

LAW
No. 10 192, dated 3.12.2009
ON THE PREVENTION AND COMBATING OF ORGANISED CRIME, TRAFFICKING,
CORRUPTION AND OTHER OFFENCES THROUGH PREVENTIVE MEASURES
AGAINST PROPERTY

(amended by Law no. 24/2014, dated 20.3.2014, no. 70/2017, dated 27.4.2017, 34/2019, dated 17.6.2019, no. 85/2020, dated 2.7.2020)

Pursuant to Articles 78 and 83 point 1 of the Constitution, upon the proposal of the Council of Ministers,

PARLIAMENT
OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I
GENERAL PROVISIONS AND PRINCIPLES

Article 1

Object

(words added by Law no. 70/2017, dated 27.4.2017)

This Law sets out the procedures, competences, and criteria for the implementation of preventive measures against the property of persons who are subject to this Law, as suspects of participation in organized crime, trafficking and corruption, as well as the commission of other offences, according to the provisions of this Law.

Article 2

Purpose

(words added by Law no. 70/2017, dated 27.4.2017)

The purpose of this Law is the prevention and combatting of organized crime, trafficking and corruption, and other offences, according to the provisions of this Law, through the confiscation of the property of persons who have an unjustified economic level, as a result of suspected criminal activity.

Article 3

Scope of application

(letter “d” added to the first paragraph by Law no. 24/2014, dated 20.3.2014 and amended by Law no. 70/2017, dated 27.4.2017)

1. The provisions of this Law apply to the property of persons, which is owned wholly or partially, directly or indirectly, as defined in point 2 of this article, over which there exists a reasonable suspicion, based on indications, of:

- a) participation in and commission of offences by an armed gang, criminal organization, and structured criminal group, as foreseen by Chapter XI of the Criminal Code;
- b) participation in and commission of offences by terrorist organizations and offences for terrorist purposes, as foreseen by Chapter VII of the Criminal Code;
- c) commission of offences provided for in Articles 109, 109/b, 110/a, 128/b, 278/a, 282/a, 283, 283/a, and 284/a of the Criminal Code;

ç) laundering of the proceeds of a criminal offence or criminal activity, as provided for in Article 287 of the Criminal Code;

d) commission of offences 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 cases where there are indications of unlawful property benefit.

2. The provisions of this Law shall also apply to the property of the persons referred to in point 1 of this Article, owned or indirectly possessed by:

a) close relatives (spouse, children, ascendants, descendants, brothers, sisters, cohabitant), for whom false registration is presumed, except when the contrary is proven;

b) natural or legal persons, for whom there is sufficient information that their property or activities are owned, partially or fully, indirectly by the persons referred to in point 1 of this Article, or have been used, have facilitated or have influenced in a certain manner the commission of unlawful activities by them.

3. The presumption of false registration of property and economic activities of the persons referred to in point 1 of this Article in the name of close relatives, mentioned in letter “a” of point 2 of this Article, shall apply when there is useful information, obtained lawfully, that creates a reasonable suspicion regarding the illegality of the origin of the property.

4. Sufficient information that the property or activities of the natural or legal person referred to in letter “b” of point 2 of this Article are owned, partially or fully, indirectly, by the persons referred to in point 1 of this Article, derives from the relationship between the natural and legal person with the persons provided for in point 1 of this Article, and from useful information, obtained lawfully, which creates a reasonable suspicion regarding the illegality of the origin of the property.

5. Preventive measures may also be requested against the heirs of the person subject to the implementation of this Law, but, in any case, no later than 5 years from the date of death.

6. This Law also applies to the property of persons acquired prior to its entry into force, provided that there are significant indications of their involvement in criminal activity at the time the property was acquired.

Article 4

Preventive measures

(amended wording by Law no. 70/2017, dated 27.4.2017)

For the purposes of this Law, a “Preventive measure” is any measure of a property nature, decided by the court in a judicial proceeding, through the freezing of property, economic, commercial, and professional activities of the persons, as well as through their confiscation.

Article 5

Relationship with criminal proceedings

(amended point 2 by Law no. 70/2017, dated 27.4.2017)

1. The procedure for the determination and implementation of preventive measures, according to this Law, is autonomous from the status, stage, or outcome of the criminal proceedings conducted against persons subject to this Law.

2. Verification, investigation, and adjudication, according to this Law, are based on the procedural rules of this Law and are supplemented by rules provided in the Code of Criminal Procedure, as applicable. Data obtained from the criminal process are used in the procedure provided for by this Law.

3. In cases where assets that are seized or confiscated pursuant to this Law are

also subject to seizure or confiscation under the Criminal Code and the Code of Criminal Procedure, the court orders the suspension of the effects of the enforcement of the seizure and confiscation measures under this Law. The suspension ends with the issuance of a criminal court decision for the revocation or termination of these measures.

