



ACT AMENDING THE FORFEITURE OF ASSETS OF ILLEGAL ORIGIN ACT (ZOPNI-A)

Article 1

In paragraph (2) of Article 2 of the Forfeiture of Assets of Illicit Origin Act (*Uradni list RS* [Original Gazette of the Republic of Slovenia], No. 91/11), the wording "who are aware or should have been aware of the illegal origin of the assets transferred to them" shall be deleted.

Article 2

In point 5 of Article 4, the wording "is aware or should have been aware that the assets in question had been acquired illegally" shall be deleted.

Point 9 shall be amended to read as follows:

"9. "Owner" shall mean a person who has a property right or is recognised as the holder of a property right in legal transactions."

Article 3

Paragraph (1) of Article 5 shall be amended to read as follows:

"(1) The assets shall be deemed to be of illegal origin unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner."

In paragraph (2), after the word "persons", the words "against whom the proceedings under this Act are instituted" shall be added, and the words "referred to in the preceding paragraph" shall be deleted.

Article 4

At the end of paragraph (1) of Article 7, the full stop shall be replaced by a comma and the words "in cooperation with the competent state prosecutor of the Specialised Office of the State Prosecutor of the Republic of Slovenia (hereinafter: the SDT RS)" shall be added.

After paragraph (1), a new paragraph (2) shall be added to read as follows:

"(2) The SDT RS shall represent the Republic of Slovenia in its role as the plaintiff in the proceedings for the forfeiture of assets of illegal origin or in connection therewith. In proceedings involving extraordinary legal remedies before the Supreme Court, the Republic of Slovenia shall be represented by the Office of the State Prosecutor General of the Republic of Slovenia."

In the current paragraph (2), which shall be renumbered as paragraph (3), the words "in the preceding paragraph" shall be replaced by the words "in paragraph (1) of this Article".

The current paragraph (3) shall be renumbered as paragraph (4).

Article 5

In point 1 of paragraph (1) of Article 10, the words "is established" shall be followed by the words "or has been established".

In point 2, the wording "which also must include substantiated reasons for the suspicion stated in the criminal information" shall be deleted.

After paragraph (1), new paragraphs (2) and (3) shall be added to read as follows:

"(2) A motion for a financial investigation, with substantiated reasons for the suspicion referred to in paragraph (1), may be filed by the Police, the Tax Administration of the Republic of Slovenia (hereinafter: DURS), the Customs Administration of the Republic of Slovenia (hereinafter: CURS), the Commission for the Prevention of Corruption or the Office of the Republic of Slovenia for Money Laundering Prevention.

(3) The competent state prosecutor shall notify DURS, CURS, the Office of the Republic of Slovenia for Money Laundering Prevention, the Commission for the Prevention of Corruption and the Police on the decision to commence a financial investigation."

The current paragraph (2), which shall be renumbered as paragraph (4), shall be amended to read as follows:

"(4) The state prosecutor may, under the conditions referred to in paragraph (1) of this Article, order a financial investigation to be carried out against the person who was the subject of pre-trial or trial proceedings for having committed a listed criminal offence no later than within one year of the date when the judgment of conviction becomes final or following the final discontinuation of criminal proceedings or the dismissal of the criminal complaint."

In the current paragraph (3), which shall be renumbered paragraph (5), the word "alleged" shall be inserted before the words "criminal offence", and the wording "and until the lawsuit under this Act is lodged" shall be added after the word "committed".

The existing paragraph (4) shall be renumbered as paragraph (6).

Paragraph (6) shall be followed by a new paragraph (7) to read as follows:

"(7) If conditions for introducing a financial investigation are not met, the competent state prosecutor shall reject the motion to introduce a financial investigation and inform the entity filing the motion thereon."

Article 6

In paragraph (3) of Article 12, the words "the Customs Administration of the Republic of Slovenia (hereinafter: CURS)" shall be replaced by the word "CURS".

A new paragraph (5) shall be added after paragraph (4) to read as follows:

"(5) The state prosecutor may issue a written order temporarily prohibiting the free use of funds deposited in a specific bank account and of other movable and immovable property of the person under investigation until the court decision is issued, but this for a maximum of 72 hours, and shall notify the competent authorities thereon."

Article 7

In Article 13, the words "the Tax Administration of the Republic of Slovenia (hereinafter: DURS)" shall be replaced by the word "DURS".

