

FORFEITURE OF ASSETS OF ILLEGAL ORIGIN ACT (ZOPNI)

I. INTRODUCTORY PROVISIONS

Contents

Article 1

This Act shall lay down the terms and conditions, the procedure and the responsible authorities for financial investigation, the provision of temporary security of the forfeited assets, the secure storage, management and forfeiture of assets of illegal origin, the responsibilities of the Republic of Slovenia, and the manner in which international cooperation is to be carried out under the procedures of this Act.

Purpose of the Act

Article 2

(1) The purpose of this Act is to prevent the acquisition and use of assets of illegal origin in order to protect the legal acquisition of assets and the economic, social and environmental impact of property resulting from the acquisition of assets in compliance with regulations.

(2) The purpose of this Act referred to in the preceding paragraph shall be achieved by forfeiting the illegally acquired assets of persons who acquire these assets or to whom the assets are transferred free of charge or for consideration that is disproportionate to the actual value of the assets in question, or by forfeiting the illegally acquired assets of persons who are aware or should have been aware of the illegal origin of the assets transferred to them.

Commencement of the procedure

Article 3

Financial investigations under this Act shall be carried out in the event that there are grounds for suspicion in pre-trial or trial proceedings that a person has assets of illegal origin in his possession with a total value exceeding EUR 50,000.

Definitions

Article 4

For the purposes of this Act, the following definitions shall apply:

1. "Assets" shall mean objects and rights that may be subject to enforcement, particularly immovable and financial property as well as all other assets with monetary value, and assets that are directly or indirectly derived from such assets, into which they have been converted or with which they have been blended.
2. "Financial Assets" shall mean cash, accounts receivable, debt securities, shares and interests in the equity of legal entities and other financial instruments.

3. "Suspect", "Accused Person" and "Convicted Person" shall have the same meaning as in the act governing criminal proceedings.
4. "Testator" shall mean a deceased person against whom pre-trial or trial proceedings could not be commenced or have been stopped, but there remain grounds for suspicion that he has committed a criminal offence, or shall mean a person against whom pre-trial or trial proceedings have been stopped due to his death, or for whom there are grounds for suspicion that he has committed a criminal offence.
5. "Legal Successor" shall mean a person who has inherited assets of illegal origin from a Suspect, an Accused Person, a Convicted Person, a Testator or their heirs, if such person is aware or should have been aware that the assets in question had been acquired illegally.
6. "Related Party" shall mean a closely related party, an immediate family member or other natural or legal entity to whom or to which assets of illegal origin have been transferred free of charge or for a consideration that is disproportionate to the actual value of the assets in question, or to whom or to which assets of illegal origin have been transferred fictitiously or blended with its assets.
7. "Closely related party" shall mean a legal entity in which a Suspect, an Accused Person, a Convicted Person, a Testator or a Legal Successor has an equity interest, or a right to an equity interest of at least 25% of the value of the total equity interests, or a right in the form of a voting right or a power of decision to the aforementioned extent, or has a controlling interest in the legal entity on the basis of a contract or by holding a dominant position in the management or control of the legal entity, or for which the conditions for transfer differ from those established among unrelated parties under the same or comparable circumstances.
8. "Immediate family member" shall mean a spouse or person with whom a Suspect, an Accused Person, a Convicted Person, a Testator or a Legal Successor lives in a common law marriage or in a registered same-sex civil partnership, or who is a direct or collateral relative of these persons up to the third degree of kindred, or who is connected with these persons by marriage up to the second degree of kindred, or who is their adoptive parent, guardian, ward or another person with whom they live in a shared household.
9. "Owner" shall mean a Suspect, an Accused Person, a Convicted Person, a Testator or a Legal Successor or a Related Party who possesses assets of illegal origin.
10. "Criminal offence" shall mean a criminal offence defined by the Criminal Code (hereinafter: KZ-1):
 - terrorism (Article 108 of KZ-1);
 - terrorist financing (Article 109 of KZ-1);
 - establishing slavery relations (Article 112 of KZ-1);
 - human trafficking (Article 113 of KZ-1);
 - exploitation through prostitution (Article 175 of KZ-1);
 - the presentation, production, holding and transmitting of pornographic material (paragraphs (2), (3) and (4) of Article 176 of KZ-1);
 - the manufacture and trade of harmful remedies (paragraphs (1), (2) (4) and (5) of Article 183 of KZ-1);

- the manufacture and trade of tainted foodstuffs and other products (paragraphs (1), (2) (4) and (5) of Article 184 of KZ-1);
- the production and trafficking of illicit drugs, illicit drugs used in sport, and precursors for the manufacture of illicit drugs (Article 186 of KZ-1);
- rendering an opportunity for the consumption of narcotic drugs or illicit drugs used in sport (Article 187 of KZ-1);
- the organisation of pyramid schemes and illegal gambling (Article 212 of KZ-1);
- an offence against the economy (Chapter 24 of KZ-1) which may be punishable by imprisonment of up to two years or more;
- the acceptance of bribes (Article 261 of KZ-1);
- giving bribes (Article 262 of KZ-1);
- the acceptance of benefits for illegal intermediation (Article 263 of KZ-1);
- giving gifts for illegal intermediation (Article 264 of KZ-1);
- criminal association (Article 294 of KZ-1);
- the manufacture and acquisition of weapons and instruments intended for the commission of a criminal offence;
- illegal manufacturing and trafficking in arms or explosives (Article 307 of KZ-1);
- other criminal offences committed in a criminal organisation; or
- other premeditated criminal offences punishable by five years or more in prison if they are the source of assets of illegal origin.

