commercial and professional activities of persons, as well as through their confiscation.

Article 5

Relation to the criminal proceedings

(Point 2 amended by Law no.70/2017, article 6)

1. The procedure of setting out and implementing preventive measures according to this law depends on the condition, level or conclusion of criminal proceedings being conducted against the persons who are subject to this law.

2. The verification, investigation and the adjudication according to this law, are based on the procedural rules of this law and are completed with rules stipulated in the Criminal Procedure Code, pursuant to the case. The data received from the criminal process are used in the procedure provided for by this law.

3. In cases when the assets sequestered or confiscated according to this law are also subject to sequestration or confiscation according to the Criminal Code and the Code of Criminal Procedure, the court orders the suspension of the consequences of the implementation of the measures of sequestration and confiscation according to this law. The suspension ends with the rendering of a criminal judicial decision for the revocation or lapse of those measures.

Article 6

Subject of the investigations

(Title amended by Law no.70/2017, article 7)

(Point 1 amended by Law no. 70/2017, article 7)

(Point 3 added by Law no.70/2017, article 7)

1. The prosecutor undertakes, even through the judicial police, the necessary investigations against the people mentioned in article 3, paragraphs 1 and 2, of this law, on the financial means, assets, economic, trading and professional activities, the economic level and their income resources, as well as the questioning of the people who have information on the facts which are the subject of this law and the conduct of the necessary expertise. When the international judicial assistance is necessary, the international agreements ratified by the Republic of Albania and the relevant procedural provisions are applicable.

2. The verifications are, in particular, done if these persons have permits, licenses, authorisations, concessions and other rights to conduct economic, commercial and professional

activity, as well as to verify whether they benefit contributions, financing or credit of any kind, given by or benefitted from the state, public legal persons or entities, international institutions or bodies, as well as to verify whether the assets, activities or property rights are justified.

3. The investigations mentioned in paragraphs 1 and 2 of this article may be ordered by the prosecutor until the end of the hearing for confiscation.

Article 7

Competence and composition of the court

(Amended by Law no. 70/2017, article 8)

1. The request for the preventive measures to be taken pursuant to this law, shall be reviewed in the first instance by the Courts of the Judicial Districts or by the Anti-Corruption and Organized Crime First Instance Court, respectively, according to the subject competence for the criminal offence committed according to the article 75/a of the Criminal Procedure Code.

2. The request for the preventive measures to be taken shall be reviewed in the second instance by the courts of appeal or the Anti-Corruption and Organized Crime Appeal Court, according to the rule established in the paragraph 1 of this article.

3. The provisions of the paragraph 1 of the article 80 of the Criminal Procedure Code shall be applicable for as long as they are compatible

4. The request for taking the preventive measures under this law shall be reviewed at first instance, by a judge. The appeal against the decision to take preventive measures shall be reviewed by the courts of appeal or the Anti-Corruption and Organized Crime Appeal Court with a panel of three judges.

Article 8

Preliminary verifications

(Words amended to Point 2 by Law no.70/2017, article 9)

1. The prosecutor's office and the judicial police shall be informed about the assets due to be verified according to this law on their own initiative or upon a notification made by third parties.

2. Upon being informed about assets that are to be verified according to this law, the judicial police shall, without delay, refer the fundamental elements of the fact and the data provided by it to the prosecutor in writing.

3. The prosecutor carries out actions himself and through the Judicial Police for the investigation of the financial resources, assets, economic, commercial and professional activities, way of living, as well as the sources of income of the persons being subject to the implementation of this law.

Article 9

Obligation to hand over information and documents

1. The prosecutor may, directly or through the Judicial Police, ask any office of the state administration, public legal person or entity, and other natural and legal persons for data and

copies of documents deemed indispensable for purposes of verifying the assets of the persons provided for in Article 3 of this law.

2. With an authorisation issued by the prosecutor or the court, the officers of the Judicial Police may order the sequestration of the documents examined, according to the rules provided in Articles 208, 209, 210 and 211 of the Code of Criminal Procedure.

Article 10

Competences of the court

(Title amended by Law no.70/2017, article 10)

(Point 1 amended by Law no.70/2017, article 10)

1. Upon the request of the prosecutor, parties or ex officio, the Court orders the necessary investigations to solve the case and may approve the measures determined by special laws.

