

LAW
No. 10 192, date 3.12.2009
FOR THE PREVENTION AND PUNISHMENT OF ORGANIZED CRIME, TRAFFICKING,
CORRUPTION AND OTHER CRIMES THROUGH MEASURES
PREVENTIVE AGAINST WEALTH
(amended by law no. 24/2014, date 20.3.2014, no. 70/2017, date 27.4.2017, 34/2019,
date 17.6.2019, no. 85/2020, date 2.7.2020)

(updated)

In support of articles 78 and 83 point 1 of the Constitution, upon the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I
PROVISIONS AND GENERAL PRINCIPLES

Article 1
Object

(added words by law no. 70/2017, date 27.4.2017)

This law defines the procedures, powers, and criteria for the implementation of measures preventive against the wealth of persons who are subject to this law, as suspected of participation in organized crime, trafficking, and corruption, as well as in the commission of other crimes, according to the provisions of this law.

Article 2
Purpose

(added words by law no. 70/2017, date 27.4.2017)

The purpose of this law is the prevention and punishment of organized crime, trafficking, and corruption and other crimes, 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 the activity of suspected criminal.

Article 3
Scope of application

(added the letter "d" in the first paragraph by law no. 24/2014, date 20.3.2014 and
amended by law no. 70/2017, date 27.4.2017)

1. The provisions of this law apply to the assets of persons, which are fully or partially, directly or indirectly, as defined in point 2 of this article, on which there is a reasonable suspicion, based on evidence, for:

- a) participation and commission of crimes by armed gangs, criminal organizations, and the group of structured criminal, as provided by chapter XI of the Penal Code;
- b) participation and commission of crimes by terrorist organizations and crimes for terrorist purposes, as provided by chapter VII of the Penal Code;
- c) the commission of crimes provided for in articles 109, 109/b, 110/a, 128/b, 278/a, 282/a, 283, 283/a and 284/a of the Penal Code;

c) laundering of products of criminal acts or criminal activities, as provided by Article 287 of the Penal Code;

d) the commission of crimes provided for in Articles 164/a, 164/b, 183, 244, 244/a, 245, 245/1, 256, 257, 257/a, 258, 259, 259/a, 260, 312, 319, 319/a, 319/b, 319/c, 319/ç, 319/d, 319/dh and 319/e of the Penal Code, in cases where there are indications of illegal financial gain.

2. The provisions of this law also apply to the assets of the persons mentioned in point 1, of this article, owned or indirectly held by:

a) close relatives (spouse, children, ancestors, descendants, brothers, sisters, cohabitant), for whom false registration is presumed, unless proven otherwise;

b) natural or legal persons, for whom there is sufficient data that the assets or their activities are owned, partially or fully, indirectly by the persons mentioned in point 1 of this article, or have been used, facilitated or influenced in a certain way in the commission of illegal activities by them.

3. The presumption of false registration of the assets and economic activities of the persons mentioned in point 1 of this article, in the name of close relatives, mentioned in letter "a", of point 2 of this article, applies when there is useful data, obtained through legal means, which create reasonable suspicion of the illegality of the origin of the assets.

4. Sufficient data that the assets or activities of the natural or legal person mentioned in letter "b", of point 2 of this article, are owned, partially or fully, indirectly by the persons mentioned in point 1 of this article, are derived from the relationship between the natural and legal person with the persons provided for in point 1 of this article, and from useful data, obtained through legal means, which create reasonable suspicion of the illegality of the origin of the assets.

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

6. This law also applies to the assets of persons, placed before its entry into force, provided that there are significant indications of their involvement in criminal activities, at the time of the establishment of the assets.

Article 4

Preventive measures

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

In the sense of this law, "Preventive Measure" is any measure with a property character, that the court decides in a judicial proceeding, through the seizure of assets, activities economic, commercial and professional activities of 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, degree or outcome of the criminal proceedings conducted against persons, subjects of this law.

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

3. In cases where the seized or confiscated assets, according to this law, are subject to also, seizure or confiscation, according to the Penal Code and the Code of Criminal Procedure, the court orders the suspension of the consequences of the implementation of the measures of seizure and confiscation, according to this law. The suspension ends with the issuance of a criminal court decision for the revocation or termination of these measures.