Assets of illegal origin Article 5

(1) The assets of a Suspect, an Accused Person, a Convicted Person or a Testator shall be deemed to be of illegal origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner.

(2) Assets shall be presumed not to have been acquired from legal sources of income, that is in a lawful manner, if there is a gross disproportion between the amount of assets and income less taxes and contributions paid by the persons referred to in the preceding paragraph over the period of time in which the assets have been acquired.

(3) The value of the total assets which are owned, possessed, used, enjoyed, held or transferred to related parties by the persons referred to in the preceding paragraph or which have been blended together with the assets of such related parties or which have been passed to the aforementioned persons' legal successors shall be taken into account in determining this disproportion.

Presumption of a gratuitous transfer of assets Article 6

Assets of illegal origin shall be presumed to have been transferred free of charge or for consideration that is disproportionate to the assets' actual value if such assets have been transferred to closely related parties or immediate family members.

Competent authorities
Article 7

(1) Financial investigation proceedings shall be conducted by the public prosecution office, which is responsible for commencing pre-trial or trial proceedings for listed criminal offences.

(2) Decisions in the proceedings of temporary security for the temporary forfeiture and permanent forfeiture of assets of illegal origin shall be made by the court having jurisdiction to decide in the pre-trial or trial proceedings referred to in the preceding paragraph.

(3) Ljubljana District Court shall have the jurisdiction to determine the proceedings for the forfeiture of assets of illegal origin.

Cooperation and provision of information
Article 8

(1) State authorities, holders of public authority, banks and other financial institutions shall provide the required free-of-charge assistance to the competent authorities referred to in Article 7 of this Act and to authorities having the competence to enforce decisions under this Act.

(2) Administrators of official records, registers, public registers and other protected data, information and documents required for the purpose of exercising the powers under this Act shall provide the competent authorities with information free of charge at their request. A request for data, information and documents made by a competent authority shall include the type of information requested, the full name, the date and the place of birth or the personal registration number and information on the place of residence of the owners for whom the information is required, the unique identification number assigned to the case, as well as the appropriate time limit within which the information is to be provided; moreover, it shall also include a notice that the person to whom the information relates shall not be made aware of the disclosure of such information.

(3) The obligation to protect confidential information, trade, bank and professional secrecy shall not apply to the court, state prosecutor's office, other state authorities, holders of public authority, notaries public, banks and other financial institutions and their employees in the provision of the data, information and documents referred to in the preceding paragraph.

Mutatis mutandis application of other regulations
Article 9

(1) The provisions of the act governing criminal proceedings shall apply, *mutatis mutandis*, to the financial investigation procedure, temporary security for the forfeiture and temporary forfeiture of assets of illegal origin.

(2) The provisions of the act governing civil procedure shall apply, *mutatis mutandis*, to the forfeiture proceedings relating to assets of illegal origin unless otherwise provided by this Act.

(3) The provisions of the Penal Code (KZ-1) concerning the forfeiture of proceeds of crime or proceeds associated with crime shall apply, *mutatis mutandis*, to the transfer of assets free of charge or for consideration that is disproportionate to the actual value of the assets, and to the presumption of a gratuitous transfer of assets unless otherwise provided by this Act.

II FINANCIAL INVESTIGATION

Investigation launch Article 10

(1) The state prosecutor shall order a financial investigation once the following conditions have been met:

1. during pre-trial or trial proceedings it is established that there are grounds for suspicion that a Suspect, an Accused Person or a Testator has committed a listed criminal offence;
2. the persons referred to in the preceding point own, possesses, use or enjoy assets in respect of which there are grounds to suspect that these assets are of illegal origin or that they have been held or have been passed to such persons' legal successors or transferred to their related parties or have been blended with the assets of these persons, which shall be indicated in the police criminal information which also must include substantiated reasons for the suspicion stated in the criminal information; and
3. the assets referred to in the preceding point do not relate to the proceeds of crime or proceeds associated with a crime.

(2) The state prosecutor may, under the conditions referred to in point 2 of the preceding paragraph, order a financial investigation to be carried out against the Accused Person for having committed a listed criminal offence no later than within one year of the date when the judgement of conviction becomes final.

(3) The state prosecutor shall issue an order that the person in question be investigated and the period covered by the investigation. The financial investigation may be carried out for a maximum period of five years preceding the year in which the criminal offence was committed.

(4) If grounds for the suspicion of a transfer or passing of assets to related parties arise in the course of the financial investigation, the state prosecutor shall order the investigation to be extended to such related parties as well.

Purpose and scope of financial investigation Article 11

(1) The purpose of financial investigation is to gather the evidence and information required to decide on the temporary security for the forfeiture and temporary forfeiture of assets of illegal origin and to determine whether and against whom the procedure for the forfeiting assets of illegal origin should be commenced.