2. If during the adjudication, the need for international legal assistance arises, the international agreements accepted by the Albanian state, as well as respective procedural provisions, shall be applicable.

CHAPTER II

SEQUESTRATION OF ASSETS

Article 11

Criteria for sequestration of assets

(Entering part of the point 1 amended by Law no.70/2017, article 11)

1. Upon the motivated request of the prosecutor, the court decides on the sequestration of the assets, possessed directly or indirectly, in the full or partial ownership of the people, pursuant to article 3, paragraph 1 of this law, when there is a reasonable doubt, based on indicia which indicates that the person has been involved in a criminal activity and possesses disproportional assets or incomes in proportion with the level of incomes or of the profits from declared legal activities and are not justified by them, and when:

a) there is a real danger of the loss, taking or alienation of the funds, assets or other rights over which the implementation of the measure of confiscation according to the provisions of this law is provided; or

b) there are reasonable suspicions indicating that the possession of the assets and the exercise of the particular economic, commercial and professional activities are in a state of danger or influence by a criminal organisation or that may facilitate criminal activities.

2. The request of the prosecutor for the sequestration of assets contains the indicia on which the reasonable suspicion is based, as well as the reasoning for at least one of the conditions of point 1 of this Article.

Article 12

Sequestration procedure

(Amended by Law no.70/2017, article 12)

1. The request for the sequestration of the asset shall be reviewed by the court in the counselling chamber, within five days from the date of submission, on the basis of the documents and acts submitted by the prosecutor.

2. The decision for a sequestration measure shall be executed upon its announcement. The sequestration measure is valid for a six-month period, starting after the moment of its implementation.

3. In the case of complex verifications, upon the request of the prosecutor or ex officio, the court may decide to extend the time period of implementation of the sequestration measure for six-month periods, but no more than two years from the date of the beginning of the time period stipulated pursuant to paragraph 2 of this article. An appeal against this decision may be filed with the Appeal Court, which decides within 15 days after receiving the acts.

4. No later than 5 days before the end of the time period of the sequestration measure provided for in paragraph 2 or 3 of this article, the court determines a special hearing, notifying the prosecutor, the people mentioned in article 3, paragraphs 1 and 2, of this law and the selected defence lawyer. The request of the prosecutor for the revocation of the sequestration does not hinder the court from confiscating the asset when it deems that the criteria provided for in this law have been fulfilled.

5. When the special hearing, according to paragraph 4 of this article, is not established the court lapses the sequestration measure upon the request of the parties or ex officio. The lapse of the sequestration measure does not hinder the submission and admissibility of a new request for confiscation of the assets.

Article 12/a

Sequestration or confiscation of the equivalent asset

(Added by Law no.70/2017, article 13)

1. The sequestration or the confiscation is decided on monetary means or any other assets in the ownership of the people referred to in article 3 of this law, when after being informed on the investigation against him, the person, against whom the measure is requested, delivers, transfers, abuses with, hides or devaluates the assets to avoid the execution of the measure of its sequestration or confiscation.

2. In the cases provided for in paragraph 1 of this Article, when a third person is in bad faith the assets shall be sequestered or confiscated.

3. The rules provided for in paragraphs 1 and 2 of this article, shall apply to the extent of the value of the assets for which the sequestration or confiscation is imposed, even when it appears that it has been joined with other assets.

4. The rules of the above paragraphs of this article shall apply even if the illegal assets has been incorporated with a legitimate one and cannot be separated from it without causing a substantial damage.

Article 12/b

Revocation of the sequestration

(Added by Law no.70/2017, article 13)

1. The court upon the request of the parties, decides on the revocation of the sequestration of assets even before the time limits provided for in paragraphs 2 and 3 of article

12 of this law,

2. The court decides on the revocation of the sequestration of assets replacing it with equivalent assets, when the parties give the consent and the court considers it appropriate.

Article 13

Court decisions when the sequestration measure is revoked

(Amended by Law no.70/2017, article 14)

1. The decision of the court which settles the revocation of the sequestration pursuant to article 12/b of this law, is transmitted to the Agency of the Administration of the Sequestered and Confiscated of Assets, which notifies the owner of the sequestered assets.

2. The assets are handed over to the owner in compliance with the provisions of the Civil Procedure Code, accompanied with the relevant documentation, which is handed to the owner by the administrator of the assets.

