

Opozorilo: Neuradno prečiščeno besedilo predpisa predstavlja zgolj informativni delovni pripomoček, glede katerega organ ne jamči odškodninsko ali kako drugače.

Neuradno prečiščeno besedilo Zakona o odvzemu premoženja nezakonitega izvora obsega:

- Zakon o odvzemu premoženja nezakonitega izvora – ZOPNI (Uradni list RS, št. 91/11 z dne 14. 11. 2011),
- Zakon o spremembah in dopolnitvah Zakona o odvzemu premoženja nezakonitega izvora – ZOPNI-A (Uradni list RS, št. 25/14 z dne 11. 4. 2014),
- Odločbo o razveljavitvi prvega odstavka 57. člena Zakona o odvzemu premoženja nezakonitega izvora in ugotovitvi kršitve človekovih pravic (Uradni list RS, št. 53/18 z dne 3. 8. 2018).

## ZAKON

### O ODVZEMU PREMOŽENJA NEZAKONITEGA IZVORA (ZOPNI)

(neuradno prečiščeno besedilo št. 2)

#### I. UVODNE DOLOČBE

##### Vsebina zakona

##### 1. člen

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The unofficial consolidated version of the Confiscation of Assets of Illicit Origin Act comprises:

- Confiscation of Assets of Illicit Origin Act – ZOPNI (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 91/11 of 14 November 2011),
- Act Amending the Confiscation of Assets of Illicit Origin Act – ZOPNI-A (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 25/14 of 11 April 2014),
- Decision Abrogating Paragraph One of Article 57 of the Confiscation of Assets of Illicit Origin Act and Establishment of the Violation of Human Rights Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 53/18 of 3 August 2018).

## CONFISCATION OF ASSETS OF ILLICIT ORIGIN ACT (ZOPNI)

(Unofficial consolidated version No. 2)

#### I. INTRODUCTORY PROVISIONS

##### Subject of the Act

##### Article 1

Ta zakon določa pogoje, postopek in pristojne organe za finančno preiskavo, začasno zavarovanje odvzema, začasen odvzem, hrambo, upravljanje in odvzem premoženja nezakonitega izvora, odgovornost Republike Slovenije ter mednarodno sodelovanje v zvezi s postopki po tem zakonu.

## **Namen zakona**

### **2. člen**

(1) Namen zakona je preprečevanje pridobivanja in uporabe premoženja nezakonitega izvora zaradi varstva pridobivanja premoženja na zakonit način ter zaradi zaščite gospodarske, socialne in ekološke funkcije lastnine, ki ga zagotavlja pridobivanje premoženja v skladu s predpisi.

(2) Namen iz prejšnjega odstavka se zagotavlja z odvzgom premoženja tistim, ki so ga pridobili na nezakonit način, ali je bilo tako premoženje nanje preneseno brezplačno ali za plačilo, ki ne ustreza dejanski vrednosti,.

## **Začetek postopka**

### **3. člen**

Postopek finančne preiskave po tem zakonu se izvede, če se v predkazenskem ali kazenskem postopku izkažejo razlogi za sum, da posamezne osebe razpolagajo s premoženjem nezakonitega izvora in njegova skupna vrednost presega 50.000 eurov.

## **Pomen izrazov**

### **4. člen**

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

## **Purpose of the Act**

### **Article 2**

(1) The purpose of this Act is to prevent the acquisition and use of assets of illicit origin in order to protect the legal acquisition of assets and to protect the economic, social and environmental function of property guaranteed by the acquisition of assets in compliance with regulations.

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

## **Start of the procedure**

### **Article 3**

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

## **Definitions**

### **Article 4**

Posamezni izrazi, uporabljeni v tem zakonu, imajo naslednji pomen:

1. Premoženje so stvari in pravice, ki so lahko predmet izvršbe, zlasti nepremičnine, premičnine in finančno premoženje ter vsa druga sredstva, ki imajo denarno vrednost, kot tudi premoženje, ki neposredno ali posredno izhaja iz takega premoženja, v katero je spremenjeno ali s katerim je pomešano.
2. Finančno premoženje so denarna sredstva, terjatve, dolžniški vrednostni papirji ter delnice in deleži na kapitalu pravnih oseb, druge naložbe v pravne osebe in drugi finančni instrumenti.
3. Osumljenec ali osumljenka, obdolženec ali obdolženka in obsojenec ali obsojenka (v nadaljnjem besedilu: osumljenec, obdolženec in obsojenec) imajo enak pomen, kot v zakonu, ki ureja kazenski postopek.
4. Zapustnik ali zapustnica (v nadaljnjem besedilu: zapustnik) je oseba, zoper katero se zaradi smrti predkazenski ali kazenski postopek ni mogel začeti ali je bil ustavljen, pa zanjo obstajajo razlogi za sum, da je skupaj z drugimi osebami, zoper katere tak postopek teče, storila kataloško kaznivo dejanje; ali oseba, zoper katero je bil predkazenski ali kazenski postopek zaradi smrti ustavljen, pa so bili podani razlogi za sum, da je storila kataloško kaznivo dejanje.
5. Pravni naslednik ali pravna naslednica (v nadaljnjem besedilu: pravni naslednik) je oseba, ki je podedovala premoženje nezakonitega izvora od osumljenca, obdolženca, obsojenca, zapustnika ali njihovih dedičev.
6. Povezana oseba je ožje povezana oseba, ožji družinski član ali druga fizična ali pravna oseba, na katero je premoženje nezakonitega izvora preneseno brezplačno ali za plačilo, ki ne ustreza dejanski vrednosti, ali navidezno, ali je z njenim premoženjem pomešano.
7. Ožje povezana oseba je pravna oseba, v kateri ima osumljenec, obdolženec, obsojenec, zapustnik ali pravni naslednik lastniški delež ali pravico do lastniškega deleža v višini najmanj 25 % vrednosti vseh deležev ali v obliki glasovalne pravice ali pravice odločanja v takem obsegu ali obvladuje pravno osebo na podlagi pogodbe ali prevladujočega položaja pri upravljanju ali nadzoru ali se pogoji prenosa premoženja razlikujejo od pogojev, ki so ali bi bili v enakih ali primerljivih okoliščinah doseženi med nepovezanimi osebami.

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

1. "Assets" shall mean objects and rights that may be subject to enforcement, particularly immovable and financial property as well as all other assets with monetary value, and assets that are directly or indirectly derived from such assets, into which they have been converted or with which they have been blended.
2. "Financial assets" shall mean cash, accounts receivable, debt securities, shares and interests in the equity of legal entities and other financial instruments.
3. "Suspect", "accused person" and "convicted person" shall have the same meaning as in the Act governing criminal proceedings.
4. "The deceased suspect" shall mean a deceased person against whom pre-trial or trial proceedings could not be commenced or have been stopped, while there are grounds for suspicion that he/she has together or with other persons or alone committed a criminal offence, against.
5. "Legal successor" shall mean a person who has inherited assets of illicit origin from a suspect, an accused person, a convicted person, a deceased suspect or his/her heirs.
6. "Related party" shall mean a closely related party, an immediate family member or other natural or legal entity to whom or to which assets of illicit origin have been transferred free of charge or for a consideration that is disproportionate to the actual value of the assets in question, or to whom or to which assets of illicit origin have been transferred fictitiously or blended with its assets.
7. "Closely related party" shall mean a legal entity in which a suspect, an accused person, a convicted person, a deceased suspect or a legal successor has an equity interest, or a right to an equity interest of at least 25% of the value of the total equity interests, or a right in the form of a voting right or a power of decision to the aforementioned extent, or has a controlling interest in the legal entity on the basis of a contract or by holding a dominant position in the management or control of the legal entity, or for which the conditions for transfer differ from those established among unrelated parties

8. Ožji družinski člani so zakonec oziroma oseba, s katero osumljenec, obdolženec, obsojenec, zapustnik ali pravni naslednik živi v zunajzakonski skupnosti ali registrirani istospolni partnerski skupnosti, ali s katero je v sorodstvenem razmerju v ravni vrsti ali v stranski vrsti do vštetega tretjega kolena ali v svaštvu do vštetega drugega kolena ali je njen posvojitelj ali posvojenec, skrbnik ali oskrbovanec ali druga oseba, s katero živi v skupnem gospodinjstvu.
9. Lastnik ali lastnica (v nadaljnjem besedilu: lastnik) je oseba, ki ima premoženjsko pravico ali se v pravnem prometu izkazuje kot imetnik premoženjske pravice.
10. »Kataloško kaznivo dejanje« je v Kazenskem zakoniku (v nadaljnjem besedilu: KZ-1) določeno kaznivo dejanje:
- terorizma (108. člen KZ-1),
  - financiranja terorizma (109. člen KZ-1),
  - spravljanja v suženjsko razmerje (112. člen KZ-1),
  - trgovine z ljudmi (113. člen KZ-1),
  - zlorabe prostitucije (175. člen KZ-1),
  - prikazovanja, izdelave, posesti in posredovanja pornografskega gradiva (drugi, tretji in četrti odstavek 176. člen KZ-1)
  - proizvodnje in prometa škodljivih sredstev za zdravljenje (prvi, drugi, četrti in peti odstavek 183. člena KZ-1),
  - proizvodnje in prometa škodljivih živil in drugih izdelkov (prvi, drugi, četrti in peti odstavek 184. člena KZ-1),
  - neupravičene proizvodnje in prometa s prepovedanimi drogami, nedovoljenimi snovmi v športu in predhodnimi sestavinami za izdelavo prepovedanih drog (186. člen KZ-1),
  - omogočanja uživanja prepovedanih drog ali nedovoljenih snovi v športu (187. člen KZ-1),
  - organiziranja denarnih verig in nedovoljenih iger na srečo (212. člen KZ-1),
  - zoper gospodarstvo (štiriindvajseto poglavje KZ-1), za katero se sme izreči kazen treh let zapor ali več,
  - jemanja podkupnine (261. člen KZ-1),
  - dajanja podkupnine (262. člen KZ-1),
  - sprejemanja koristi za nezakonito posredovanje (263. člen KZ-1),

under the same or comparable circumstances.