Article 6

Subject of investigations

(title amended, point 1 and added point with law no. 70/2017, date 27.4.2017)

1. The prosecutor undertakes, also through the judicial police, the necessary investigations against persons mentioned in article 3, points 1 and 2, of this law, regarding financial means, assets, economic, commercial and professional activities, economic level and sources of income theirs, as well as questioning persons who have knowledge of the facts subject to this law and conducting the necessary expert evaluations. When the need for international legal assistance arises, the applicable international agreements, ratified by the Republic of Albania, as well as the relevant provisions of procedural relevance.

2. Verifications are carried out, in particular, to determine whether these persons hold permits, licenses, authorizations, concessions and other rights to carry out economic, commercial and professional activities, as well as to verify whether they receive contributions, funding or credits of any kind, data or benefits obtained from the state, public legal entities, organizations or international institutions, as well as to verify whether the assets, activities or rights of wealth are justified.

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

Article 7

Competence and composition of the court

(amended by law no. 70/2017, date 27.4.2017)

1. The request for preventive measures, according to this law, is examined in the first instance, by the courts of the judicial districts or the first instance court against corruption and organized crime, based on the relevant subject matter jurisdiction for the committed criminal act, according to article 75/a of the Code of Criminal Procedure.

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

3. The provisions of paragraph 1 of article 80 of the Code of

Criminal Procedure apply, as far as they are compatible.

4. The request for preventive measures, according to this law, is examined in the first instance by a judge. The appeal against the decision for the preventive measure is examined by the courts of appeal or the Court of Appeal against corruption and organized crime, with a panel composed of three judges.

Article 8

Preliminary verifications

(word amended in point 2 by law no. 70/2017, date 27.4.2017)

1. The prosecutor's office and the judicial police are informed about the assets that need to be verified, according to this law, on their own initiative or by notification made by third parties.

2. Upon being informed about the assets that need to be verified, according to this law, the judicial police, without delay, refers to the prosecutor, in writing, the essential elements of the fact and the data obtained from it.

3. The prosecutor carries out actions himself and through the Judicial Police for the investigation of financial means, financial assets, economic, commercial and professional activities, lifestyle, as well as the sources of income of persons, subjects to the application of this law.

Neni 9

Detyrimi i dorëzimit të informacionit dhe të dokumenteve

1. Prokurori, drejtpërdrejt ose nëpërmjet Policisë Gjyqësore, mund të kërkojë pranë çdo zyre të administratës shtetërore, enti a personi juridik publik, personave të tjerë fizikë dhe juridikë, të dhëna dhe kopje të dokumenteve, që vlerësohen si të domosdoshme për qëllime verifikimi ndaj pasurive të personave të parashikuar në nenin 3 të këtij ligji.

2. Me autorizim të lëshuar nga prokurori ose gjykata, oficerët e Policisë Gjyqësore mund të vendosin sekuestrimin e dokumenteve të shqyrtuara, sipas rregullave të parashikuara në nenet 208, 209, 210 dhe 211 të Kodit të Procedurës Penale.

Neni 10

Kompetencat e gjykatës

(ndryshuar titulli dhe pika 1 me ligjin nr. 70/2017, datë 27.4.2017)

1. Gjykata, me kërkesë të prokurorit, të palëve ose kryesisht urdhëron hetimet e nevojshme për të zgjidhur çështjen dhe mund të miratojë masat e përcaktuara me ligje të veçanta.

2. Nëse gjatë gjykimit lind nevoja për ndihmë juridike ndërkombëtare, zbatohen marrëveshjet ndërkombëtare, të pranura nga shteti shqiptar, si dhe dispozitat respektive procedurale.

KREU II

SEKUESTRIMI I PASURISË

Neni 11

Kriteret për sekuestrim të pasurisë

(ndryshuar pjesa hyrëse e pikës 1 me ligjin nr. 70/2017, datë 27.4.2017)

1. Me kërkesë të arsyetuar të prokurorit, gjykata vendos sekuestrimin e pasurive, të zotëruara në mënyrë të drejtpërdrejtë ose të tërthortë, në pronësi të plotë ose të pjesshme të personave, sipas nenit 3, pika 1, të këtij ligji, kur ekziston një dyshim i arsyeshëm, i bazuar në indicie, që tregon se personi është përfshirë në veprimtari kriminale dhe zotëron pasuri apo të ardhura shpërpjesëtimore në raport me nivelin e të ardhurave apo fitimeve nga veprimtari të ligjshme të deklaruara dhe që nuk përlligjen prej tyre, si dhe kur:

a) ekziston një rrezik real për humbje, marrje apo tjetërsim të fondeve, pasurive apo të drejtave të tjera, mbi të cilat parashikohet vënia në zbatim e masës së konfiskimit, sipas dispozitave të këtij ligji; ose

b) ka dyshime të arsyeshme që tregojnë se zotërimi i pasurive dhe ushtrimi i veprimtarive të caktuara ekonomike, tregtare dhe profesionale janë në gjendje rreziku apo ndikimi nga ana e një organizate kriminale ose që mund të lehtësojnë veprimtaritë kriminale.