Article 6

Subject matter of the investigations

(title amended, point 1 amended and points added by Law no. 70/2017, dated 27.4.2017)

1. The prosecutor undertakes, also through the judicial police, the necessary investigations regarding the persons referred to in Article 3, points 1 and 2, of this Law, concerning their financial means, property, economic, commercial, and professional activities, economic level, and sources of income, as well as the questioning of persons who have knowledge of the facts that are the subject matter of this Law and the conducting of necessary expert examinations. When the need for international legal assistance arises, international agreements ratified by the Republic of Albania, as well as the relevant procedural provisions, shall apply.

2. The verifications are carried out, in particular, as to whether these persons are holders of permits, licenses, authorizations, concessions, and other rights to carry out economic, commercial, and professional activities, as well as to verify whether they benefit from contributions, funding, or loans of any kind, granted or obtained from the state, public legal entities, bodies or international institutions, as well as to verify whether the property, activities, or property rights are justified.

3. The investigations referred to in points 1 and 2 of this Article may be ordered by the prosecutor until the conclusion of the confiscation hearing.

Article 7

Jurisdiction and composition of the court

(amended by Law No. 70/2017, dated 27.4.2017)

1. The request for the imposition of preventive measures, pursuant to this Law, is examined at first instance by the district courts or the first instance court against corruption and organized crime, based on the respective subject matter jurisdiction for the committed criminal offence, according to Article 75/a of the Criminal Procedure Code.

2. The request for the imposition of preventive measures is examined at second instance by the courts of appeal or the Court of Appeal against corruption and organized crime, according to the rule set out in point 1 of this Article.

3. The provisions of paragraph 1 of Article 80 of the Criminal Procedure Code shall apply, insofar as they are compatible.

4. The request for the imposition of preventive measures, pursuant to this Law, is examined at first instance by a single judge. The appeal against the decision for the imposition of the preventive measure is examined by the courts of appeal or the Court of Appeal against corruption and organized crime, by a panel composed of three judges.

Article 8

Preliminary verifications

(amended wording in point 2 by Law no. 70/2017, dated 27.4.2017)

1. The prosecution and the judicial police become aware of the property to be verified, according to this Law, on their own initiative or upon notification made by third parties.

2. Upon becoming aware of the assets to be verified, according to this Law, the

judicial police, without delay, refer to the prosecutor, in writing, the essential elements of the fact and the information obtained by them.

3. The prosecutor undertakes actions personally and through the Judicial Police for the investigation of financial means, assets, economic, commercial and professional activities, lifestyle, as well as sources of income of persons who are subject to the implementation of this Law.

Article 9

Obligation to submit information and documents

1. The prosecutor, directly or through the Judicial Police, may request from any office of the state administration, entity or public legal person, or other natural and legal persons, data and copies of documents that are deemed necessary for the purpose of verification regarding the assets of the persons provided for in Article 3 of this Law.

2. Upon authorization issued by the prosecutor or the court, officers of the Judicial Police may impose the seizure of the documents examined, according to the rules provided in Articles 208, 209, 210, and 211 of the Criminal Procedure Code.

Article 10

Powers of the court

(amended the title and point 1 by Law No. 70/2017, dated 27.4.2017)

1. The court, upon the request of the prosecutor, the parties, or ex officio, orders the necessary investigations to resolve the case and may approve the measures defined by special Laws.

2. If during the trial a need for international legal assistance arises, the international agreements accepted by the Albanian state, as well as the respective procedural provisions, shall apply.

CHAPTER II

SEIZURE OF PROPERTY

Article 11

Criteria for the seizure of property

(amended the introductory part of point 1 by Law No. 70/2017, dated 27.4.2017)

1. Upon a reasoned request by the prosecutor, the court orders the seizure of property, owned directly or indirectly, in whole or in part, by persons as provided in Article 3, point 1, of this Law, when there is a reasonable suspicion, based on indications, showing that the person is involved in criminal activity and possesses property or income disproportionate to the level of income or profit from declared Lawful activities and which are not justified by them, as well as when:

a) there exists a real risk of loss, taking, or alienation of funds, property, or other rights, over which the enforcement of the confiscation measure is foreseen, according to the provisions of this Law; or

b) there are reasonable suspicions indicating that the ownership of property and the exercise of certain economic, commercial, and professional activities are in a state of risk or influence by a criminal organization or may facilitate criminal activities.

2. The prosecutor's request for the freezing of property contains the indications 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

Seizure procedure

(amended by Law no. 70/2017, dated 27.4.2017)

1. The request for the seizure of property is examined by the court in the deliberation chamber, within 5 days from the date of submission, based on the documents and acts submitted by the prosecutor.

2. The decision on the seizure measure is enforceable upon its pronouncement. The seizure measure is valid for a period of six months, starting from the moment of its enforcement.

3. In the case of complex verifications, upon the request of the prosecutor or ex officio, the court may decide to extend the period of enforcement of the seizure measure by six-month periods, but not more than two years from the starting date of the period set according to point 2 of this Article. An appeal against this decision may be filed with the court of appeal, which takes a decision within 15 days from the receipt of the acts.