Article 8

Paragraph (1) of Article 14 shall be amended to read as follows:

"(1) The head of the competent state prosecutor's office shall be notified by the competent state prosecutor on the introduction of a financial investigation and shall set up a financial investigation team. The competent state prosecutor shall also deliver the order to the head of the SDT RS. The financial investigation team shall be headed by the competent state prosecutor and shall be composed of representatives of the Police, DURS, CURS, the State Attorney's Office, the Office for Money Laundering Prevention, the Commission for the Prevention of Corruption, the Securities Market Agency, the Slovenian Competition Protection Agency or the Court of Auditors, in accordance with the proposal of the competent state prosecutor."

In paragraph (2), the words "and the head of the SDT RS" shall be added after the words "competent state prosecutor's office".

Paragraph (5) shall be deleted.

Article 9

Paragraph (2) of Article 15 shall be amended to read as follows:

"(2) The evidence and other materials obtained during the financial investigation under this Act may be used in pre-trial or trial proceedings only if all the conditions laid down in the act governing criminal procedure have been satisfied in their acquisition."

Article 10

Article 17 shall be followed by a new Article 17(a), which shall read as follows:

"Right to be heard

Article 17(a)

(1) Before lodging a lawsuit under paragraph (1) of Article 26 hereof, the competent state prosecutor shall summon the person under investigation to the state prosecutor's office which has initiated a financial investigation to allow the person under investigation to take a look at the data gathered during the financial investigation. The summons shall cite the reasons for the summoning and the consequences of a failure to attend. If the person under investigation responds to the summons, the state prosecutor shall acquaint him with the results of the financial investigation and his right to be heard on the collected data and submit evidence.

(2) In instances referred to in the preceding paragraph, the competent state prosecutor shall draw up an official note of the hearing, in which he shall record the statement and other allegations of the person under investigation. The official note, signed by the person under investigation and the competent state prosecutor, shall be sent to the court when lodging the lawsuit.

(3) Should the person under investigation fail to respond to the summons, he may not be summoned again."

Article 11

In paragraph (2) of Article 18, the words "DURS and CURS" shall be replaced with the words "DURS, CURS, the Office for Money Laundering Prevention, the Commission for the Prevention of Corruption and the Police".

At the end of paragraph (3), the full stop shall be replaced by a comma and the words "as long as all the conditions laid down by the act governing the criminal procedure have been satisfied" shall be inserted.

Article 12

In the first indent of paragraph (1) of Article 20, the wording "the following conditions have been satisfied:" shall be replaced by the wording "it has been established in pre-trial or trial proceedings that the following conditions have been satisfied:".

Article 13

After paragraph (3) of Article 21, a new paragraph (4) shall be added to read as follows:

"(4) The decision from paragraph (2) of this Article shall be immediately submitted to the competent authority or person in order for it to be enforced. The decision shall be served on the owner and the SDT RS."

In the current paragraph (4), which shall be renumbered as paragraph (5), the words "from among the attorneys" shall be inserted after the word "proxy".

Article 14

In Article 25, the words "and the provisions of the Penal Code concerning the forfeiture of proceeds of crime or proceeds associated with crime" shall be inserted after the words "of criminal proceeds".

Article 15

Paragraph (1) of Article 26 shall be amended to read as follows:

"(1) The civil proceedings for the forfeiture of assets of illegal origin shall commence by a lawsuit brought against the owner as the defendant by the plaintiff."

In paragraph (2), the words "the official note from paragraph (2) of Article 17a hereof" shall be inserted after the word "accompanied by".

After paragraph (2), new paragraphs (3), (4) and (5) shall be added to read as follows:

"(3) The court shall immediately submit a copy of the lawsuit for the forfeiture of assets of illegal origin to DURS.

(4) The costs of representing the plaintiff in the proceedings for the forfeiture of assets of illegal origin or in connection therewith shall be calculated pursuant to the regulation governing attorney fee tariffs.

(5) The plaintiff's advances and costs shall be paid in advance from the budget of the Republic of Slovenia from the funds available to the SDT RS budget user and shall subsequently be

collected from those persons who, pursuant to the provisions of the act governing civil proceedings, are obliged to cover these costs."

Article 16

In paragraph (3) of Article 27, the words "that it is likely" shall be deleted in both instances.