2. Kërkesa e prokurorit për sekuestrimin e pasurisë përmban indiciet, në të cilat bazohet dyshimi i arsyeshëm, si dhe arsyetimin për të paktën një prej kushteve të pikës 1 të këtij neni.

Neni 12

Procedura e sekuestrimit

(ndryshuar me ligjin nr. 70/2017, datë 27.4.2017)

1. Kërkesa për sekuestrimin e pasurisë shqyrtohet nga gjykata në dhomën e këshillimit, brenda 5 ditëve nga data e paraqitjes, në bazë të dokumenteve dhe akteve të paraqitura nga prokurori.

2. Vendimi për masën e sekuestrimit është i ekzekutueshëm me shpalljen e tij. Masa e sekuestrimit është e vlefshme për një periudhë gjashtëmujore, duke filluar nga momenti i zbatimit të saj.

3. In the case of complex verifications, at the request of the prosecutor or primarily, the court may decide to extend the implementation period of the seizure measure for six-month periods, but no more than two years from the date of the start of the period set according to point 2 of this article. Against this decision an appeal may be made to the court of appeals, which decides within 15 days from the receipt of the acts.

4. No later than 5 days before the expiration of the time limit of the seizure measure, foreseen in point 2 or 3 of this article, the court sets a special session, notifying the prosecutor, the persons mentioned in article 3, points 1 and 2 of this law, as well as the chosen defender. The prosecutor's request for the revocation of the seizure does not prevent the court from ordering the confiscation of property when it assesses that the criteria provided in this law are met.

5. When the special session, according to point 4 of this article, is not scheduled, the court, at the request of the parties or primarily, declares 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 assets or on any other property in the possession of the persons mentioned in article 3 of this law, when, after being informed of the investigations into his charge, the person against whom the other measure is requested, distributes, transfers, misuses, hides or devalues the property, with the intention of avoiding the execution of the measure of its seizure or confiscation.

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

3. The rules provided in points 1 and 2 of this article apply, up to the value of the property for which the seizure or confiscation has been ordered, even when it turns out that it has been joined with other properties.

4. The rules of the above points of this article also apply when the illegal property is embodied with legal property and cannot be separated from it without causing substantial harm.

Article 12/b

Revocation of the seizure (added by law no. 70/2017, dated 27.4.2017)

1. The court, at the request of the parties, decides to revoke the seizure of the property even before the deadline provided by points 2 and 3 of article 12 of this law.

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

Article 13

The court's decision when the seizure measure is revoked (amended by law no. 70/2017, dated 27.4.2017, removing the word in point 3 by law no. 85/2020, dated 2.7.2020)

1. The court's decision that orders the revocation of the seizure, according to article 12/b of this law, is communicated to the Agency for the Management of Seized and Confiscated Assets, which notifies the owner of the seized assets.

2. The delivery of the assets to the owner is done in accordance with the provisions of the Code of Civil Procedure and is accompanied by the relevant documentation, which the asset administrator hands over to the owner.

3. When within 30 days from the date of notification of the decision for the revocation of the seizure, the owner of the property does not appear, without reasonable cause, to take them over, the Agency for the Management 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 the data and evidence obtained during the investigation.

5. With the decision to revoke the seizure, the court may impose the obligation on the owner of the property or the person who has in use or administration the property, or part of it, to notify the tax administration, for a period of no less than 5 years from the date of notification of the decision, for acts of ownership, purchases or payments made, of payments received, professional obligations of administration or guardianship, as well as for other acts or contracts, according to the type and value determined by the court, depending on the property and income of the person, in any case, for a value not less than 2 million lek.

6. The notifications provided for in point 5 of this article are carried out within 10 days from the execution of the act, while for acts performed in the previous year, by January 31 of each year.

7. A person who does not comply with the notification obligations, within the deadlines set in point 6, of this article, without presenting reasonable causes, shall have confiscated, wholly or partially, the acquired items and payments received, for which the notification obligation has not been respected.