4. No later than 5 days before the expiration of the time period of the seizure measure, as provided for in point 2 or 3 of this Article, the court schedules a special session, notifying the prosecutor, the persons mentioned in Article 3, points 1 and 2, of this Law, as well as the chosen defense counsel. The prosecutor's request for the revocation of the seizure does not prevent the court from deciding on the confiscation of the property when it deems that the criteria provided for in this Law are met.

5. When the special session, according to point 4 of this Article, is not scheduled, the court, upon the request of the parties or ex officio, establishes the termination of the seizure measure. The termination of the seizure measure does not prevent the submission and acceptance of a new request for the confiscation of the property.

Article 12/a

Seizure or confiscation of equivalent property

(added by Law no. 70/2017, dated 27.4.2017)

1. Seizure or confiscation is imposed on monetary means or any other property in the possession of the persons mentioned in Article 3 of this Law, when, after becoming aware of the investigations against him, the person against whom the measure is requested to be imposed alienates, distributes, transfers, dissipates, conceals, or devalues the property, with the purpose of avoiding the execution of the seizure or confiscation measure.

2. In the cases provided for in point 1 of this Article, when the third party is in bad faith, the property is seized or confiscated.

3. The rules provided for in points 1 and 2 of this Article shall apply, up to the value of the property for which seizure or confiscation has been ordered, even when it is established that it has been merged with other property.

4. The rules of the above points of this Article shall also apply when the illicit property has been incorporated with Lawful property and cannot be separated from it without causing substantial damage.

Article 12/b

Revocation of seizure

(added by Law No. 70/2017, dated 27.4.2017)

1. The court, at the request of the parties, shall decide the revocation of the seizure of property even before the deadlines provided for in points 2 and 3 of Article 12 of this Law.

2. The court decides the revocation of the seizure of property, replacing it with property of equivalent value, when the parties give their consent and the court deems it appropriate.

Article 13

The court decision when the seizure measure is revoked

(amended by Law No. 70/2017, dated 27.4.2017, words removed in point 3 by Law No. 85/2020, dated 2.7.2020)

1. The court decision ordering the revocation of the seizure, pursuant to Article 12/b of this Law, shall be forwarded to the Agency for the Administration of Seized and Confiscated Assets, which notifies the owner of the seized property.

2. The restitution of the property to the owner is carried out in accordance with the provisions of the Civil Procedure Code and is accompanied by the relevant documentation, which the administrator of the property hands over to the owner.

3. When, within 30 days from the date of notification of the decision to revoke the seizure, the owner of the property does not appear, without reasonable cause, to take possession thereof, the Agency for the Administration of Seized and Confiscated Assets is released from any liability.

4. The revocation of the seizure measure does not prevent the use, for tax purposes, of data and evidence obtained during the investigation.

5. By the decision to revoke the seizure, the court may order the owner of the property, or the person who uses or administers the property, or part thereof, to notify the tax administration, for a period of not less than 5 years from the date of notification of the decision, of acts of possession, purchase or payments made, payments received, professional duties of administration or guardianship, as well as other acts or contracts, according to the type and value determined by the court, depending on the property and the income of the person, in any case, for an amount not less than 2 million lek.

6. The notifications provided for in point 5 of this article shall be made within 10 days from the performance of the act, whereas for acts committed in the preceding year, by January 31st of each year.

7. A person who fails to comply with the notification obligations within the deadlines set out in point 6 of this article, without presenting reasonable grounds, shall have confiscated, in whole or in part, the items acquired, and the payments received, for which the notification obligation has not been respected.

Article 14

Execution of the seizure measure

(as amended by Law No. 70/2017, dated 27.4.2017, word replaced in points 3, 5 and 9 by Law No. 85/2020, dated 2.7.2020)

1. The seizure decision is enforced immediately. The court secretariat sends, without delay, two copies of the decision to the prosecutor who submitted the request. The prosecutor takes measures for the execution of the decision through the judicial police officer and the administrator of the property.

2. The seizure is executed:

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

b) for movable or immovable property at the competent offices for their registration;

c) for the property of commercial companies, in addition to the method provided by this Law for any other seized property, also by registering the decision in the

commercial companies register;

ç) for quotas and shares, by means of publication in the commercial companies register and entry in the company's accounting records.

3. The judicial police, following the execution order issued by the prosecutor, proceeds with the seizure of the property and its handover to the Agency for the Administration of Seized and Confiscated Assets even when the persons affected by the measure have real or personal rights to enjoy them.

4. The judicial police notifies the persons mentioned in Article 3, points 1 and 2, of this Law of the measure of seizure of property. The judicial police also notifies the aforementioned persons of the court decision to extend the seizure period.

5. When the seizure measure is imposed on immovable property or property registered in public registers, the Agency for the Administration of Seized and Confiscated Assets immediately notifies this measure to the offices where these registers are kept.

6. When the item is held without a title of ownership or on the basis of a title that dates back before the date of the seizure decision and the possessor of the item does not voluntarily surrender it, the court orders the release of the item. The court order is executed by the judicial police.

7. The inventory and description of the seized property are carried out by the judicial police and documented in a report, which is signed by those present. This report contains the elements provided for in Article 524 of the Civil Procedure Code.

