

**LAW
ON CUSTODY OF TEMPORARILY AND PERMANENTLY
SEIZED ASSETS**

I. GENERAL PROVISIONS

Article 1

This Law shall regulate custody, i.e. management of temporarily or permanently seized assets in criminal or misdemeanor proceedings (hereinafter: the proceedings).

Article 2

Assets, in terms of this Law, shall be: money, movable assets, immovable assets, precious items (gold, precious metals, precious or semi-precious stones, pearls and other valuable items), other real property rights, securities in accordance with law, other documents proving proprietary rights in assets, and other proceeds obtained through crime or offence.

Article 3

Custody or management of assets from Article 1 of this Law shall include:

- 1) Value assessment of seized assets, in accordance with law;
- 2) Storage, safeguarding, reparation and sale of seized assets;
- 3) Depositing funds obtained from sale of seized assets, in accordance law;
- 4) Keeping records on seized assets;
- 5) Other activities, in accordance with law.

Article 4

The competences from Article 3 of this Law shall be exercised by public authority charged with management of state property (hereinafter: the competent authority).

II. OBLIGATIONS OF STATE BODIES AND PUBLIC ADMINISTRATION BODIES

Article 5

Court, i.e. authority charged with the conduct of misdemeanor proceedings shall, without any delay, submit the final ruling on temporary or permanent seizure of assets to the competent authority.

Article 6

Should they be tradable and have any usable value, the assets seized following imposed safety measure, i.e. asset seizure as protection measure according to law, shall be transferred to the competent authority, once the ruling becomes effective.

The assets from Paragraph 1 of this Article shall be treated as permanently seized assets, in accordance with this Law.

Article 7

The competent authority shall keep records on seized assets.

The records from Paragraph 1 of this Article shall include the following data:

- Reference number of the ruling;
- Court, i.e. authority charged with conduct of misdemeanor proceedings;
- Type and estimated value of assets;
- Entity deprived of property (name, surname, personal ID number and address, i.e. name, headquarters and registration number of a legal entity);

The records from Paragraph 1 of this Article shall be regulated in more detail by the ministry in charge of justice affairs (hereinafter: the Ministry)

III. VALUE ASSESSMENT OF SEIZED PROPERTY

Article 8

Court, i.e. authority charged with conduct of misdemeanor proceedings may entrust the competent authority with the value assessment of seized property, for the needs of proceedings.

The competent authority shall perform value assessment of seized assets from Paragraph 1 of this Article at the moment of its seizure.

Article 9

The competent authority shall perform value assessment of the seized assets it is entrusted with, at its market value at the moment of takeover.

For value assessment of seized assets from Paragraph 1 of this Article and Article 8 of this Law, the competent authority may engage an expert, organization, or institution.

IV. MANAGEMENT OF SEIZED PROPERTY**Article 10**

The competent authority shall manage the assets seized in the proceeding in such a way to guarantee the highest value safeguarding level, at lowest cost.

The competent authority shall protect the interests of owners, faithful holders and entities temporarily deprived of their property, in accordance with law.

Article 11

The competent authority may sell the seized assets in order to preserve its value, in accordance with law.

Article 12

Court, i.e. the authority charged with conduct of misdemeanor proceedings shall transfer the assets seized in the proceedings to the competent authority, with the exception of items that could serve as evidence.

During takeover of the assets from Paragraph 1 of this Article, a protocol shall be made, comprising the following:

- Name of the court, i.e. authority charged with conduct of misdemeanor proceeding;
- Reference number of the ruling;
- Data on entity deprived of property;
- Other relevant data.

The Ministry shall define the contents of the protocol in more detail.

Article 13

The competent authority may confer the management of seized assets to organization or institution, which is registered and meets the requirements, set by law, to manage such kind of property.

The rights and obligations regarding the management of assets from Paragraph 1 of this Article shall be defined by a contract concluded in accordance with law.

The organization or institution from Paragraph 1 of this Article shall manage the conferred property, in accordance with law.

The competent authority shall provide the supervision of the management of conferred property.

Article 14

The competent authority shall confer the temporarily seized assets of historic, artistic and scientific value to specialized institutions, until the ruling becomes effective.

Permanently seized assets from Paragraph 1 of this Article shall become state property and be conferred for safeguarding to the specialized institution designated by the ministry charged with culture affairs.

Article 15

The competent authority shall confer temporarily seized foreign currencies, foreign currency deposits, as well as precious items, to the Central Bank of Montenegro, until the ruling becomes effective.