(2) The following data shall be gathered for the financial investigation purposes:

- data on the amount of assets held by a Suspect, an Accused Person, a Convicted Person or a Testator in proportion to their income less taxes and contributions paid and the amount of assets owned, used, enjoyed or held by such persons in the period covered by the financial investigation;
- the data on the amount of assets referred to in the preceding item that are transferred to related parties or passed on to legal successors in the period covered by the financial investigation and the method of transfer;
- other data which may prove useful for the proceedings or whose acquisition would be appropriate with regard to the circumstances of the case in order to determine the origin, amount and transfer of the assets.

Financial investigation actions Article 12

(1) Financial investigation may be carried out with measures that are permitted under the act governing criminal proceedings in order to obtain the data and evidence necessary to secure the request for the forfeiture of the proceeds of crime or proceeds associated with crime.

(2) A search of the owner's residential and other premises and a personal search of the owner may be performed provided there are the reasonable grounds for suspicion referred to in Article 10 of this Act and that there is a likelihood of discovering assets of illegal origin or traces, objects and evidence that are relevant for the proceedings under this Act during the investigation. A house and personal search may be carried out only by order of the court.

(3) Assets and objects found during the search referred to in the preceding paragraph and assets and objects which are surrendered by the owner himself or which may serve as evidence or be the subject of forfeiture shall be forfeited in accordance with the provisions of the act governing criminal proceedings. The assets that may become the subject of forfeiture shall be placed in the temporary custody of the Customs Administration of the Republic of Slovenia (hereinafter: CURS).

(4) In cases where no forfeiture of assets of illegal origin has yet been ordered, the state prosecutor shall, within eight days of the forfeiture of the assets referred to in the preceding paragraph, request the court issue an order for the temporary security or temporary forfeiture of assets; otherwise the assets shall be returned to the owner.

Directing the financial investigation Article 13

During the financial investigation, the state prosecutor may direct the work of the police, the Tax Administration of the Republic of Slovenia (hereinafter: DURS), CURS, the Office of the Republic of Slovenia for the Prevention of Money Laundering, and other competent state bodies by giving them compulsory instructions, professional opinions and suggestions for gathering intelligence and the performance of other measures within their competence with a view to identifying assets of illegal origin,

determining their value and gathering the information required to issue a decision on temporary security of forfeiture, temporary and permanent forfeiture of assets of illegal origin.

Financial investigation team Article 14

(1) For financial investigation purposes, the head of the competent state prosecutor's office shall establish a financial investigation team *ex officio* upon the written proposal of the police, DURS, CURS and the Office of the Republic of Slovenia for the Prevention of Money Laundering.

At the end of the financial investigation, the head of the team referred to in the preceding paragraph shall prepare a written report and send it, together with the information gathered, to the head of the competent state prosecutor's office. The report shall include detailed information and evidence gathered on the assets for which there are grounds for suspicion that they may be of illegal origin, on the transfers of such assets to related parties, on the related parties' assets, and on the reasons for any temporary security of forfeiture or temporary forfeiture of assets of illegal origin.

(3) The provisions of the act governing claim enforcement and protection and the communication of data on the list of debtor's assets shall apply, *mutatis mutandis*, to the definition of asset details.

(4) The provisions on specialised investigation teams of the act governing criminal proceedings shall apply, *mutatis mutandis*, to the establishment, structure, management and direction of the financial investigation team.

(5) When no financial investigation team is established for investigation purposes, an investigation report written in accordance with paragraphs (2) and (3) of this Article shall be prepared by the competent state prosecutor.

Use of evidence and data Article 15

(1) Other materials obtained for financial investigation purposes during the pre-trial or trial proceedings for a listed criminal offence and data from personal databases whose contents may only be acquired by the state prosecutor's office may also be used as evidence.

(2) The evidence and other materials obtained during the financial investigation under this Act shall not be used in pre-trial or trial proceedings.

Data confidentiality Article 16

(1) The data obtained during a financial investigation shall be confidential.

(2) Officials participating in the proceedings shall call the attention of all persons involved to the duty to keep the data confidential.

Duration of the financial investigation Article 17

(1) The competent authorities shall proceed promptly with the financial investigation process.

(2) A financial investigation may be carried out for no longer than one year. This period may be extended, for objective reasons, by no more than six months by a decision of the competent state prosecutor's office.

Suspension of financial investigation Article 18

(1) If the state prosecutor proposes no temporary security for the forfeiture of assets of illegal origin to the court and brings no action for the forfeiture of such assets within the time limit specified in paragraph (2) of Article 17 of this Act, the financial investigation shall be suspended by order.

(2) The state prosecutor shall notify DURS and CURS of the suspension of the financial investigation.

(3) DURS shall examine the data gathered within three months of receipt of the notification referred to in the preceding paragraph. The state prosecutor may extend the time limit referred to in the preceding paragraph by no more than one year at the request of DURS. The data may be used by DURS as evidence in the tax procedure. In the event that the data prove the suspicion of a criminal offence, DURS shall notify *ex officio* the state office thereof which may then use the data in pre-trial and trial proceedings against the perpetrators of such criminal offences.