8. During the handover of the seized property to the administrator, the judicial police provide a copy of the report referred to in point 7 of this Article to the persons present at the time of the inventory.

9. The judicial police hand over the seized property to the Agency for the Administration of Seized and Confiscated Property, accompanied by the relevant legal documentation and, if applicable, also by the account registers of the commercial company.

10. The property administrator, for the purposes of administration and in the absence of the documentation provided for in point 9 of this Article, makes available to the statutory auditor, appointed by the Agency for the Administration of Seized and Confiscated Property, the necessary data for the administration of the property, requesting the preparation of a report. The report is made available to the agency.

CHAPTER III ADMINISTRATION OF SEIZED PROPERTY

Article 15

Administrator of seized property

(words in point 2 removed by Law no. 70/2017, dated 27.4.2017 and amended by Law no. 85/2020, dated 2.7.2020)

1. On the decision on the seizure of property, the court appoints the Agency for the Administration of Seized and Confiscated Property as the administrator of these assets. The agency makes available to the court the list of administrators employed by them at least once (1) per year and indicates the criteria for their appointment.

2. The Agency for the Administration of Seized and Confiscated Property may request the assistance of experts or other persons, who are compensated for the work performed.

Article 16

Duties of the Agency for the Administration of Seized and Confiscated Property

(words in point 2 repealed by Law no. 70/2017, dated 27.4.2017, title of the article, words in points 1 and 2, and point 3 amended by Law no. 85/2020, dated 2.7.2020)

1. The Agency for the Administration of Seized and Confiscated Property is responsible for preserving and administering the seized property. It is also responsible for increasing, if possible, the value of such property.

2. The Agency for the Administration of Seized and Confiscated Property, for the execution of the seizure measure and for the administration of the item, submits any necessary request to the prosecutor's office or any other state institution.

3. The court or the prosecutor may at any time request information from the Agency for the Administration of Seized and Confiscated Property regarding the manner of administration of the property. This information is provided by the Agency within 10 days from the receipt of the request.

Article 17

Prohibitions for the Agency for the Administration of Seized and Confiscated Property *(amended wording in the first paragraph and two paragraphs added by Law No. 70/2017, dated 27.4.2017, title of the article, wording in the first and second paragraphs, and the third paragraph amended by Law No. 85/2020, dated 2.7.2020)*

Except in cases where prior authorization is obtained from the Interinstitutional Committee for Measures Against Organized Crime, the Agency for the Administration of Seized and Confiscated Property is not permitted to participate in court proceedings, take loans, sign settlement agreements, arbitration, surety, guarantee, mortgage or alienation of the seized property, or perform other legal actions beyond ordinary administration actions.

The Agency for the Administration of Seized and Confiscated Property submits to the Interinstitutional Committee for Measures Against Organized Crime a reasoned request when it deems that legal actions as provided for in the first paragraph of this article must be carried out.

The Interinstitutional Committee for Measures Against Organized Crime decides by decision whether to approve or reject the Agency's request.

Article 18

Reports of the Agency

(point 4 added by Law No. 70/2017, dated 27.4.2017, article title, words in points 1 and 2 and 3 amended by Law No. 85/2020, dated 2.7.2020)

1. Within 15 days from the assignment of the administration of the property, the Agency for the Administration of Seized and Confiscated Property is required to submit to the court a detailed report on the essential elements of the existence and condition of the seized property. Subsequently, at the request of the court, the Agency shall submit to it periodic reports on the administration of the seized property, accompanied, if required, by the relevant documentation.

2. The Agency for the Administration of Seized and Confiscated Property is also required to notify the court about other property that may be subject to the seizure measure, for the existence of which becomes aware of during the administration.

3. The Agency for the Administration of Seized and Confiscated Property is required to simultaneously send the reports specified in points 1 and 2 of this article to the prosecutor as well.

4. The court shall, ex officio, summon the Chief Administrator of the Agency for the Administration of Seized and Confiscated Property to obtain information regarding the administration of the seized property and for any other data it considers useful for the confiscation decision. The Chief Administrator of the Agency may delegate an official under his authority to appear before the court.

Article 19

Transfer of real rights over the seized property

(as amended by Law No. 70/2017, dated 27.4.2017, point 1 amended) by Law No. 85/2020, dated 2.7.2020)

1. For property that is damaged, significantly depreciated, or rendered unusable, upon the request of the Agency for the Administration of Seized and Confiscated Property, the Interinstitutional Committee for Measures Against Organized Crime decides on the transfer of real rights to third parties, based on the principles of proper asset management. Real rights shall not be transferred to the persons specified in points 1 and 2 of Article 3 of this Law. The Committee decides after hearing the parties and the valuation expert.

2. When the court decides to revoke the seizure, it orders the return of the seized property, or its equivalent value, to the owner, in accordance with the provisions of this Law.