3. The Agency of Sequestered and Confiscated Assets and the administrator of the assets are freed of any responsibility if the owner of the assets having no justified reason fails to appear within 30 days from the date of the notification of the decision for revocation of the sequestration.

4. The revocation of the sequestration measure does not hinder the use of the data and evidence ensured during the investigation for tax purposes.

5. Upon decision of the revocation of the sequestration, the court may decide the obligation on the owner of the assets or on the person, who owns or administers the assets or its parts, to notify the tax administration for a period not less than 5 years from the date when the decision was notified, for the acts of the possession, the buying or the payments that have been received, the professional tasks of the administration or the custody, as well as for other acts or contracts, according to the type and the value determined by the court, depending on the asset and the incomes of the person in any case for a value not less than 2 million leke.

6. The notifications provided for in paragraph 5 of this article shall be carried out within 10 days from the performance of the act, meanwhile for other acts carried out in the preceding year, within January 31 of every year.

7. The profited objects and the payments that have been received, for which the obligation of notification has not been respected, shall be confiscated to the person who does not respect the notification obligations within the time limits stipulated in paragraph 6 of this article, without submitting reasonable grounds.

Article 14

Execution of the sequestration measure

(Amended by Law no.70/2017, article 15)

1. The sequestration decision shall be enforced immediately. The secretary of the court sends without delays to the prosecutor who submitted the request, two copies of the decision. The prosecutor takes measures for the execution of the decision through the judicial police officer and the administrator of the assets.

2. The sequestration is executed:

a) for the movable assets and the monetary amounts, according to the rules stipulated by the Civil Procedure Code in the cases of the repossession of the assets by the debtor or the third party;

b) for the movable or immovable assets in the competent offices for their registration;

c) for the assets of the commercial companies, apart from the mode provided for by this law for any other attached asset even through the registration of the decision in the register of the commercial companies;

ç) for the quotas and the shares, through the publication in the register of the commercial companies and the record in the accounting registers of the company;

3. After the execution order issued by the prosecutor, the judicial police proceeds with the collection of the assets and its delivery to its administrator, even when the people who are impacted by the measure have real or personal rights to enjoy them.

4. The judicial police notifies the sequestration measure of the assets to the people mentioned in article 3, points 1 and 2 of this law. Also, the judicial police notifies the above people about the decision of the court for delaying the timeframe of the sequestration measure

5. When the sequestration measure is imposed against the immovable assets or the assets registered in the public registers, the appointed administrator notifies immediately this measure to the offices where these registers are kept.

6. When the item is kept without an ownership title or based on a title which dates back before the date of the sequestration decision and the owner of the item does not accept to submit it voluntarily, the court orders the eviction of the object. The court order is executed by the judicial police.

7. The inventory and the description of the sequestered assets is carried out by the judicial police and are documented in a report, which is signed by the people who are present. This report includes the elements provided for by article 524 of the Civil Procedure Code.

8. As the administrator receives the sequestered assets, the judicial police submits a copy of the report mentioned in paragraph 7 to the people who were present in the moment of the inventory.

9. The judicial police hands over the sequestered asset to the administrator accompanied with the respective legal documentation, and if it has any, even with the registers of the accounts of the commercial companies.

10. For administration purposes and in the absence of the documentation provided for in paragraph 9 of this article, the administrator makes available the necessary data for the administration of the assets to the legal auditor appointed by the Agency for the Administration of the Sequestered and Confiscated Assets, requesting the drafting of a report. The report is made available for the Agency.

CHAPTER III

ADMINISTRATION OF SEQUESTERED ASSETS

Article 15

Administrator of sequestered assets

(Last part of the sentence repealed by Law no.70/2017, article 16)

1. In the decision of sequestration of assets, the court also nominates, from the list of experts of the Agency of Administration of Sequestered and Confiscated Assets, one or more

administrators. The Agency puts at the disposition of the court, at least once a year, a list of administrators with persons employed or authorised by it, and indicates the criteria of nominating them.

2. Upon request of the administrator, the Agency of Administration of Sequestered and Confiscated Assets may authorise him to ask for the assistance of specialists or other persons, who are compensated for the work done.

Article 16

Duties of the administrator

(Words repealed at the point 2, by Law no. 70/2017, article 17)

1. The administrator has the duty of preserving and administering the sequestered assets. In addition, he has the duty of increasing, if possible, the value of those assets.