(4) If the data are not used by DURS as evidence in the tax procedure or if the suspicion of a criminal offence is not notified to the state prosecutor's office, CURS and the state prosecutor shall return the forfeited assets and objects to the entitled persons on the expiry of the longest of the time limits referred to in the preceding paragraph.

(5) Other data gathered within the framework of the suspended financial investigation shall be destroyed within one month of the expiry of the time limit referred to in paragraph (3) of this Article under the supervision of the investigating judge and subject to the application of the provisions of paragraph (2) of Article 154 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia (Uradni list RS) no. 32/07 – Official Consolidated Text, 102/07 – ZSKZDČEU, 23/08 – ZBPP-B, 68/08, 77/09 in 29/10 – Constitutional Court Decision).

International cooperation Article 19

(1) Where materials need to be obtained from other countries for financial investigation purposes under this Act, the state prosecutor may request such materials directly from the competent authorities of other countries on the basis of an international treaty or on the principle of reciprocity.

(2) The state prosecutor may also use the data received from the competent authorities of other countries for financial investigation purposes without prior request unless this is contrary to an international treaty. The state prosecutor may send the data obtained during the financial investigation to a competent authority of a foreign country without prior request by such authority.

III. TEMPORARY SECURITY OF THE PERMANENT FORFEITURE AND TEMPORARY FORFEITURE OF ASSETS OF ILLEGAL ORIGIN

Conditions for temporary security of forfeiture Article 20

(1) The court shall order temporary security for the forfeiture of assets of illegal origin on the proposal of the state prosecutor provided that the following conditions have been satisfied:

- that there are reasonable grounds to suspect that a Suspect, an Accused Person, a Convicted Person or a Testator has committed a listed criminal offence;
- the data and evidence gathered for the period under financial investigation show a clear discrepancy between the income less taxes and contributions paid by a Suspect, an Accused Person, a Convicted Person or a Testator and the value of assets owned, used, enjoyed or held and transferred to related parties by such persons or passed by such persons to their respective successors;
- that there is a risk of the owner using these assets for criminal purposes, either alone or through other persons, or there is a risk of the owner hiding, disposing, destroying or otherwise holding these assets with a view to preventing or making the forfeiture of these assets more difficult; and
- that the assets which are the subject of the application for temporary security under this Act are not the subject of the security or forfeiture of the proceeds from or relating to a listed criminal offence in accordance with the provisions of the act governing criminal proceedings.

(2) The subject of security under this Act may also be the assets for which temporary security of the forfeiture of the proceeds has been ordered and subsequently revoked if a change to or cancellation of the provisional security ordered in the trial proceedings has remained in force due to a procedure planned to be introduced by the competent tax authority.

Order for temporary security Article 21

(1) Temporary security shall be ordered for a Suspect, an Accused Person, a Convicted Person or a Testator for which there are reasonable grounds to suspect that they hold assets of illegal origin, or for a Legal Successor or a Related Party provided there are reasonable grounds to suspect that the assets of illegal origin have been transferred to such persons.

(1) The court order shall include data on the owner, a description of the acts serving as evidence of a listed criminal offence, the time and place of its commission, and the statutory definition of such criminal offence, the assets that are the subject of security and the method and duration of security. The decision shall be substantiated.

(3) The court shall establish the amount of assets of illegal origin and order security to be provided on the basis of the evidence submitted by the state prosecutor. The court shall not enter into an assessment of the legality of the bases for the acquisition of assets, but shall restrict itself only to an assessment of proportionality on the basis of the data submitted.

(4) If the decision on temporary security cannot be served on the owner of the assets since his address is unknown or cannot be ascertained, the court shall designate *ex officio* a proxy for the temporary security procedure.

Provision of legal and social security

Article 22

(1) If necessary, the court shall allow the person for whom it has ordered temporary security to hold a proportion of assets required for the payment of legal aid costs associated with the proceedings carried out under this Act and which is necessary to provide social security to the person itself and its dependants.

(2) The payment of the costs referred to in the preceding paragraph shall be decided by the court's decision on the proposal of the person for whom the temporary security has been ordered.

(3) The payment of legal aid costs shall be subject, *mutatis mutandis*, to the provisions on lawyer fees for *ex officio* representation in criminal proceedings, and the provision of social security to the provisions on the funds necessary to meet the minimum cost of living requirements.

Duration and termination of temporary security

Article 23

(1) The temporary security under this Act shall be terminated if the state prosecutor of the Specialised State Prosecutor's Office of the Republic of Slovenia fails to submit evidence that he has lodged an action for the forfeiture of assets of illegal origin and proposed an extension of the temporary security in civil procedure.

(2) The time limit referred to in the preceding paragraph may be extended on the proposal of the state prosecutor by no longer than one month if no action to forfeit the assets could be brought and no proposal for extending the temporary security could be made within the time limit specified in the preceding paragraph.

(6) If the state prosecutor lodges an action to forfeit the assets within the time limit specified in the preceding paragraphs and simultaneously requests an extension of the temporary security in civil proceedings, the temporary security shall be extended until the court decides on this request.

(4) If the state prosecutor lodges no action and request to extend the temporary security for the forfeiture of assets of illegal origin in the civil procedure, the court that ordered the temporary security shall issue a decision terminating the security and deliver it to the state prosecutor, the owner and its proxy, authorities responsible for the implementation of security, DURS and CURS.