Article 20

Covering administration expenses

(amended by Law No. 70/2017, dated 27.4.2017, wording amended by Law No. 85/2020, dated 2.7.2020)

1. The necessary or useful expenses for the preservation and administration of the seized property are covered by funds provided by the Agency for the Administration of Seized and Confiscated Property, from any Lawful source.

2. If, through the administration of the seized property, sufficient funds are not obtained to cover the expenses, according to point 1 of this Article, they are prepaid by the state through the Agency for the Administration of Seized and Confiscated Property, with the right of reimbursement from the person whose property is seized, even in the event of the revocation of the seizure or confiscation.

3. In cases where the measure of confiscation of property is imposed, the expenses incurred for the administration of this property by the administrator or the Agency for the Administration of Seized and Confiscated Property are included in their administration accounts. If the funds in the administration accounts are not sufficient to cover the payment of these expenses, they are paid partially or fully by the state, without the right to reimbursement.

3/1. The Agency for the Administration of Seized and Confiscated Property is not responsible for the payment of the obligations of the entities referred to in Article 3, points 1 and 2, of this Law, accrued prior to the seizure decision, in relation to:

- a) the expenses for ordinary maintenance and administration of the property;
- b) overdue payments for electricity, water, telephone, etc.; as well as
- c) overdue taxes or tax obligations.

4. When the court decides to revoke the seizure measure, the owner of the property has the right to request the proceeds produced by the property during its administration. He has the right to request compensation to the extent of the reduction in the value of the property or for the damage caused to it.

CHAPTER IV CONFISCATION OF SEIZED PROPERTY

Article 21

Request for confiscation of property and burden of proof

(amended points 1, 3 and added points 4 and 5 by Law No. 70/2017, dated 27.4.2017)

1. The confiscation of property is decided upon the request of the prosecutor, who submits to the court the reasons on which the request is based. The court decides after conducting the judicial investigation and after hearing the parties' closing arguments.

The court may also decide on confiscation at the conclusion of the special hearing provided for in Article 12, point 4, of this Law.

2. The confiscation of property is requested and decided even in cases where a seizure measure has not been requested or decided regarding the property.

3. The persons referred to in Article 3, point 1, of this Law have the burden to prove that the seized activities and property, partially or wholly owned by them, have been obtained from Lawful sources.

4. The persons referred to in Article 3, point 2, letter "a", of this Law have the burden to prove that the property for which confiscation is requested is owned by them in title, has been obtained from lawful sources, and is not indirectly owned by the persons referred to in Article 3, point 1, of this Law.

5. The persons referred to in Article 3, point 2, letter "b", of this Law have the burden to show that the data obtained during the asset proceedings are insufficient to prove that their activities or property:

a) are owned wholly or partially, indirectly, by the persons referred to in Article 3, point 1, of this Law; or

b) have been used, have facilitated or have influenced, in a certain form, the commission of unlawful activities by the persons referred to in Article 3, point 1, of this Law.

Article 22

Judicial confiscation procedure

(as amended by Law no. 70/2017, dated 27.4.2017)

1. During the adjudication of the confiscation request, the provisions of the Criminal Procedure Code shall apply, insofar as possible.

2. At the request of the prosecutor, the court may continue the proceedings also in cases where the person does not have a known residence within the country, has left the country, or, despite all efforts made, cannot be found. In such cases, the court declares the person not found, appointing a defense counsel for them. The defense counsel may be appointed ex officio by the court or chosen by the person's relatives.

3. When during the judicial review it appears that the seized assets belong to third parties, the court, also ex officio, by a reasoned decision, summons them to intervene in the proceedings.

4. The third party, within the deadline set by the court, has the right to present their claims at the hearing, as well as to request the collection of other necessary data. The prosecutor carries out any necessary investigation to verify these claims.

5. When it is established that the property has been transferred or registered or has been registered in the name of third parties, through fictitious or simulated legal actions, the court declares them null and void. For this purpose, unless proven otherwise, the following are also presumed to be fictitious or simulated:

a) transfers and registrations in the name of third parties and with encumbrance

title, carried out within two years prior to the submission of the request for the imposition of the preventive measure against close persons;

b) transfers and registrations in the name of third parties and with a gratuitous title or clearly below market value, carried out within two years prior to the submission of the request for the imposition of the preventive measure.

Article 23

Duration of the examination of the request for confiscation

(as amended by Law no. 70/2017, dated 27.4.2017)

1. Within 3 months from the date of submission of the confiscation request by the prosecutor or from the start of the special hearing, according to Article 12, point 4, of this Law, the court decides on confiscation.

2. In complex cases, the court, also ex officio, may decide at a later date, but in any case within one year from the deadline provided in point 1 of this Article.

Article 24

Acceptance of the confiscation request

(as amended by Law no. 70/2017, dated 27.4.2017)

1. The court orders the confiscation of the property when all of the following conditions are met:

a) there are reasonable doubts, based on indications, regarding the participation of the person in criminal activity, as provided in Article 3, point 1, of this Law;

b) it is established that the property is, directly or indirectly, in full or partial possession of the persons mentioned in Article 3, point 1, of this Law;

c) it is not proven that the property has a Lawful origin, or the persons mentioned in Article 3 of this law fail to justify the possession of property or income, which is disproportionate to the level of income or profits obtained from lawful sources as declared by them.