Article 14

Execution of the seizure measure

(amended by law no. 70/2017, dated 27.4.2017, replacing words in points 3, 5, 8 and 9 with law no. 85/2020, dated 2.7.2020)

1. The seizure decision is implemented immediately. The court secretary 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 execution of the decision through the judicial police officer and the asset administrator.

2. The seizure is executed:

a) for movable properties 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 properties at the competent offices for their registration;

c) for the assets of commercial companies, in addition to the method provided by this law for any seized property, also through the registration of the decision in the commercial companies register;

d) for shares and stocks, through publication in the commercial companies register and

the notation in the accounting records of the company.

3. The judicial police, after the execution order issued by the prosecutor, proceeds with

the acquisition of the property and its delivery to the Agency for the Management 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 notify the seizure measure of the assets to the persons mentioned

in Article 3, points 1 and 2, of this law. The judicial police also notify the aforementioned persons of the court's decision to extend the seizure period.

6. When the item is held without the seizure measure is imposed on immovable property or property registered in public registers, the Agency for the Management of Seized and Confiscated Assets immediately notifies this or issues to the offices where these registers are kept.

before the date of the seizure decision and the possessor of the item does not agree to voluntarily surrender to 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 made by the judicial police and

documented in a report, which is signed by those present. This report contains the elements provided for by Article 524 of the Civil Procedure Code.

8. During the handover of the seized property by the Agency for the Management of Seized and Confiscated Assets, the judicial police deliver a copy of the report to

mentioned in point 7 of this article, to the persons present at the time of the inventory.

9. The judicial police hands over the seized property to the Agency for the Management of Seized and Confiscated Assets, accompanied by the relevant legal documentation and, if available, also with the records of the commercial company's accounts.

10. The asset administrator, for management purposes and in the absence of the documentation provided for in point 9 of this article, makes available to the legal auditor, appointed by the agency for the management of seized and confiscated assets, the necessary data for the management of the asset, requesting the preparation of a report. The report is made available to the Agency.

CHAPTER III MANAGEMENT OF SEIZED ASSETS

Article 15

The administrator of the seized asset

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

1. The court in the decision to seize the property appoints the Agency for the Management of Seized and Confiscated Assets as the administrator of these assets. The Agency provides the court with the list of administrators employed by it at least once a year and indicates the criteria for their appointment.

2. The Agency for the Management of Seized and Confiscated Assets may request the assistance of experts or other persons, who are compensated for the work done.

Article 16

Duties of the Agency for the Management of Seized and Confiscated Assets

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

1. The Agency for the Management of Seized and Confiscated Assets has the duty to preserve and manage the seized property. Additionally, it has the duty to increase, if possible, the value of these assets.

2. The Agency for the Management of Seized and Confiscated Assets 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 prosecutor may request the Agency for the Management of Seized Assets to Seized and Confiscated Assets at any time for information on the management of the property. This information is provided by the Agency within 10 days of receiving the request.

Article 17

Prohibitions for the Agency for the Management of Seized and Confiscated Assets

(amended words in the first paragraph and added two paragraphs by law no. 70/2017, dated 27.4.2017, amended the title of the article, words in the first and second paragraphs and paragraph three by law no. 85/2020, dated 2.7.2020)

Except in cases where the Interinstitutional Committee for Measures Against Organized Crime, the Agency for the Management of Seized and Confiscated Assets is not allowed to participate in trials, take loans, sign settlement agreements, arbitration, promises, transfers, mortgages or alienation of seized property, or to carry out.

other legal actions beyond the actions of ordinary administration.

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

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

Article 18

Reports of the Agency

(added point 4 with law no. 70/2017, dated 27.4.2017, amended the title of the article, words in points 1, 2, and 3 with law no. 85/2020, dated 2.7.2020)

1. Within 15 days from the assignment of the management of the asset, the Agency for the Management of Seized and Confiscated Assets is obliged to present to the court a detailed report on the essential elements of the existence and condition in which the seized asset is located. Subsequently, at the request of the court, the Agency submits periodic reports on the management of the seized asset, accompanied, if requested, by the relevant documentation.

2. The Agency for the Management of Seized and Confiscated Assets is obliged to inform the court also about other assets that may be subject to the seizure measure, of the existence of which it has been made aware during the administration.