2. The administrator appointed by decision of the court for the execution of the sequestration measure and for the administration of the object submits every necessary request to the prosecutor's office, or any other state institution.

3. Even on its own initiative, the court may discharge the administrator from duty, at any time, for incompetence or for failure to fulfil his duty. The request is submitted at the court by the prosecutor on his own initiative or with a motivated proposal of the Agency of Administration of Sequestered and Confiscated Assets.

Article 17

Prohibitions for the administrator

(Point 1 amended by Law no.70/2017, article 18)

(Point 2 and 3 added by Law no.70/2017, article 18)

1. Except for cases when he receives prior authorisation from the court, the administrator is not permitted to take part in the adjudication, to take loans, to sign agreements of conciliation, arbitration, promise, pledge, mortgaging or alienation of the sequestered assets or to perform other legal actions beyond the actions of the ordinary administration.

2. Through the Administration of Sequestered and Confiscated Assets, the administrator submits to the prosecutor, the argued request when he considers that legal actions provided for in paragraph 1 of this article shall be carried out.

3. Upon the request of the prosecutor, the court authorizes the requested actions when it deems it necessary for the preservation of the value of the asset.

Article 18

Reporting of the administrator

(Point 4 added by Law no. 70/2017, article 19)

1. Within 15 days of his appointment, the administrator is obliged to submit to the court a detailed report on the basic elements of the existence and condition in which the sequestered assets are. Subsequently, according to the time periods set by the court, the administrator

submits periodic reports to it about the administration of the sequestered assets, accompanied by the respective documentation if requested.

2. The administrator is also obliged to notify the court about other assets that might be subject to the sequestration measure, on the existence of which he becomes aware during the administration.

3. The administrator is obliged to send the reports specified in points 1 and 2 of this Article at the same time to the prosecutor and the Agency of Administration of Sequestered and Confiscated Assets.

4. The court summons ex officio the Chief administrator of the Agency of the Sequestered and Confiscated Assets, to get information about the administration of the sequestered assets and about any other data which is considered useful for the confiscation decision. The Chief administrator of the Agency may delegate an official, under his subordination to be present in front of the court.

Article 19

Transfer of the real rights for the sequestered assets

(Amended by Law no.70/2017, article 20)

1. For the assets that are damaged, whose value falls considerably or are out of use, ex officio or upon the request of the parties, the court decides to transfer the real rights to the third parties based upon the principles of the well-administration of the assets. The real rights are not delegated to the people provided for in article 3, paragraph 1 and 2 of this law. The court decides after having heard the parties and the evaluating expert.

2. When deciding on the revocation of the sequestration, the court orders the restitution of sequestered property, or its counter-value to the owner, according to the provisions of this law.

Article 20

Paying the expenses of administration

(Amended by Law no.70/2017, article 21)

1. The expenses that are necessary or beneficial for the safekeeping and administration of the sequestered assets are paid out of the funds made available by the administrator, from any legitimate source.

2. If, by administering the sequestered assets, sufficient funds are not gained to cover the expenses under paragraph 1 of this article, they are prepaid by the State through the Agency for the Administration of Sequestered and Confiscated Assets, having the right to return them by the person whose property is sequestered, also in the case of revocation of the sequestration or confiscation.

3. In cases of imposing the measure of confiscation of assets, the expenses incurred in the course of administering those assets by the administrator or the Agency of Administration of Sequestered and Confiscated Properties are included in the accounts of their administration. If the funds of the accounts of administration are not sufficient to meet the payment of these expenses, they are paid, in whole or in part, by the state, without the right to compensation.

3/1 The Agency of Administration of Sequestered and Confiscated Assets is not responsible for the payment of liabilities of the subjects referred to in Article 3, paragraphs 1 and 2 of this law, matured before the sequestration decision, concerning:

- a. costs of maintenance and common administration of the assets;
- b. outstanding payments of electricity, water and phone etc; and
- c. outstanding taxes or tax obligations.

4. When the court orders the revocation of the sequestration measure, the possessor of the assets has the right to ask for the fruits of the assets realized during the administration. He has the right to ask for compensation in the amount of the reduction of the value of the assets or the damage being caused to it.