2. In any case, the person cannot justify the property by declaring as its source income or reinvestments derived from the non-payment of taxes and duties.

3. In the cases provided for in point 1 of this Article, the court decides to accept the request for the confiscation of the property even when the charges or criminal proceedings against the person mentioned in point 1 of Article 3 of this Law are dismissed or the person is declared innocent, except in cases where in the decision of dismissal or acquittal it is declared that:

a) the fact does not exist;

b) the fact is not foreseen by law as a criminal offence;

c) it appears that the defendant did not commit the criminal offence.

Article 24/a

Refusal of confiscation

(added by Law no. 70/2017, dated 27.4.2017)

When the court does not order the confiscation of the seized property, the provisions of Article 13 of this Law shall apply.

Article 25

Procedural expenses

(word in point 1 amended and repealed point 4 by Law no. 70/2017, dated 27.4.2017)

1. Procedural expenses include the expenses of seizure, administration, confiscation, defense counsel, as well as any other expense documented in accordance with the law.

2. The expenses for seizure, according to this law, are prepaid by the state and are to be paid by the person whose property is subject to the seizure.

3. The court, in the final decision on the request for confiscation, determines the obligation to pay the expenses prepaid by the state.

4. Repealed.

5. Appeals regarding procedural expenses are decided by the court that issued the decision.

CHAPTER V DECISION, APPEAL AND EXECUTION OF PREVENTIVE MEASURES

Article 26

Elements of the court decision

(amended by Law no. 70/2017, dated 27.4.2017)

The court decision on the imposition of a preventive measure contains:

- a) the court that issued the decision;
- b) the time and place of the pronouncement of the decision;
- c) the name of the prosecutor;
- ç) the final claims and requests of the parties;
- d) the type of preventive measure and its duration, if the measure has been imposed for a specified period;
- dh) the type of property with all the data serving for its identification, including its location, or anything else that is useful for its identification;
- e) a summary of the facts and the legal grounds for the preventive measure;
- ë) the amount of procedural expenses, their type, as well as information about the person to whom they are charged.

Article 27

Appeal

(amended wording and point 4 added by Law no. 70/2017, dated 27.4.2017)

1. An appeal may be lodged against the court decision regarding the seizure of property, the extension of the duration of the seizure measure, the revocation or termination of the seizure measure, with a higher court, according to the time limits and conditions provided for in the Criminal Procedure Code.

2. An appeal may be lodged against the court decision on the confiscation of property with a higher court, according to the time limits and conditions set out in the Criminal Procedure Code.

3. The appeal, according to point 1 or 2 of this article, does not suspend the execution of the decision, except when the law provides otherwise.

4. When the prosecutor files an appeal against the revocation of the seizure or the refusal of the request for confiscation, the execution of the appealed measure is suspended until the decision is issued by the court of appeal.

Article 28

Execution of the decision on confiscation and revocation of seizure

(point 4 and 6 amended, point 5 repealed by Law no. 70/2017, dated 27.4.2017)

1. The decision on the confiscation of property is executed immediately after its pronouncement.
2. The decision to revoke the measure of seizure of property is executed 15 days after the notification of the interested parties.
3. During the execution of the confiscation decision, the court that issued the decision may, in chambers, issue orders for the performance of specific actions and the taking of other necessary measures, also determining the deadlines and the manner of performing the actions and the necessary measures to be taken.
4. The decision and orders for the performance of specific actions are immediately forwarded to the prosecutor carrying out the proceedings, who supervises the execution actions.
5. Repealed.
6. The judicial police shall keep a record of the execution actions, which is sent to the court through the prosecutor.

CHAPTER VI USE OF CONFISCATED PROPERTY

Article 29

Transfer of confiscated property to state ownership

(second sentence of point 3 repealed and point 4 added by Law no. 70/2017, dated 27.4.2017)

1. Property confiscated by court decision, pursuant to this law, is transferred to state ownership.
2. The final decision for the confiscation of property is immediately sent to the Agency for the Administration of Seized and Confiscated Assets.
3. When the confiscation decision becomes final, the property passes irrevocably into state ownership.
4. When the final decision ordering the confiscation is overturned by the higher court and the property is returned to the previous owner by final decision, he has the right to claim compensation according to the legislation in force.

Article 30

Competence regarding the manner of use of confiscated property

(point 1 amended and wording amended in points 2 and 3 by Law no. 85/2020, dated 2.7.2020)

1. The Interinstitutional Committee for Measures Against Organized Crime, based on the recommendations and the assessment report of the Agency for the Administration of Seized and Confiscated Assets, decides on the manner of use of confiscated property, pursuant to this Law, in accordance with Articles 32 and 33 thereof. The decision of the committee is notified to the minister responsible for finance.
2. The Agency for the Administration of Seized and Confiscated Assets, within 90 days from notification of the court decision provided for in point 2 of Article 29 of this law, submits to the Interinstitutional Committee for Measures Against Organized Crime the

technical-financial assessment report for each confiscated property.