3. The Agency for the Management of Seized and Confiscated Assets is obliged to send the reports specified in points 1 and 2 of this article simultaneously to the prosecutor.

4. The court primarily summons the Chief Administrator of the Agency for the Management of Assets of Seized and Confiscated Assets to obtain information on the management of the seized assets and for any other information it considers useful for the confiscation decision. The Chief Administrator of the Agency may delegate an employee under his authority to appear before the court.

Article 19

Transfer of real rights for seized assets

(amended by law no. 70/2017, dated 27.4.2017, amended point 1 by law no. 85/2020, dated 2.7.2020)

1. For assets that are damaged, significantly decrease in value, or become unusable, at the request of the Agency for the Management of Seized and Confiscated Assets, the Interinstitutional Committee for Measures Against Organized Crime decides to transfer real rights to third parties, based on the principles of good asset management. Real rights are not 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 expert appraiser.

of use, at the request of the Agency for the Management of Seized and Confiscated Assets, the Interinstitutional Committee for Measures Against Organized Crime decides to transfer real rights to third parties, based on the principles of good asset management. Real rights are not 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 expert appraiser.

2. The court, when deciding to revoke the seizure, orders the return of the seized asset, or its equivalent value to the owner, according to the provisions of this law.

Article 20

Covering the management expenses

(amended by law no. 70/2017, dated 27.4.2017, amended words by law no. 85/2020, dated 2.7.2020)

1. Necessary or useful expenses for the preservation and management of the seized assets are covered by funds secured by the Agency for the Management of Seized and Confiscated Assets, from any legal source.

2. If through the management of the seized asset sufficient funds are not obtained for covering the expenses, according to point 1 of this article, they are prepaid by

the state through the Agency for the Management of Seized and Confiscated Assets, with the right to return them to the person whose property is seized, even in the case of revocation of the seizure or confiscation.

3. In cases of imposing the measure of confiscation of property, the expenses incurred for the management of this property by the administrator or the Agency for the Management of Seized and Confiscated Assets is included in their management accounts. If the funds in the management accounts are insufficient to cover the payment of these expenses, they are paid partially or fully by the state, without the right to compensation.

3/1. The Agency for the Management of Seized and Confiscated Assets is not responsible for the payment of the obligations of the entities mentioned in Article 3, points 1 and 2, of this law, incurred before the seizure decision, related to:

- a) the costs of maintenance and ordinary management of the property;
- b) overdue payments for electricity, water, telecommunications, 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 fruits of the property, realized during the management. He has the right to seek compensation in the amount of the reduction in the value of the property or 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 at the request of the prosecutor, who presents to the court the reasons on which the request is based. the request is based. The court decides after conducting the judicial investigation and after hearing the final discussion of the parties.

The court may also decide on confiscation at the conclusion of the special session, as provided in Article 12, point 4, of this law.

2. The confiscation of property is requested and decided even in cases where no seizure measure has been requested and imposed on the properties. requested and imposed the seizure measure.

3. The persons mentioned in Article 3, point 1, of this law, have the burden of proving that the activities and seized properties, partially or fully owned by them, have been acquired from legal sources.

4. The persons mentioned in Article 3, point 2, letter "a", of this law, have the burden to prove that the properties for which confiscation is requested are owned exclusively by them, have been acquired from legal sources and are not indirectly owned by the persons mentioned in Article 3, point 1, of this law.

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

- a) are wholly or partially, indirectly, owned by the persons mentioned in Article 3, point 1, of this law; or
- b) have been used, facilitated or influenced, in a certain way, in the commission of illegal activities by the persons mentioned in Article 3, point 1, of this law.

Article 22

* By law no. 85/2020, dated 2.7.2020, in point 2 the words "...the administrator or..." are removed.

Judicial procedure for confiscation
(amended by law no. 70/2017, dated 27.4.2017)

1. During the trial of the confiscation request, the provisions are applied, as far as possible, of the Criminal Procedure Code.

2. At the request of the prosecutor, the court may continue the trial even in cases where the person does not have a known residence within the country, has left the state or, despite all the searches made, is not found. In this case, the court declares the person untraceable, appointing a defender for them. The defender may be appointed primarily by the court or chosen by the relatives of the person.

3. When during the judicial review it appears that the seized assets belong to third parties, the court, also primarily, by reasoned decision, calls them to intervene in the process.