(5) The decision to terminate the security shall not be implemented until after one month of the date of service of the decision referred to in the preceding paragraph on DURS.

Temporary forfeiture of assets of illegal origin Article 24

(1) At the request of the state prosecutor, the court may also order a temporary forfeiture of all or part of assets of illegal origin in the following cases:

- if there is a serious risk that the value of the owner's assets will be reduced;
- if the risk that the owner could use the assets for the purpose of criminal activity by himself or through other persons cannot be eliminated without accepting the assets in secure storage or management or
- if the risk of the owner using the assets by himself or through other persons in a manner that could prevent forfeiture or make it more difficult cannot be eliminated merely by providing temporary security under this Act.

(2) The state prosecutor may also request a temporary forfeiture of assets of illegal origin after the temporary forfeiture decision has been issued if the reasons referred to in the preceding paragraph only then become evident.

(3) The court shall issue a decision specifying the assets to be temporarily forfeited and to which competent authority the assets are to be entrusted for secure storage and management. This decision shall also take into account the value and type of the assets, the temporary forfeiture requested, and the costs and the risk of temporary forfeiture, secure storage and management.

(4) Unless otherwise provided in this Article, the provisions of this Act relating to the temporary security of forfeiture shall apply, *mutatis mutandis*, to the temporary forfeiture of assets of illegal origin.

Mutatis mutandis application of regulations Article 25

Unless otherwise provided by this Act, the provisions of the act governing criminal proceedings for the provision of temporary security for the forfeiture of criminal proceeds shall apply, *mutatis mutandis*, to the temporary security and temporary forfeiture of assets of illegal origin.

IV. PROCEDURE FOR THE FORFEITURE OF ASSETS OF ILLEGAL ORIGIN

Commencement of the procedure

Article 26

(1) The civil proceedings for the forfeiture of assets of illegal origin shall commence by a lawsuit brought against the owner by a member of the Specialised State Prosecutor's Office of the Republic of Slovenia.

(2) The lawsuit shall include all elements under the act governing civil procedure. The lawsuit shall be accompanied by a written financial investigation report and court decisions on temporary security for the permanent forfeiture or temporary forfeiture of assets of illegal origin issued in accordance with this Act.

Burden of proof

Article 27

(1) During the civil proceedings, the plaintiff shall state the facts and submit the evidence that give rise to the suspicion of the illegal origin of the defendant's assets in accordance with the provisions of this Act.

(2) If the assets of illegal origin have been transferred to a related party, the plaintiff shall also state in the civil proceedings the facts and submit evidence of the transfer carried out free of charge or of consideration that is disproportionate to the actual value of the assets and, in the case of a closely related party or an immediate family member, the facts and evidence that give rise to the presumption of a gratuitous transfer of assets.

(3) The defendant may challenge the presumption referred to in paragraph (2) of Article 5 of this Act if he proves that it is likely that the assets are not of illegal origin, and may challenge the presumption referred to in Article 6 of this Act if he proves that it is likely that he has paid the actual value of the assets.

Temporary security and temporary forfeiture
of assets of illegal origin

Article 28

(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 such request within eight business days of receipt. The same time limit shall apply to the court's decision on the means of redress.

(2) The procedure for temporary security and temporary forfeiture referred to in this Chapter shall be subject to the application, *mutatis mutandis*, of the provisions of the preceding Chapter of this Act and of the act governing claim enforcement and protection.

Promptness of the proceedings

Article 29

(1) The civil proceedings for the forfeiture of assets of illegal origin shall be deemed urgent and treated as a priority.

(2) The court shall schedule a pre-trial or main hearing by no later than within three months of receipt of the response to the lawsuit or of the deadline for filing a response to the lawsuit.

Protection of beneficiaries Article 30

(1) The forfeiture of assets of illegal origin shall have no impact on the rights to this property enjoyed by third parties unless, during the acquisition of such rights, they were aware or should have been aware of the illegal origin of the assets in question.

(2) The court shall verify *ex officio* whether the proceedings involve all third parties who have been identified and whose rights or legal benefits, for which no final judicial decision has yet been made, could be affected by the court's decision. The court shall invite the third parties not involved in the proceedings to submit a statement on entering into the proceedings in accordance with the act governing civil proceedings and a statement on co-defendants and the participation of other persons in the proceedings within one month of receipt of the invitation and shall draw the attention of such third parties to the legal consequences referred to in Article 32 of this Act and the right referred to in paragraph (4) of Article 33 of this Act.

(3) Under the circumstances defined by KZ-1 for the protection of injured parties in the forfeiture of proceeds of crime or proceeds associated with crime, the injured party exercising a claim for indemnification against a Suspect, an Accused Person, a Convicted Person or a Testator in criminal proceedings for a listed criminal offence shall also be deemed a third party referred to in the preceding paragraphs.

(4) In accordance with the provisions of the preceding paragraphs, third party rights to forfeited assets which are established in civil proceedings and which do not preclude the forfeiture of assets of illegal origin shall be exercised in accordance with paragraph (4) of Article 33 of this Act.