Permanently seized precious items from Paragraph 1 of this Article shall become the state property and shall be kept as prescribed by the ministry in charge of finance.

Article 16

In the event of temporary seizure of immovable assets, the competent authority shall provide for measures of its safeguarding and maintenance.

The competent authority shall inform the body in charge of property record keeping on the temporarily seized assets, in order to record property burden.

Permanently seized immovable assets shall become the state property, pursuant to effective court ruling.

Article 17

Seized assets, which must be destroyed, in order to protect life and health of people and animals, environment, for safety and other reasons, shall be destroyed under supervision of the competent authority, in accordance with law.

V. SEIZED PROPERTY MANAGEMENT EXPENSES

Article 18

Safeguarding and maintenance expenses of temporarily seized assets shall be covered by the competent authority, until the court ruling becomes effective.

Article 19

Expenses of destroying of the assets from Article 17 of this Law shall be covered by the entity deprived of these assets.

In the event the entity from Paragraph 1 of this Article is unknown or unavailable, the expenses of destroying of assets shall be covered by the competent authority.

Should the identity of this entity be determined afterwards, i.e. the entity from the Paragraph 2 of this Article becomes available, the competent authority shall be entitled to reimburse the expenses from that entity.

The expenses of destroying of assets and items (goods), which are easily spoiled and whose sale is unsuccessful, shall be covered by the entity permanently deprived of these assets and items.

VI. MOVABLE ASSETS SALE PROCEDURE

Article 20

The competent authority shall sell seized movable assets at its market value.

The sale shall be performed through public auction.

The seized movable assets shall not be sold below its estimated market price defined by the competent authority, unless when the assets are sold in a direct negotiations.

Article 21

If the assets are not sold in two public auctions, the sale may be performed through direct negotiations procedure, in accordance with Law.

In the event that the sale through direct negotiations procedure is unsuccessful, the seized assets may be donated to charity, or destroyed.

Article 22

Management and sale of securities shall be performed in accordance with law on securities.

Article 23

The competent authority may sell easily spoiled goods and animals, without public auction. Funds obtained by sale of temporarily seized assets from Paragraph 1 of this Article shall be kept on the special account of the competent authority, until the effectiveness of the court ruling.

The funds from Paragraph 2 of this Article shall be kept as sight deposit with the most favorable interest rate.

Article 24

The sale of the seized assets shall be performed in accordance with the provisions of law regulating enforcement procedure, unless otherwise regulated by this Law.

VII. REPARATION OF SEIZED ASSETS

Article 25

Court, i.e. authority charged with misdemeanor proceedings shall furnish the competent authority with the final court ruling, providing for the reparation of temporarily or permanently seized assets.

The competent authority shall return the seized assets without delay, up to eight days from the receipt of the final court ruling, received from court, i.e. authority charged with misdemeanor proceedings from the Paragraph 1 of this Article.

A protocol on the reparation of assets from the Paragraph 2 of this article shall be made and signed by authorized representative of the competent authority and the entity to whom the assets are returned.

Article 26

Should the seized property be sold, the competent authority shall return the funds obtained by its sale and deposited on the account from the Article 23 Paragraph 3 of this Law, at the moment of reparation.

Should the property be given or destroyed, the entity from the Article 25 of this Law shall be entitled to damages, in accordance with general regulations.

VIII. OWNERSHIP OF FUNDS OBTAINED FROM THE SALE OF PERMANENTLY SEIZED PROPERTY

Article 27

After covering the expenses of value assessment, storage, safeguarding and sale of the seized assets, the funds obtained from the sale of permanently seized assets are paid into the budget of Montenegro.

The funds from the Paragraph 1 of this Article shall be used for financing projects aimed at strengthening judicial, prosecution and internal affairs capacities.

IX. INTERNATIONAL COOPERATION

Article 28

The manner of management of temporarily or permanently seized assets pursuant to the court order of a foreign country shall be performed in accordance with the regulations concerning international legal assistance.

X. TRANSITIONAL AND FINAL PROVISIONS

Article 29

Court, i.e. authority charged with conduct of misdemeanor proceedings shall deliver the assets seized temporarily or permanently before the effectiveness of this law to the competent authority, within 60 days from the implementation date of this law.

Article 30

More detailed regulations regarding the implementation of this law shall be adopted within six months from the date this Law becomes effective.

Article 31

This law shall become effective on the eighth day upon its publication in "The Official Gazette of Montenegro", and implemented as of 1st January 2009.

SU-SK Number 01-515/5
Podgorica, 29th July 2008

THE PARLIAMENT OF MONTENEGRO

CHAIRMAN

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