4. The third person, within the deadline set by the court, has the right to present in session their claims, as well as to request the acquisition of other necessary data. The prosecutor conducts 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, with fictitious or simulated legal actions, the court declares their invalidity. For this purpose, unless proven otherwise, they are presumed fictitious or simulated also:

a) transfers and registrations in the name of third parties and with a burdensome title, carried out within two years prior to the submission of the request for the preventive measure against relatives;

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

Article 23

Duration of the trial of the confiscation request
(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 session, according to Article 12, point 4, of this law, the court decides on the confiscation.

2. In complex cases, the court, also primarily, 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
(amended by law no. 70/2017, dated 27.4.2017)

1. The court decides to confiscate the property when all the following conditions are met:

a) there are reasonable doubts, based on evidence, of the person's involvement in activities criminal, as provided in Article 3, point 1, of this law;

b) it results that the property is, directly or indirectly, in full or partial ownership of the persons mentioned in Article 3, point 1, of this law;

c) it is not proven that the property has a legal origin or the persons mentioned in Article 3, of this law, fail to justify the ownership of assets or income, which are disproportionate to the level of income or profits realized from legally declared sources by them.

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

3. In the cases provided in point 1 of this article, the court decides to accept the request for the confiscation of the property even when the charge or criminal proceedings against the person mentioned in point 1, of Article 3, of this law, is dismissed or he is declared not guilty, except in cases where

in the decision of dismissal or acquittal it is stated that:

- a) the fact does not exist;
- b) the fact is not provided by law as a criminal act;
- c) it turns out that the defendant did not commit the criminal act.

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 seized assets, the provisions of Article 13 apply of this law.

Article 25

Procedural expenses

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

1. Procedural expenses include the costs of seizure, administration, of confiscation, of the defender, as well as any other documented expense according to the law.
2. The costs for seizure, according to this law, are prepaid by the state and paid by the person against whose assets the seizure of property is ordered.
3. The court, in the final decision on the confiscation request, sets the obligation for the payment of expenses prepaid by the state.
4. Repealed.
5. For appeals regarding procedural expenses, the court that issued the decision decides.

CHAPTER V

THE DECISION, APPEAL AND EXECUTION OF PREVENTIVE MEASURES

Article 26

Elements of the court's decision

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

The court's decision to take preventive measures includes:

- a) the court that issued the decision;
- b) the time and place of the announcement of the decision;
- c) the name of the prosecutor;
- ç) final claims and requests of the parties;
- d) the type of preventive measure and its duration, if the measure is set for a term;
- dh) the type of property with all the data that serve for its identification, including the location, or anything else that is relevant to identify it;
- e) a summarized presentation of the fact and the legal reason for the preventive measure;
- ë) the amount of procedural expenses, their type, as well as data about the person to whom they are assigned.

Article 27

The Appeal

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

1. Against the court's decision for the seizure of property, the extension of the term of the seizure measure, revocation or termination of the seizure measure, an appeal may be made to a higher court, according to the deadlines and conditions provided in the Criminal Procedure Code.
2. Against the court's decision for the confiscation of property, an appeal may be made to

the court of a higher level, according to the deadlines and conditions provided in the Code of Criminal Procedure.

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

4. When the prosecutor submits 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 made by the appellate court.

Article 28

The execution of the confiscation and revocation of the seizure decision
(amended points 4 and 6, repealed point 5 by law no. 70/2017, dated 27.4.2017)

1. The decision to confiscate assets is executed immediately after its announcement.

2. The decision to revoke the seizure of the 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 issue, in a deliberation room, orders for the performance of special actions and the taking of other necessary measures, where it also determines the deadlines and methods for carrying out the actions and the necessary measures to be taken.

4. The decision and orders for the performance of special actions are promptly communicated to the prosecutor who proceeds, who supervises the execution actions.

5. Repealed.

6. The judicial police keeps a record of the execution actions, which is sent to the court through the prosecutor.

CHAPTER VI

USE OF CONFISCATED ASSETS

Article 29

The transfer of confiscated assets to state ownership
(the second sentence of point 3 is repealed and point 4 is added by law no. 70/2017, dated 27.4.2017)

1. Assets confiscated by court decision, according to this law, pass into state ownership.

2. The final decision for the confiscation of assets is immediately sent to the Agency for the Management of Seized and Confiscated Assets.

3. When the confiscation decision becomes final, the property passes into state ownership in an irrevocable manner.

4. When the final decision that established the confiscation is overturned by the higher court and the property is returned to the previous owner, with a final decision, he has the right to seek compensation according to the applicable legislation.