Article 17

Paragraph (1) of Article 28 shall be amended to read as follows:

"(1) If the state prosecutor requests an order for the temporary security or temporary forfeiture of assets or an extension thereof in civil proceedings, the court shall decide on scheduling the hearing within eight business days of receipt of the request. The proposal shall be decided on within eight business days of the hearing being held. If, however, the hearing does not take place, the decision shall be passed within eight business days of receipt of the proposal. The same time limit shall apply to the court's decision on the means of redress."

Article 18

Paragraph (2) of Article 29 shall be amended to read as follows:

"(2) The court shall schedule a main hearing no later than within three months of receipt of the response to the lawsuit."

Article 19

In paragraph (2) of Article 31, a new point 2 shall be added after point 1 to read as follows:

"2. personal name and address of the natural person and/or the name and registered office of the legal entity as defendant,".

The current points 2 and 3 shall be renumbered as points 3 and 4.

In the current point 4, which shall be renumbered as point 5, the word "paragraph (4)" shall be replaced by the word "paragraph (5)".

The current point 5 shall be renumbered point 6.

Article 20

In Article 32, paragraph (1) shall be followed by a new paragraph (2) to read as follows:

"(2) The legal consequences referred to in the preceding paragraph shall not be effective if a judgment is issued before the expiry of the deadline for the submission of a statement on entering into the proceedings."

Article 21

Paragraph (1) of Article 33 shall be amended to read as follows:

"(1) No proceedings on the assessment of property transaction tax or tax on gifts may be commenced after the initiated civil proceedings for the forfeiture of assets of illegal origin that are the subject of a civil claim."

After paragraph (1), a new paragraph (2) shall be inserted to read as follows:

"(2) No enforcement, security, repayment of land debt, bankruptcy or winding-up proceedings or proceedings for the deletion of a legal entity from the companies register without winding-up or dissolution under summary proceedings shall be commenced for the assets that are the subject of a civil claim after the commencement of the legal proceedings for the forfeiture of assets of illegal origin in order to repay validly established claims to the owner of the assets."

A new second sentence shall be inserted in the current paragraph (2), which shall be renumbered paragraph (3), to read as follows: "The decree on the suspension of proceedings shall be passed by Ljubljana District Court."

The current paragraph (3), which shall be renumbered paragraph (4), shall be amended to read as follows:

"(4) From the beginning of the lawsuit until the final court decision, the limitation periods and statutory deadlines for the performance of acts in the proceedings referred to in paragraphs (1) and (2) of this Article shall be suspended."

The existing paragraphs (4) and (5) shall be renumbered as paragraphs (5) and (6).

Article 22

In Article 34, paragraph (1) shall be followed by a new paragraph (2) to read as follows:

"(2) Until the end of the main hearing, the plaintiff may, without the consent of the defendant, modify its lawsuit so as to require the forfeiture of assets which correspond to the value of the assets of illegal origin, or that the defendant be ordered to pay a sum of money corresponding to this value, if due to circumstances that have occurred since the filing of the lawsuit, the forfeiture of assets of illegal origin is no longer possible."

The current paragraph (2) shall be renumbered paragraph (3).

Article 23

In point 1 of Article 37, the text "the Capital Asset Management Agency of the Republic of Slovenia" shall be replaced by the text "the authority responsible for the capital assets management of the Republic of Slovenia, in accordance with the act governing the management of assets owned by the Republic of Slovenia".

Point 5 shall be amended to read as follows:

"5. the authority responsible for the management of state-owned tangible assets – for other real estate."

Article 24

In paragraph (2) of Article 38, the words "to be sold" shall be followed by the words "in accordance with the provision of paragraph (2) of Article 40 of this Act".

Article 25

In paragraph (2) of Article 40, the word "state" shall be followed by a comma and the words "the act governing tax procedure,".

Article 26

In paragraph (2) of Article 41, the word "paragraph" shall be replaced by the word "Article".

Article 27

Paragraph (1) of Article 43 shall be amended to read as follows:

"(1) For the purpose of providing lawful execution of temporary securing and temporary forfeiture of assets of illicit origin and the security of legal transactions, the body responsible for the secure storage and management of temporarily secured and temporarily forfeited assets shall keep a record of the temporarily secured and temporarily forfeited assets of illegal origin.".