CHAPTER IV

CONFISCATION OF SEQUESTERED ASSETS

Article 21

Request for the confiscation of assets and burden of proof

(Amended by Law no.70/2017, article 22)

1. The confiscation of assets shall be decided upon the request of the prosecutor who presents to the court the grounds where the request is based on. The court decides after carrying out the judicial investigation and hearing the final discussion of the parties.

The court may decide the confiscation even at the end of the special hearing, provided for in article 12, paragraph 4 of this law.

2. The confiscation of assets is also sought and ordered in cases when a sequestration measure has not been sought and ordered against the assets.

3. The people mentioned in article 3, paragraph 1 of this law have the burden to prove that the activities and the sequestered assets, possessed completely or partially by them, have been gained in a legal way.

4. The persons mentioned in article 3, paragraph 2, letter a) of this law have the burden to prove that the assets for which confiscation is requested, are possessed with an ownership title only by them, have been benefited through legal resources and are not in indirect ownership of the people mentioned in article 3, paragraph 1, of this law.”

5. The persons mentioned in article 3, paragraph 2, letter b) of this law have the burden to prove that the evidence collected during the assets proceeding are insufficient to verify that their activities or assets:

a) are possessed completely or partially, indirectly, by the people mentioned in article 3, paragraph 1 of this law, or

b) have been used, have facilitated or have impacted in a certain way in the realization of the illegal activities by the people mentioned in article 3, paragraph 1 of this law.

Article 22

Judicial procedure of confiscation

(Amended by Law no.70/2017, article 23)

1. During the adjudication of a request for confiscation, the provisions of the Code of Criminal Procedure are applied to the extent possible.

2. Upon request of the prosecutor, the court may also proceed with the adjudication in cases when the person does not have a known residence within the country, has left the country or, despite all the searches made, is not found. In this case, the court orders the failure of finding the person, designating a defence lawyer for him. The defence lawyer may be designated by the court on its own initiative or be selected by the relatives of the person.

3. When during the judicial examination it comes out that the sequestered assets belong to third persons, the court, even on its own initiative, by a reasoned decision, calls them to intervene in the proceedings.

4. Within the time period designated by the court, the third person has the right to present his claims in the hearing, as well as to seek that other necessary data be received. The prosecutor shall carry out any necessary investigation to the effect of verifying these allegations.

5. When it is verified that the assets have been transferred or registered in the name of third parties by fictitious or simulated legal actions, the court finds their invalidity. For this purpose, when the contrary is not proven, the following are also presumed to be fictitious or simulated.

a) transfers and registrations in the name of third parties and with an encumbered title done within two years before the submission of the request to take a preventive measure against the related persons;

b) transfers and registrations in the name of third parties and with a title being free of charge or obviously below the market value done within two years before the submission of the request to take the preventive measure.

Article 23

Duration of the trial of a request for confiscation

(Amended by Law no.70/2017, article 24)

1. Within 3 months from the date of the confiscation request being submitted by the prosecutor or from the initiation of the special hearing under Article 12, paragraph 4 of this Article, the court shall decide on the confiscation.

2. In complex cases, the court may, even ex officio, decide at a later date, however, in any case within one year from the time period provided for in the paragraph 1 of this Article.

Article 24

Acceptance of the request for confiscation

(Amended by Law no.70/2017, article 25)

1. The court decides on the confiscation of assets when all the following conditions are fulfilled:

a) there are reasonable doubts based on indicia for the participation of the person in the criminal activities provided for in article 3, paragraph 1 of this law;

b) it results that the assets are in full or partial possession, directly or indirectly, of the persons referred to in article 3, paragraph 1 of this law;

c) it is not proven that the assets have a legal origin or the persons referred to in article 3 of this law, do not manage to justify the possession of the assets or of the incomes which are disproportionate with the level of incomes or of the profits gained through legal resources declared by them.

2. In any case, the person cannot justify the asset declaring as its resource incomes or reinvestments which originate from the nonpayment of the taxes.

3. In the cases provided for in paragraph 1 of this article, the court decides on the admissibility of the request for the confiscation of the assets even when the charge or the criminal proceeding against the person referred to in paragraph 1 of article 3 of this law is dismissed or he is found innocent, except for the cases when the following is declared in the decision for dismissal or innocence:

- a) the fact does not exist;
- b) the fact is not provided for by law as a criminal offence;
- c) it results that the defendant has not committed the criminal offence.