3. The Interinstitutional Committee for Measures Against Organized Crime, by decision, which is notified to the minister responsible for finance, determines the manner and conditions of use of confiscated immovable property and within 30 days from the submission of the technical-financial assessment report, but no later than 120 days from the date of notification of the court decision provided for in point 2 of Article 29 of this Law.

Article 31

Duties of the administrator of confiscated property

(as amended by Law no. 85/2020, dated 2.7.2020)

The administrator appointed by the Agency, during the phase of seizure of property, continues to perform duties, in the name and on behalf of the Agency for the Administration of Seized and Confiscated Property, for as long as he or she has not been replaced by another person by the Agency.

Article 32

Use of monetary assets from confiscated items

(amended title, wording in letter “a”, and letter “c” by Law no. 70/2017, dated 27.4.2017, first paragraph, second sentence of letter “b” amended, and wording added to letter “c” by Law no. 85/2020, dated 2.7.2020)

The administrator appointed by the Agency undertakes the necessary actions to deposit into the accounts of the Agency for the Administration of Seized and Confiscated Property the funds in monetary assets:

a) confiscated, which will not be used for the administration of other confiscated property, or which will not be used for compensation of the victims of criminal offences of organized crime and trafficking;

b) obtained from the sale of movable property, which are not used in the activity of the commercial legal person, and of securities, in net value, obtained from the sale of property for the compensation of victims of organized crime and trafficking. If the sale procedures are not economical, the Interinstitutional Committee for Measures Against Organized Crime proposes to the minister responsible for the economy to pursue legal procedures for the transfer of ownership free of charge or the destruction of the confiscated property;

c) obtained from the recovery of personal loans. If the procedure for their recovery is not economical or when, after the verifications carried out by the Agency for the Administration of Seized Property regarding the debtor’s solvency, it is established that the debtor is insolvent, personal loans are cancelled by the Interinstitutional Committee for Measures Against Organized Crime according to the procedure provided in Article 30 of this Law.

Article 33

The use of immovable property and those serving for economic, commercial and professional activities

(amended wording in point 1 by Law No. 85/2020, dated 2.7.2020)

1. The Council of Ministers, upon the proposal of the minister responsible for the economy and the minister responsible for order and public security, determines the criteria, extent, and manner of use of immovable property and those serving for economic, commercial, and professional activities, which are part of the special fund, within the limits of purpose, as set by the legislation in force.

2. The Council of Ministers, in issuing this decision, is based on the principles of proper management of property, the enhancement of the effectiveness of criminal justice, as well as fair rehabilitation and compensation.

Article 34

The Agency for the Administration of Seized and Confiscated Property

(point 2 repealed by Law No. 34/2019, dated 17.6.2019 and wording amended by Law No. 85/2020, dated 2.7.2020)¹

1. The Agency for the Administration of Seized and Confiscated Property is the institution responsible for the administration of seized and confiscated property.

2. Repealed.

3. The detailed rules for the evaluation criteria, methods and procedures for granting use and alienation of confiscated property are determined by the Council of Ministers.

Article 35

The Interinstitutional Advisory Committee of Experts on Measures Against Organized Crime

(words in points 1 and 2 amended by Law No. 70/2017, dated 27.4.2017, points 1 and 2 amended, words in point 5 amended, the first sentence of point 7 amended and point 8 added by Law No. 85/2020, dated 2.7.2020)

1. For the supervision of the administration of seized and confiscated property by the Agency for the Administration of Seized and Confiscated Property, as well as for making decisions regarding the destination of seized and confiscated property, the Interinstitutional Committee on Measures Against Organized Crime is established and operates. This committee convenes at the ministry responsible for public order and safety.

2. The Committee is composed of 9 (nine) members, respectively proposed by the minister responsible for public order and safety, the minister responsible for economic affairs, the minister responsible for justice affairs, the minister responsible for social affairs, the General Prosecutor, the Special Prosecution Office Against Corruption and Organized Crime, the Judicial Budget Management Unit, the State Cadaster Agency, and the Agency for the Administration of Seized and Confiscated Property. The member proposed by the minister responsible for public order and safety is the chair of the committee. The Agency for the Administration of Seized and Confiscated Property exercises the function of the technical secretariat of the committee.

3. Representatives of public institutions or other organizations, domestic or foreign, active in areas of interest for the implementation of this law, may also be invited to participate in the activities of the committee.

4. The Agency for the Administration of Seized and Confiscated Property reports to the committee on its activity at least once every three months.

5. The committee, based on the priorities set out in Article 37 of this law, issues recommendations addressed to the ministry responsible for public order and safety for the effective disposition of the proceeds generated by the Agency, including recommendations for the payment of the agency's operating expenses.

6. The committee, at least once every six months, requests in writing information

¹ By Law no.82/2020, dated 2.7.2020: In paragraph 2 of Article 34, the words “by the Council of Ministers” are replaced with the word “by special law””. (article 13).

from central institutions that administer them, as well as detailed data on the state and manner of use of immovable property from local units that own confiscated immovable property.