Article 30

Competence for the manner of use of confiscated assets
(amended point 1 and changed words in points 2 and 3 amended by law no. 85/2020, dated 2.7.2020)

1. The Interinstitutional Committee for Measures Against Organized Crime, based on the recommendations and assessment report of the Agency for the Management of Seized and Confiscated Assets, determines the manner of use of confiscated assets, according to this law, in accordance with articles 32 and 33 thereof. The committee's decision is communicated to the minister responsible for finance.

2. The Agency for the Management of Seized and Confiscated Assets, within 90 days from the notification of the judicial decision provided in point 2 of article 29 of this law, presents to the Interinstitutional Committee for Measures Against Organized Crime the technical assessment report.

finance for every confiscated asset.

3. The Interinstitutional Committee for Measures Against Organized Crime, by decision, which notifies the minister responsible for finance, determines the manner and conditions for the use of confiscated real estate assets 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 judicial decision provided for in point 2 of article 29 of this law.

Article 31

Duties of the administrator of confiscated assets
(amended by law no. 85/2020, dated 2.7.2020)

The administrator appointed by the Agency, during the phase of asset seizure, continues the exercise of duties, on behalf of and for the account of the Agency for the Management of Seized and Confiscated Assets, as long as he has not been replaced by another person.

Article 32

Use of monetary funds from confiscated items
(amended title, rephrased in letter "a" and changed letter "c" by law no. 70/2017, dated 27.4.2017, amended the first paragraph, the second sentence of letter "b" and added words in letter "c" by law no. 85/2020, dated 2.7.2020)

The administrator appointed by the Agency performs the necessary actions to deliver to the accounts of the Agency for the Management of Seized and Confiscated Assets the funds in monetary assets:

a) confiscated, which will not be used for the administration of other assets of confiscated, or that will not be used for compensating the victims of criminal acts of organized crime and trafficking;

b) obtained from the sale of movable assets, which are not used in the activity of the commercial legal entity and securities, at the net value, obtained from the sale of assets for compensating the victims of organized crime, trafficking, and corruption. 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 free transfer of ownership or destruction of the confiscated property;

c) obtained from the recovery of personal loans. If the recovery procedure is not economical or when after verifications made by the Agency for the Management of Seized Assets regarding the debtor's payment capacity, it turns out that he has no payment capacity, personal loans are canceled by the Interinstitutional Committee for Measures Against Organized Crime according to the procedure provided for in article 30 of this law.

Article 33

Use of real estate and those that serve
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, at the proposal of the minister responsible for the economy and the minister responsible for public order and security, determines the criteria, extent, and manner of use of real estate and those that serve for economic, commercial, and professional activities, part of the special fund, within the limits of the destination, established by the applicable legislation.

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

of rightful compensation.

Article 34

The Agency for the Management of Seized and Confiscated Assets
(point 2 repealed by law no. 34/2019, dated 17.6.2019 and amended by law no.
85/2020, dated 2.7.2020)

1. The Agency for the Management of Seized and Confiscated Assets is the institution responsible for the management of seized and confiscated assets.
2. Repealed.
3. Detailed rules for the evaluation criteria, methods, and procedures for granting use and alienation of confiscated assets are determined by the Council of Ministers.

Article 35

Interinstitutional Advisory Committee of Experts for Measures Against Organized Crime

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

1. For the supervision of the management of seized and confiscated assets by the Agency for the Management of Seized and Confiscated Assets, as well as for making decisions regarding the destination of seized and confiscated assets, the Interinstitutional Committee for Measures Against Crime is established and operates. Organized. This committee meets at the ministry responsible for public order and security.
2. The committee consists of 9 (nine) members, proposed respectively by the minister responsible for public order and security, the minister responsible for economic affairs, the minister responsible for justice, the minister responsible for social affairs, the Attorney General, the Special Prosecutor's Office Against Corruption and Organized Crime, the Judicial Budget Management Unit, the State Cadastre Agency, and the Agency for the Management of Seized and Confiscated Assets. The member proposed by the minister responsible for public order and security is the chairperson of the committee. The Agency for the Management of Seized and Confiscated Assets performs the function of the technical secretariat of the committee.
3. Representatives of public institutions or other organizations, domestic or foreign, active in fields of interest for the implementation of this law may also be invited to participate in the committee's activities.
4. The Agency for the Management of Seized and Confiscated Assets reports to the at least once every three months, to the committee on its activities.
5. The committee, based on the priorities set out in Article 37 of this law, provides recommendations addressed to the ministry responsible for public order and security for the effective disposal of the revenues generated by the Agency, including the recommendation for the payment of the agency's operational expenses.
6. The committee, at least once every six months, requests written information from central institutions that manage them, as well as detailed data on the status and

[†]With law no. 85/2020, dated 2.7.2020: " In point 2 of Article 34, the words "by the Council of Ministers" are replaced with the words "by special law"" (article 13).

the manner of use of real estate by local units, which own the confiscated real estate.