Article 24/a

Rejection of confiscation

(Added by Law no.70/2017, article 26)

Where the court does not decide on the confiscation of the sequestrated assets, the provisions of Article 13 of this law shall apply.

Article 25

Procedural expenses

(Amended by Law no.70/2017, article 27)

(Point 4 repealed by Law no.70/2017, article 27)

1. In the procedural expenses there are included expenses of sequestration, of administration, of confiscation, of the defence lawyer, as well as every other expense documented according to the law.

2. The expenses for sequestration according to this law are prepaid by the state and paid by the person against whose assets the sequestration of assets is ordered.

3. In its final decision to a request for confiscation, the court sets the obligation for payment of the expenses prepaid by the state.

4. *(Point 4 repealed by Law no.70/2017, article 27)*

5. The court that has rendered the decision decides on complaints about procedural expenses.

CHAPTER V

DECISION, APPEAL AND EXECUTION OF PREVENTIVE MEASURES

Article 26

Elements of the court decision

(Amended by Law no.70/2017, article 28)

The court decision for imposing the preventive measures shall contain:

- a) the court that has rendered the decision;
- b) time and venue of announcement of the decision;
- c) name of prosecutor;
- ç) final allegations and demands of parties;
- d) type of preventive measure and duration, as long as it has been restricted to a time limit;
- dh) type of assets with all the data, serving for its identification, including the location, and any other data being instrumental to identify it;
- e) summarised introduction of the fact and the legal cause of the preventive measure;
- ë) extent of procedural expenditure, their type, and data regarding the person, being imposed on.

Article 27

Appeal

(Point 1 and 2 amended by Law no.70/2017, article 29)

(Point 4 added by Law no.70/2017, article 29)

1. An appeal against a decision of the court for the sequestration of assets, the extension of the time period of the sequestration measure, the revocation or lapse of the sequestration measure may be taken to the court of a higher level, according to the time periods and conditions provided in the Code of Criminal Procedure-

2. An appeal may be taken to a court of a higher level against a decision of the court for the confiscation of assets according to the time periods and conditions provided in the Code of Criminal Procedure.

3. An appeal according to point 1 or 2 of this Article does not suspend the implementation of the decision, unless the law provides otherwise.

4. When the prosecutor submits a complaint against the revocation of the sequestration or against rejection of the request of confiscation, the enforcement of the challenged measure shall be suspended until the issue of the decision by the appeal court.

Article 28

Execution of a decision of confiscation and revocation of sequestration

(Point 4 amended by Law no. 70/2017, article 30)

(Point 5 repealed by Law no. 70/2017, article 30)

(Point 6 amended by Law no. 70/2017, article 30)

1. A decision of the confiscation of assets shall be enforced immediately after the announcement.

2. A decision revoking the measure of the sequestration of assets shall be enforced 15 days after the notification of the interested parties.

3. During the execution of a decision of confiscation, the court that has rendered the decision may issue *in camera* orders for the performance of special actions and the taking of other necessary measures, also determining in them the time periods and manner of performance of the actions and the necessary measures that should be taken.

4. The decision and orders for carrying out special actions shall forthwith be transmitted to the proceeding prosecutor, who supervises the enforcement actions.

5. *(Point 5 repealed by Law no. 70/2017, article 30)*
6. The judicial police shall keep minutes on the enforcement actions, which shall be sent to the court through the prosecutor.

CHAPTER VI USE OF CONFISCATED ASSETS

Article 29

Transfer of confiscated assets to the ownership of the state

(Second sentence of the point 3 repealed by Law no.70/2017, article 31)

(Point 4 added by Law no.70/2017, article 31)

1. Assets confiscated by court decision according to this law shall be assigned to the ownership of the state.
2. A final decision for the confiscation of assets is sent immediately to the Agency of Administration of Sequestered and Confiscated Assets.
3. When a decision of confiscation becomes final, the assets shall be assigned to the ownership of the state in a non-returnable manner.
(Second sentence of the point 3 repealed by Law no.70/2017, article 31).
4. Where the final decision having determined the confiscation is quashed by the higher court and the assets have been returned to the previous possessor by final decision, the latter shall be entitled to ask for compensation under the legislation in force.