In paragraph (2), the words "in accordance with the purposes of the preceding paragraph" shall be added after the second instance of the word "assets.".

In paragraph (3), the words "the records referred to in paragraphs (1) and (2) of this Article" shall be replaced by the words "the records referred to in paragraphs (1) and (2) of this Article in accordance with the purposes of paragraph (1) of this Article".

In paragraph (5), the word "contents" shall be deleted.

Article 28

Article 44 shall be amended to read as follows:

"Content of records

Article 44

(1) The records referred to in the preceding Article shall include the data on the assets that are the subject of security and forfeiture, the data on the owners and holders of other rights to these assets, and the data on the decisions issued in accordance with this Act and on the type, duration and method of asset security and forfeiture.

(2) The records referred to in the preceding Article shall include the following personal and other data on the owners and holders of other rights to the assets that are the subject of security or forfeiture:

- full name;
- data on birth (day, month, year and place);
- personal identification number (EMŠO) or number of identity document for foreign citizens;
- permanent residence or temporary residence address or other legal address;
- tax identification number;
- citizenship;

- data on the legal representative (full name, address, registered name and registered office and legal form);
- data on decisions issued (ref. Nos., issue dates and types of measure);
- data on the type, validity term and method of temporary security and forfeiture of assets;
- data on official notes, debits and other restrictions, warnings or signs relevant for legal transactions or facts of the case;
- data on the type and stage of proceedings;
- data on the value of assets;
- data on the nature of rights enjoyed by other owners in the assets.

(3) The records referred to in the preceding article shall be managed separately depending on the type of temporarily secured and/or temporarily forfeited or permanently forfeited assets and shall contain the following data:

1. Records on agricultural land, farms and forests (lot number of the real property and the cadastral community code where it is located, as entered in the cadastral register);
2. Other real property records (lot number and cadastral community code where it is located, as entered in the cadastral register; identification number of the building/facility or part thereof, as recorded in the buildings cadastre, and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official records of such buildings/facilities; street, house number, town and postcode where the building/facility is located);
3. Movable property records:
 - stocks of goods (lot numbers of real property and cadastral community code where they are located, as entered in the cadastral register; identification number of the building/facility or part thereof, as recorded in the buildings cadastre, and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official records of such buildings/facilities; street, house number, town and postcode where the building/facility is located);
 - equipment (lot number of real property and cadastral community code where it is located, as entered in the cadastral register; identification number of the building/facility or part thereof, as recorded in the buildings cadastre, and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official records of such buildings/facilities; street, house number, town and postcode where the building/facility is located);
 - motor vehicles and rail vehicles, motorcycles, trailers and semi-trailers (number of the vehicle (chassis number), registration code under which the vehicles are entered in the reference register, make, type, category and commercial code, year of manufacture, date of first registration);
 - animals (for bovine animals: identification number under which the animal is entered in the reference register, sex, breed, date of birth; for equine animals: identification number under which the animal is entered in the reference register);

– other movables (type of movable, description, quantity and measurement unit, estimated value);

4. Records of issued securities:

– code type of security, identification data on the issuer, designation of the security as a registered or bearer security, the total number of issued securities entered in the central register; when the security is issued in nominal amount: the total nominal amount of issued securities entered in the central register and the date of the entry of the security in the central register;

– for dematerialised securities, in addition to the data listed in the preceding indent, the following data shall be stated: designation of the class of the security, the face value or indication of a non-par value share, the information about whether the security gives voting rights to its holder; when the security also has the characteristics of a preference share, the content of the holder's preferential right(s) should also be indicated;

5. Records of other financial assets:

– cash (the amount, currency and date of inflow to the account, as determined by the order under Article 42 of this Act, and the amount, currency and date of transfer of accrued interest for each inflow);

– accounts receivable (data on natural or legal person towards whom the claim is established, registration number and/or tax identification number, date of maturity, the calculation of any default interest);

– debt securities and shares and interests in the equity of legal entities;

– other investments in legal entities and other financial instruments (investment funds: name of the fund, identification number of the fund and the number of units held; bonds: the name of the issuer of bonds, the value of bonds, interest);

– data on the amount of forfeited assets, currency, date of transfer to the account of the Public Payments Administration of the Republic of Slovenia and/or the Bank of Slovenia, the amount of accrued interest, and the currency of accrued interest;

6. Records of other temporarily secured, temporarily forfeited and/or permanently forfeited assets (data on their type, quantity and the measurement unit used, and estimated value).".