7. The committee convenes as often as necessary, at the request of one of its members or of the Agency, but not less than once every 3 (three) months. The committee adopts its internal rules of procedure.

8. The measures and means of remuneration for the members of the committee are determined by decision of the Council of Ministers.

Article 36

Periodic reporting to the Council of Ministers

(amended wording by Law no. 85/2020, dated 2.7.2020)

The minister responsible for public order and security, at the end of each financial year, submits to the Council of Ministers the report on the administration of seized and confiscated assets, according to this law.

Article 37

The special fund for the prevention of crime

(amended points 1 and 2 by Law no. 70/2017, dated 27.4.2017, amended wording by Law no. 85/2020, dated 2.7.2020)

1. The income obtained from the implementation of this law serves for the establishment of the special fund for the prevention of crime and legal education. The special fund is a separate entry in the budget of the Agency and is administered by decision of the Committee.

2. This fund serves for:

a) the improvement of the functioning of criminal justice, by allocating the assets to the administration of the Special Prosecution Office Against Corruption and Organized Crime, the ministry responsible for public order and security, the Special Prosecution Office, and the Ministry of Justice;

b) the improvement of the prevention of the commission of criminal offences, of the preliminary criminal investigations of organized crime or other crimes that generate criminal assets/proceeds, and the development of witness and justice collaborator protection programs, by allocating the assets to the administration of the ministry responsible for public order and security.

c) providing assistance to victims of organized crime and trafficking, as well as promoting social programs for these categories, by allocating the assets to the administration of the ministry responsible for social affairs.

ç) the compensation of victims of organized crime and trafficking in the amount determined by court decision.

d) for covering any value differences that may arise from the administration of assets, which by court decision are returned to the owner of the seized or confiscated property.

3. In addition to central institutions, beneficiaries of project financing for the prevention of crime may be:

a) local government units where the confiscated immovable property is located;

b) non-profit organizations whose object of activity is the social, cultural, and health rehabilitation of people in need, particularly those affected or at risk from crime, including organizations and therapeutic centers, rehabilitation and treatment centers for users of

narcotic substances, as well as centers for the assistance and rehabilitation of victims of trafficking in human beings, which, during the three years prior to the submission of the request, have carried out such activities.

4. Requests for project financing, according to this article, the verification and preparation of documentation for opinion in the Inter-Institutional Committee for Measures Against Organized Crime, as well as the monitoring of their implementation, are carried out by the structures of the Agency for the Administration of Seized and Confiscated Assets.

5. The Committee, by decision, determines the financing of the project and the methods for the use of the funds made available to the applicant.

6. Until 31.12.2020, the fund serving for the prevention of the commission of criminal offences, in function of the activity of the State Police and the Special Prosecutor's Office Against Corruption and Organized Crime, may not be less than 60 (sixty) percent of the total income.

7. Unused income from the special fund for the prevention of criminality is transferred to the following fiscal year of the Agency.

8. The portion of the fund, allocated according to point 2 of this article, may be used for the remuneration of officials of the beneficiary institutions up to 5 (five) percent of it.

CHAPTER VII FINAL PROVISIONS

Article 38 Transitional provision

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

Transitional provision *(established by Law No. 70/2017, dated 27.4.2017)*

1. This Law applies to requests for the imposition of preventive measures submitted by the prosecutor to the competent court after its entry into force.

2. For property proceedings in the investigation phase, this Law begins to apply upon its entry into force.

3. For properties acquired before the entry into force of this Law and which are related to the new criminal offences added in Article 3, point 1, of this Law, the provisions of point 6, of Article 3, of this Law shall apply.

4. Until the establishment of the court against corruption and organized crime, cases for the imposition of preventive measures against property shall be adjudicated by the Serious Crimes Court.

5. Upon the establishment of the court against corruption and organized crime, pending cases for the imposition of preventive measures against property shall be transferred to this court and to the courts of general jurisdiction, according to subject-matter competence for the committed criminal offence, based on Article 75/a of the Criminal Procedure Code.

6. Upon the establishment of the Special Prosecutor's Office against corruption and organized crime, ongoing investigations for the imposition of preventive measures against property shall be transferred to this prosecutor's office and to the prosecutor's offices of

general jurisdiction, according to subject-matter competence for the committed criminal offence, based on Article 75/a of the Criminal Procedure Code.

Article 39

ByLaws

The Council of Ministers is charged with issuing the byLaws for the implementation of Articles 14, 15 point 2, 28 point 4, 33 and 34 of this law within three months from the entry into force of this law.

Article 40

Repeals

Law no. 9284, dated 30.9.2004 "On preventing and combating of organized crime", as well as any other provision that is in conflict with this law, is repealed.

Article 41

Entry into force

This Law enters into force 30 days after its publication in the Official Gazette.

Announced by decree no. 6362, dated 22.12.2009 of the President of the Republic of Albania, Bamir Topi