Article 30

Competence for the way of using the confiscated assets

1. The Minister of Finance decides on the way of using the assets confiscated according to this law, in conformity with the criteria of Articles 32 and 32, based on the recommendations of the Inter-institutional Advisory Committee of Experts for the Measures against Organised crime and the technical-financial evaluation report of the Agency of Administration of Sequestered and Confiscated Assets.
2. Within 90 days from notification of the judicial decision provided in point 2 of Article 29 of this law, the Agency of Administration of Sequestered and Confiscated Assets submits a report of technical-financial evaluation to the Minister of Finance for every asset confiscated.
3. The Minister of Finance, by order, determines the manner and conditions of use of the immovable assets confiscated and issues accompanying instructions of use within 30 days from the submission of the technical-financial evaluation report, but no later than 120 days from the date of notification of the judicial decision provided in point 2 of Article 29 of this law.

Article 31

Duties of the administrator of confiscated assets

The administrator designated by the court during the phase of sequestration of the assets continues the exercise of duties in the name and for the account of the Agency of

Administration of Sequestered and Confiscated Properties, so long as he has not been replaced by it with another person.

Article 32

Use of monetary means of confiscated assets

(Title amended by Law no.70/2017, article 32)

(Words added to the letter "a" by Law no.70/2017, article 32)

(Letter "c" amended by Law no.70/2017, article 32)

The administrator carries out actions necessary to deliver to the accounts of the Agency of Administration of Sequestered and Confiscated Assets funds in monetary resources:

a) being confiscated which will not be used for the administration of other confiscated assets or which will not be used for the indemnification of the victims of the criminal offences of organised crime and trafficking;

b) being earned out of the sale of movable assets that are not used in the activity of the commercial legal person and of the titles, in net value, earned out of the sale of assets for the indemnification of the victims of organised crime. If the procedures of sale are not economical, the Minister of Finance orders the transfer of ownership without payment or the destruction of the confiscated assets by the administrator;

c) which are benefited from the retaking of personal loans. If the procedure to retake them is not economical or when after the verifications conducted by the Agency of the Sequestered and Confiscated of Assets regarding the debtor's repayment capability, results that he does not have repayment capabilities, the personal loans are annulled pursuant to the procedure provided for in article 30 of this law.

Article 33

Use of immovable assets and those serving for economic, commercial and professional activities

1. On the proposal of the Minister of Finance, the Council of Ministers determines the criteria, amount and manner of use of immovable assets and those that serve for economic, commercial and professional activities, part of the special fund, within the limits of the destination established by this law.

2. In issuing this decision, the Council of Ministers bases itself on the principles of good administration of property, the increase of effectiveness of criminal justice, as well as rehabilitation and fair indemnification.

Article 34

Agency of Administration of Sequestered and Confiscated Assets

1. The Agency of Administration of Sequestered and Confiscated Assets is the institution responsible for the administration of sequestered and confiscated assets.

2. Detailed rules about the organisation, competences and functioning of the Agency of Administration of Sequestered and Confiscated Assets are set by the Council of Ministers.

3. Detailed rules about the criteria of evaluation, the manners and procedures of giving confiscated assets in use and of their alienation are set by the Council of Ministers.

Article 35

Inter-institutional Expert Advisory Committee for Measures against Organised Crime

(Point 1 and 2 amended by Law no. 70/2017, article 33)

1. For the supervision of the administration of confiscated assets by the Agency of Administration of Sequestered and Confiscated Assets, as well as for giving recommendations for the destination of confiscated assets, the Inter-institutional Expert Advisory Committee for Measures against Organised Crime shall be set up and be functioning. This committee meets at the Ministry of Finance.

2. The Committee consists of eight members proposed, respectively, by the Minister of Finance, Minister of Justice, Prosecutor General, the minister being responsible for the law and order issues, minister being responsible for social issues, the Agency of Administration of Sequestered and Confiscated Assets, Judicial Budget Administration Unit, the Chief Registrar of Immovable Properties of the Republic of Albania. The member proposed by the Minister of Finance is the chairman of the committee.

3. Representatives of public institutions or other organisations, local and foreign, active in fields of interest for the implementation of this law, may also be invited to take part in the activities of the committee.

4. The Agency of Administration of Sequestered and Confiscated Assets reports to the committee about its activity at least once every three months.

5. Based on the priorities defined in Article 37 of this law, the committee gives recommendations, which are addressed to the Ministry of Finance, for the effective disposition of the income within the State Budget, also including a recommendation for the payment of the operating expenses of the agency.