Announcement of the commencement of the proceedings Article 31

(1) Immediately upon receipt of the lawsuit for the forfeiture of assets of illegal origin, the court shall notify the unknown third parties referred to in paragraph (1) of Article 30 of the commencement of the forfeiture proceedings.

(2) The notification referred to in the preceding paragraph shall include the following:

1. data on the court conducting the proceedings, the reference number of the case and the assets that are the subject of the proceedings;
2. the operative part of the decision on temporary security for the forfeiture and temporary forfeiture of assets;
3. a call on third parties to submit a statement on the co-defendants and other persons involved in the proceedings within three months of the announcement;

4. a reminder of the legal consequences referred to in Article 32 of this Act and an instruction regarding the right referred to in paragraph (4) of Article 33 of this Act;
5. the date of publication of the announcement.

(3) The announcement shall be published in Uradni list Republike Slovenije and posted on the notice board at the court; however, it may be ordered that the announcement be made through other media as well.

The consequences of missing the deadline Article 32

If the persons referred to in Article 30 or 31 of this Act fail to meet the deadline for the submission of a statement on entering into the proceedings, they shall lose this right as well as the right relating to the property whose origin has been found to be illegal, and the right to challenge the civil effects of a valid court decision on their rights or legal benefits that have not yet been validly decided.

Effect on other proceedings Article 33

(1) No tax, enforcement, security, 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.

(2) The initiated proceedings for the assets referred to in the preceding paragraph that are the subject of a civil claim under this Act shall be suspended until the court has rendered its final judgment on the forfeiture suit.

(3) 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 Act shall be suspended.

(4) The creditors who have initiated the proceedings referred to in paragraph (2) of this Article and the persons whose claims against the owner of the assets or rights to a certain level of repayment from the forfeited assets have been validly established may, within two months of the finality of the judgment on the forfeiture of assets of illegal origin, request the State Prosecutor's Office of the Republic of Slovenia make a repayment from the forfeited assets unless they were or should have been aware of the illegal origin of the assets at the time of acquisition of the entitlement.

(5) If the total amount of claims referred to in the preceding paragraph exceeds the amount of the forfeited assets, the State Prosecutor's Office of the Republic of Slovenia shall, in the course of the proceedings it conducts under the act governing state prosecution, offer repayment in accordance with the rules on the repayment of creditors in bankruptcy proceedings. If the state prosecutor's offer is not accepted, the State Prosecutor's Office of the Republic of Slovenia shall *ex officio* request the court commence bankruptcy proceedings for the forfeited assets in accordance with the

provisions of the act governing financial operations, insolvency proceedings and compulsory winding-up.

Judgment
Article 34

(1) The court shall deliver a judgment granting the claim and establishing that particular assets are of illegal origin, whereupon these assets shall be forfeited and shall become property of the Republic of Slovenia.

(2) If the court refuses the claim, the court shall not abolish temporary security and return the temporarily forfeited assets prior to the expiry of one month after the date of valid service of the decision on DURS.

IMPLEMENTATION OF THE PROVISIONS ON TEMPORARY SECURITY,
TEMPORARY FORFEITURE AND THE FORFEITURE OF ASSETS OF ILLEGAL
ORIGIN

General provision
Article 35

(1) In addition to the provisions of this Act, temporary security for the forfeiture, temporary forfeiture, secure storage and management of temporarily forfeited assets, and the forfeiture of assets of illegal origin shall also be governed by the provisions of the acts in accordance with which the competent authorities shall perform their duties with regard to the type of assets for which security, secure storage, management and forfeiture has been ordered.

(2) Unless otherwise provided by this Act or any other act, the provisions of the act governing claim enforcement and protection shall apply, *mutatis mutandis*, to the implementation of the provisions referred to in the preceding paragraph.

(3) If this Act or any other act contains no provision on the responsibility and competence for the implementation of the provisions of paragraph (1) of this Article, this responsibility shall rest with CURS.

Enforcement of the temporary security decision
Article 36

(1) A court decision prohibiting the free disposal of assets, which is entered into a register or records, shall be carried out by the authority responsible for keeping such register or records.

(2) The court decision prohibiting the fulfilment of obligations shall be carried out by serving it on the person who is prohibited from complying with its obligations.

(3) The court decision permitting temporary security for movable property by placing such property in secure storage shall be carried out by CURS.

(4) Other decisions shall be enforced in the manner determined by the court with due regard to the purpose of the temporary security.

Responsibility for secure storage and management Article 37

The secure storage and management of temporarily secured, temporarily forfeited and permanently forfeited assets of illegal origin shall be the responsibility of the following bodies:

1. the Capital Asset Management Agency of the Republic of Slovenia – for equity securities under the act governing the financial instruments market and equity holdings in companies;
2. The ministry responsible for finance – for other financial assets;
3. CURS, which may also authorise external secure storage service providers – for movable property;
4. the Farmland and Forest Fund of the Republic of Slovenia – for agricultural areas and forests;
5. the Public Real Estate Fund of the Republic of Slovenia – for other real estate.

Secure storage and management of temporarily secured and temporarily forfeited assets Article 38

(1) Competent authorities shall manage the temporarily secured and temporarily forfeited assets with due care and diligence.