7. The Committee meets whenever necessary, at the request of one of the members or of the Agency, but no less than 1 (one) time every 3 (three) months. The Committee approves its internal operating regulations.

8. The measures and methods of compensation for the members of the Committee are determined by a decision of the Council of Ministers.

Article 36

Periodic reporting to the Council of Ministers (amended by law no. 85/2020, dated 2.7.2020)

The minister responsible for public order and security, at the end of each financial year, presents 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 crime prevention (amended points 1 and 2 by law no. 70/2017, dated 27.4.2017, amended by law no. 85/2020, dated 2.7.2020)

1. The revenues obtained from the implementation of this law serve for the establishment of the special fund for crime prevention and legal education. The special fund is a separate item in the Agency's budget and is administered by decision of the Committee.

2. This fund serves for:

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

b) improving the prevention of criminal acts, preliminary investigations of organized crime or other crimes that generate criminal assets/products and the development of witness and justice collaborator protection programs, by allocating 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 assets to the administration of the ministry that covers social issues.

ç) compensating victims of organized crime and trafficking to the extent of determined by a court decision.

d) for covering the 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 funding for crime prevention may include: crime may include:

a) local governance units, where the confiscated real estate is located;

b) non-profit organizations, whose objective is the rehabilitation social, cultural, and health rehabilitation of vulnerable groups, especially those affected or at risk from crime, including organizations and therapeutic centers, rehabilitation centers and treatment for drug users, as well as assistance and rehabilitation centers for victims of human trafficking, which, in the last three years from the submission of the request, carry out such activities.

4. Requests for project funding, according to this article, the verification and preparation of documentation for consideration in the Inter-Institutional Committee for Measures Against Crime of

Organized, as well as the monitoring of their implementation, is carried out by the structures of the Agency for the Management of Seized and Confiscated Assets.

5. The committee, by decision, determines the financing of the project and the methods of use of the fund made available to the applicant.

6. Until 31.12.2020, the fund that serves to prevent the commission of criminal acts, in function of the activity of the State Police and the Special Prosecutor's Office Against Corruption and Organized Crime, cannot be less than 60 (sixty) percent of the total revenues.

7. The unused revenues from the special fund for crime prevention are transferred to the following budget year of the Agency.

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

CHAPTER VII FINAL PROVISIONS

Article 38 Transitional provision

Requests for the adoption of preventive measures, submitted by the prosecutor to the court before the entry into force of this law, continue to be judged 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 adoption of preventive measures submitted by the prosecutor to the competent court after its entry into force.

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

3. For assets placed before the entry into force of this law and related to criminal acts of new ones added in article 3, point 1, its provisions of point 6, of article 3, of this law apply.

4. Until the establishment of the court against corruption and organized crime, cases for the adoption of preventive measures against assets will be judged by the Court for Serious Crimes.

5. With the establishment of the court against corruption and organized crime, cases in trial for the adoption of preventive measures against assets are transferred to this court and to the courts of general jurisdiction, according to the subject matter jurisdiction for the committed criminal act, based on article 75/a of the Criminal Procedure Code.

6. With the establishment of the Special Prosecutor's Office against corruption and organized crime, cases under investigation for the adoption of preventive measures against assets are transferred to this prosecutor's office and to the prosecutors of general jurisdiction, according to the subject matter jurisdiction for the committed criminal act, based on article 75/a of the Criminal Procedure Code.

Article 39 Sub-legal acts

The Council of Ministers is tasked to, within three months from the entry into force of this law, issue sub-legal acts for the implementation of articles 14, 15 point 2, 28 point 4, 33 and 34 of this law.

Article 40 Repeals

Law no. 9284, dated 30.9.2004 "On the prevention and combating of organized crime", as well as any other provision that contradicts this law, is repealed.

Article 41
Entry into force

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

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