6. At least once every six months, the committee asks for information in writing from the central institutions administering them, as well as detailed data on the condition and manner of use of immovable assets from the local units owning confiscated immovable assets.

7. The committee meets at least once every three months. The committee approves the internal rules of its functioning.

Article 36

Periodic reporting to the Council of Ministers

At the end of every fiscal year, the Minister of Finance submits to the Council of Ministers a report about the administration of the assets sequestered and confiscated according to this law.

Article 37

Special fund for the prevention of criminality

(Point 1 amended by Law no. 70/2017, article 33)

(Letter “ç” added in the point 2 me Ligjin nr. 70/2017, neni 34)

1. The proceeds gained from the implementation of this law, shall serve for raising a special fund for preventing criminality and the legal education. The special fund and its amount shall be determined in the budget legislation.

2. This fund serves for:

a) improving the functioning of criminal justice, designating assets in the administration of the General Prosecutor’s Office, of the Special Prosecution Office and of the Ministry of Justice;

b) improving preliminary criminal investigations into organised crime and developing programmes of the protection of witnesses and justice collaborators, designating the assets in the administration of the ministry that covers issues of public order;

c) giving assistance to the victims of organised crime and trafficking, as well as encouraging social programmes for those categories, designating assets in the administration of the ministry that covers social issues.

ç) compensation for the victims of organized crime and trafficking to the extent determined by judicial decision.

3. In addition to the central institutions, the beneficiaries of the financing of projects for the prevention of criminality may also be:

a) the units of local government where the confiscated immovable assets are located;

b) non-profit organisations that have within the scope of their activity the social, cultural and health rehabilitation of vulnerable categories of people, especially those affected or endangered by crime, including therapeutic centres and organisations, centres of re-capacitating and curing users of narcotic substances, as well as centres of assistance and rehabilitation of the victims of trafficking in human beings, which have been conducting such activities in the last three years from submission of the request.

4. The requirements for the financing of projects according to this Article, the verification and preparation of documentation for an opinion in the Inter-institutional Expert Committee for Measures against Organised Crime, as well as following up their implementation, are done by the structures of the Agency of Administration of Sequestered and Confiscated Assets.

5. Relying on the recommendation of the Inter-institutional Expert Committee for Measures against Organised Crimes, the Minister of Finance, by order, determines the financing of a project and the ways of use of the fund made available to the applicant.

6. The part of the fund designated according to point 2 of this Article cannot be used for compensation of functionaries of the beneficiary institutions.

CHAPTER VII

FINAL PROVISIONS

Article 38

Transitional provision

Requests for taking preventive measures submitted by the prosecutor in court before the entry of this law into force continue to be adjudicated according to the rules of this law.

Transitional provision

(Provided by Law no.70/2017, article 35)

1. This law shall be applied to the requests for taking preventive measures being filed by the prosecutor at the competent court after its entry into force.

2. Regarding the assets-relate proceedings at the investigation stage, this law shall start to be implemented with its entry into force.

3. Regarding the assets being obtained prior to the entry of this law into force and bearing a connection to the new criminal offences being added up in Article 3, point 1, the provisions of paragraph 6 of the article 3 of this law shall apply.

4. Until the establishment of the Court against Corruption and Organised Crime, the cases for taking the preventive measures against assets shall be adjudicated by the Serious Crimes Court.

5. Upon the establishment of the Court against Corruption and Organized Crime, the cases under the trial to take preventive measures against assets, shall be transferred at this Court and at the courts of general jurisdiction according to the subject matter competence for the criminal offence committed, according to the article 75/a of the Criminal Procedure Code.

6. Upon the establishment of the Special Prosecution Office against Corruption and Organized Crime, the cases under the investigation to take preventive measures against assets, shall be transferred at this prosecution office and at the prosecution offices of the general jurisdiction according to subject matter competence for the criminal offence committed, according to the article 75/a of the Criminal Procedure Code.

Article 39

Subordinate legal acts

The Council of Ministers is tasked with issuing within three months from the entry of this law into force subordinate legal acts in implementation of Articles 14, 15 point 2, 28 point 4, 33 and 34 of this law.

Article 40

Repeals

Law no. 9284 dated 30.9.2004 “On preventing and clamping down on organised crime,” as well as every other provision that is contrary to this law is repealed.

Article 41

Entry into force

This law enters into force 30 days after publication in the Official Journal.