(2) If the secure storage or management referred to in the preceding paragraph is associated with disproportionate costs or if the value of assets or objects decreases, the state prosecutor may, on the proposal from a body responsible for the secure storage or management of such assets, request the court to order the assets to be sold, destroyed or donated for the public benefit.

(3) Prior to making the decision referred to in the preceding paragraph, the court shall obtain the opinion of the owner of the assets. If the owner is unknown or cannot be served with a summons to provide his opinion, the summons will be posted on the court's notice board and shall be deemed to have been served within eight days thereof. If the owner fails to deliver his opinion within eight days of service of the summons, he shall be deemed to have consented to the property or objects being sold, destroyed or donated.

Management of forfeited assets of illegal origin Article 39

(1) The management of financial assets shall be subject to the provisions of the act governing public finance and of the act governing capital investments.

(2) The management of physical assets shall be subject to the provisions of the act governing physical assets of the state.

(3) The management of agricultural land, farms and forests shall be subject to the provisions of the act governing the fund of agricultural areas and forests.

Sale of forfeited assets Article 40

(1) The assets forfeited by a valid court decision shall be sold unless otherwise decided by the Government of the Republic of Slovenia at the request of the asset administrator.

(2) Assets shall be sold in accordance with the act governing public finance, the act governing capital investments, the act governing the physical assets of the state and the act governing the fund of agricultural areas and forests.

Costs and revenues Article 41

(1) Funds for covering the costs of security, secure storage, management and sale of the assets that are the subject of temporary security, temporary forfeiture or forfeiture shall be provided from the budget of the Republic of Slovenia.

(2) The proceeds from the sale of the assets referred to in the preceding paragraph shall be budget revenues of the Republic of Slovenia.

Implementing regulation Article 42

The procedure for the secure storage, management and sale of temporarily secured, temporarily forfeited and permanently forfeited assets of illegal origin under this Act shall be determined in greater detail by the Government of the Republic of Slovenia.

VI. RECORDS

Keeping of records of temporarily secured and forfeited assets of illegal origin Article 43

(1) 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.

(2) The body responsible for the management of the forfeited assets shall keep a record of the forfeited assets.

(3) CURS shall keep the central records that combine the records referred to in paragraphs (1) and (2) of this Article. The bodies referred to in paragraphs (1) and (2) of

this Article shall send CURS the data from the records kept in accordance with this Article.

(4) CURS shall send the data referred to in the preceding paragraph to the competent state prosecutor on his request.

(5) The form, contents and method of keeping the records shall be determined in greater detail by the Government of the Republic of Slovenia.

Content of records Article 44

(1) The records referred to in Article 43 of this Act 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 as well as on the type, duration and method of asset security and forfeiture.

(2) The records referred to in Article 43 of this Act shall include the following data on the owners and holders of other rights to the assets that are the subject of security or forfeiture:

- full name and alias, if any;
- date and place of birth;
- residence data;
- personal registration number (EMŠO);
- the tax identification number;
- data on the legal representative.

VII. RESPONSIBILITIES OF THE REPUBLIC OF SLOVENIA

Basis for responsibility Article 45

(1) The owner for whom a temporary security or a temporary forfeiture of assets has been ordered but whose assets have not subsequently been forfeited shall be entitled to a restitution of the assets and to a compensation for the damage caused by unlawful action or violation of due diligence in the exercise of the powers of the relevant bodies under this Act.

(2) Compensation for damage and the restitution of property shall be the responsibility of the Republic of Slovenia.

Rules of restitution Article 46

(1) In the case referred to in Article 45 of this Act, the Republic of Slovenia shall also relinquish crops and any other benefits generated through the management of the temporarily forfeited assets to the asset owner on the restitution of the assets and shall also pay him default interest in accordance with the act governing contractual obligations concerning unjust enrichment.

(2) If the assets or a part thereof are sold during the temporary security or temporary forfeiture period, the Republic of Slovenia shall surrender to the owner the proceeds received from this sale plus accrued interest at the average rate of interest paid by the banks for sight deposits in the owner's place of residence.

(3) The competent authority that kept, managed and sold the assets shall comply with the obligation referred to in the preceding paragraphs within fifteen days of the deadline referred to in paragraph (2) of Article 34 of this Act.

Claims for compensation Article 47

The owner shall lodge a claim for compensation referred to in paragraph (1) of Article 45 of this Act by no later than within three months of the date of restitution of the assets; otherwise, the owner shall lose this right.

VIII. INTERNATIONAL COOPERATION

General provision Article 48

(1) International cooperation for the purposes of this Act shall be carried out in accordance with international agreements. If there is no international agreement that governs this area or resolves 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 and forfeiture of assets of illegal origin.

(3) The powers of the State Prosecutor's Office or the court with regard to international cooperation shall be determined in accordance with the regulations on international legal assistance in criminal matters.

Terms and conditions Article 49

Assistance to the competent authority of a foreign country shall be provided under the following terms and conditions:

1. the requested measure shall not be contrary to the fundamental principles of internal legal order;
2. the implementation of the requested measures shall not harm the sovereignty, legal order or other interests of the Republic of Slovenia;
3. the standards of fair trial shall be applied to asset forfeiture proceedings conducted in a foreign country.