Article 29

Article 44 shall be followed by a new Article 44(a), which shall read as follows:

"Storage period

Article 44(a)

Data from the records as stipulated in Article 43 of this Act shall be kept for three years after a final decision on the suspension of the financial investigation, a decision on the termination of temporary security or temporary forfeiture of assets of illicit origin, and/or a judicial decision pursuant to Article 34 of this Act; they shall then be deleted.".

Article 30

In paragraph (2) of Article 46, the word "interest" shall be followed by a full stop and the wording "at the average rate of interest paid by the banks for sight deposits in the owner's place of residence" shall be replaced by the wording "The Republic of Slovenia shall transfer to the owner the interest in the amount that was generated during the storage and management of the purchase price."

Article 31

Article 48 shall be amended to read as follows:

"General provision

Article 48

(1) International cooperation for the purposes of this Act shall be carried out in accordance with international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia. If there are no such instruments or they do not resolve any open issues, international cooperation shall be carried out in accordance with the provisions of this Act.

(2) International cooperation within the meaning of the provisions of this Act shall include the provision of assistance in the identification, temporary security or forfeiture of assets of illegal origin.

(3) A request for international cooperation involving assistance in searching for assets of illegal origin abroad shall be compiled by the prosecutor's office leading the financial investigation procedure, whereas after the filing of a lawsuit for the forfeiture of assets of illegal origin, such a request shall be compiled by the SDT RS.

(4) The body responsible for international cooperation in relation to the forfeiture of assets of illegal origin abroad shall be the Office of the State Prosecutor General of the Republic of Slovenia.

(5) The powers of the State Prosecutor's Office and/or the court regarding international cooperation in the search for or temporary security of assets of illegal origin in Slovenia shall be determined in accordance with the regulations governing international legal assistance in criminal matters.

(6) The court responsible for international cooperation in relation to the forfeiture of assets of illegal origin in Slovenia shall be Ljubljana District Court."

Article 32

Article 50 shall be amended to read as follows:

"Transmission of requests for international cooperation

Article 50

Unless international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia determine otherwise, the requests of national and foreign authorities shall be transmitted through diplomatic channels."

Article 33

In paragraph (1) of Article 51, the words "A request" shall be replaced by the wording "Unless international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia determine otherwise, a request".

In paragraph (3), the word "origin" shall be followed by the word "abroad".

Article 34

Article 54 shall be amended to read as follows:

"Implementation of the provision on the forfeiture of assets of illegal origin

Article 54

(1) Assets of illegal origin shall be forfeited in the Republic of Slovenia when the competent authority of a foreign country submits to the court a final decision on the forfeiture of assets of illegal origin in its respective country.

(2) The provisions of the act governing the recognition and enforcement of foreign court decisions in civil matters shall apply to the recognition and enforcement procedure, unless determined otherwise by international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia.

(3) Forfeited assets of illegal origin shall be treated in accordance with the provisions of this Act, unless determined otherwise by international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia."

Article 35

In Article 57, paragraph (1) shall be followed by a new paragraph (2) to read as follows:

"(2) The matters referred to in the preceding paragraph shall not be subject to a time limit from paragraph (4) of Article 10 of this Act."

The existing paragraph (2) shall be renumbered paragraph (3).

TRANSITIONAL AND FINAL PROVISIONS

Article 36

(1) All procedures for the forfeiture of assets of illegal origin in which a lawsuit has been already filed shall be continued and completed under the provisions of the Forfeiture of Assets of Illicit Origin Act (*Uradni list RS*, No. 91/11).

(2) In the procedures referred to in the preceding paragraph, the provision of the new paragraph (2) of Article 34 of this Act shall also be applied.

Article 37

By amending the act governing the State Prosecutor's Office, a special internal organisational unit to legally represent the Republic of Slovenia as the plaintiff in procedures for the forfeiture of assets of illegal origin or in connection therewith shall be set up.

Article 38

The powers of DURS and CURS pursuant to the law shall be transferred to the financial administration as of the date of entry into force of the act governing financial administration.

Article 39

This Act shall enter into force on the fifteenth day following its publication in *Uradni list Republike Slovenije*.

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National Assembly
of the Republic of Slovenia
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