Transmission of requests for international cooperation

Article 50

(1) Depending on the nature of the measure required, requests made by foreign authorities for international cooperation shall be forwarded to the Office of the State Prosecutor General of the Republic of Slovenia or to Ljubljana District Court, which have sole competence for international cooperation matters under this Act.

(2) Depending on the nature of the measure required, the cooperation request by the competent state prosecutor's office or by the court shall be forwarded to the competent authority of a foreign country through the Office of the State Prosecutor General of the Republic of Slovenia or Ljubljana District Court.

The contents of the request

Article 51

(1) A request for international cooperation shall include the following:

1. the name of the body requesting cooperation;
2. data on the person to whom the request relates (full name, date and place of birth, nationality and place of residence) and data on the company and its registered office in the case of a legal entity;
3. data on the assets for which cooperation is requested and their relationship to the person referred to in the preceding point;
4. specific measures to be carried out and the legal framework of the host country as the basis for the exercise of its powers.

(2) In addition to the data referred to in the preceding paragraph, a request for the temporary security of assets of illegal origin shall also specify the circumstances that give rise to valid reasons for a suspicion that the assets are of illegal origin and that pre-trial or trial proceedings have been launched for a listed criminal offence or that a person has been convicted of such criminal offence. The request shall be accompanied by the documents, applications and decisions that gave rise to such circumstances.

(2) A request for the enforcement of a valid court decision to forfeit assets of illegal origin shall be accompanied by a copy of the valid court decision.

Procedure

Article 52

(1) The state prosecutor's office shall verify compliance with all terms and conditions under this Act upon receipt of a request to do so. If the request lacks all the necessary details, the competent authority of a foreign country shall be invited to provide the missing components within a time limit of no less than three months; otherwise, the request shall be rejected.

(2) If the existence and whereabouts of the assets of the person for whom temporary security has been requested need to be determined in order to grant a request, the state prosecutor shall act in accordance with the financial investigation provisions of this Act.

(3) If the granting of the request is subject to the performance of a procedural act which, under this Act, falls within the competence of the court on the state prosecutor's proposal, the request shall be referred to the Specialised State Prosecutor's Office of the Republic of Slovenia. The proposed measure shall be decided on by Ljubljana District Court.

Temporary security of forfeiture of assets of illegal origin Article 53

(1) The court shall either grant or reject the request of the competent authority of a foreign country for temporary security for the forfeiture of assets of illegal origin.

(2) The provisions of this Act shall apply, *mutatis mutandis*, to the decision-making procedure on the request and provision of temporary security.

(3) Temporary security for the forfeiture of assets shall be in force until the valid conclusion of criminal proceedings in the host country or until the conclusion of the proceedings for the forfeiture of assets of illegal origin.

(4) If the proceedings referred to in paragraph (2) of this Article are not completed within two years of the date of the temporary security decision, the temporary security shall be cancelled. The court shall notify the competent body of a foreign country of its intention to return the assets within six months of the expiry of the aforementioned deadline. The court may exceptionally extend the security by no more than two years, provided that the competent authority of a foreign country submits additional evidence. The costs of temporary security of assets shall be borne by the host country.

Implementation of the provision on the forfeiture of assets of illegal origin Article 54

(1) Assets of illegal origin shall be forfeited when the competent authority of a foreign country submits to the court evidence that the proceedings for the forfeiture of assets of illegal origin have been validly concluded 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.

(3) Forfeited assets of illegal origin shall be treated in accordance with the provisions of this Act unless otherwise provided by an international agreement.

IX. TRANSITIONAL AND FINAL PROVISIONS

Implementing regulations Article 55

(1) The Government of the Republic of Slovenia shall adopt the regulation referred to in Article 42 and paragraph (5) of Article 43 of this Act within three months of the effective date of this Act.

(2) The body which has legal authority to harmonise the provisions of the State Prosecutor's Rules and internal regulations with the provisions of this Act shall do so within three months of the effective date of this Act.

Exercise of jurisdiction Article 56

(1) Until Specialised State Prosecutor's Office of the Republic of Slovenia is established, the duties that fall within its competence shall be carried out by the Group of State Prosecutors for the Prosecution of Organised Crime at the Office of the State Prosecutor General of the Republic of Slovenia.

(2) The provision of paragraph (4) of Article 192 of the State Attorney Act (Uradni list RS), no. 58/11 on the exclusive jurisdiction of the Specialised State Prosecutor's Office shall apply to the bringing and representing of an action in proceedings for the forfeiture of assets of illegal origin in accordance with the law.

(3) Until the Public Real Estate Fund of the Republic of Slovenia becomes operational, immovable property shall be managed in accordance with this act by the ministry responsible for public administration.

Application of the act Article 57

(1) This Act shall also apply to the matters in which pre-trial or trial proceedings are initiated prior to its effective date, i.e. after 1 January 1990.

(2) This Act shall also apply to matters in which the final judgment for a listed criminal offence is issued prior to its effective date, i.e. after 1 January 1990.

Final Provision Article 58

This Act shall enter into force on the fifteenth day following the day of its publication in Uradni list Republike Slovenije and shall begin to apply six months after its entry into force.