8. "Immediate family member" shall mean a spouse or a person with whom a suspect, an accused person, a convicted person, a testator or a legal successor lives in a common law marriage or in a registered same-sex civil partnership, or who is a direct or collateral relative of these persons up to the third degree of kinship, or who is connected with these persons by marriage up to the second degree of kinship, or who is their adoptive parent, guardian, ward or another person with whom they live in a shared household.
9. "Owner" shall mean a person who has a property right or is recognised as the holder of a property right in legal transactions.
10. "Listed criminal offence" shall mean a criminal offence defined by the Criminal Code (hereinafter: KZ-1):
- terrorism (Article 108 of KZ-1);
  - terrorist financing (Article 109 of KZ-1);
  - establishing slavery relations (Article 112 of KZ-1);
  - human trafficking (Article 113 of KZ-1);
  - exploitation through prostitution (Article 175 of KZ-1);
  - the presentation, production, holding and transmitting of pornographic material (paragraphs two, three and four of Article 176 of the KZ-1);
  - the manufacture and trade of harmful remedies (paragraphs one, two, four and five of Article 183 of the KZ-1);
  - the manufacture and trade of tainted foodstuffs and other products (paragraphs one, two, four and five of Article 184 of the KZ-1);
  - the unlawful production and trafficking of illicit drugs, illicit drugs used in sport, and precursors for the manufacture of illicit drugs (Article 186 of the KZ-1);
  - rendering an opportunity for the consumption of narcotic drugs or illicit drugs used in sport (Article 187 of the KZ-1);
  - the organisation of pyramid schemes and illegal gambling (Article 212 of the KZ-1);
  - a criminal offence against the economy (Chapter 24 of the KZ-1) which may be punishable by imprisonment of up to two years or more;
  - the acceptance of bribes (Article 261 of the KZ-1);
  - giving bribes (Article 262 of the KZ-1);
  - the acceptance of benefits for illegal intermediation (Article 263 of the KZ-1);

- dajanja daril za nezakonito posredovanje (264. člen KZ-1),
- hudodelskega združevanje (294. člen KZ-1),
- izdelovanja in pridobivanja orožja in pripomočkov, namenjenih za kaznivo dejanje (prvi odstavek 306. člena KZ-1),
- nedovoljene proizvodnje in prometa orožja ali eksploziva (307. člen KZ-1),
- drugo kaznivo dejanje, storjeno v hudodelski združbi, ali
- drugo naklepno kaznivo dejanje, za katerega se sme izreči kazen petih let zapora ali več, če lahko iz njega izvira premoženje nezakonitega izvora.

### **Premoženje nezakonitega izvora**

#### **5. člen**

(1) Premoženje je nezakonitega izvora, če ni dokazano, da je bilo pridobljeno iz zakonitih dohodkov oziroma na zakonit način.

(2) Domneva se, da premoženje ni bilo pridobljeno iz zakonitih dohodkov oziroma na zakonit način, če je podano očitno nesorazmerje med njegovim obsegom in dohodki, zmanjšanimi za davke in prispevke, ki jih je oseba, zoper katero teče postopek po tem zakonu, plačala v obdobju, v katerem je bilo premoženje pridobljeno.

(3) Pri ugotavljanju nesorazmernosti se upošteva vrednost vsega premoženja, ki ga ima oseba iz prejšnjega odstavka v lasti, posesti, ga uporablja, uživa, z njim razpolaga ali je razpolagala oziroma ga je prenesla na povezane osebe ali je bilo pomešano z njihovim premoženjem ali je prešlo na njene pravne naslednike.

### **Domneva o brezplačnosti prenosa**

#### **6. člen**

- giving gifts for illegal intermediation (Article 264 of the KZ-1);
- criminal association (Article 294 of the KZ-1);
- the manufacture and acquisition of weapons and instruments intended for the commission of a criminal offence (paragraph one of Article 306 of the KZ-1);
- illegal manufacturing and trafficking in arms or explosives (Article 307 of the KZ-1);
- other criminal offences committed in a criminal organisation; or
- other premeditated criminal offences punishable by five years or more in prison if they are the source of assets of illicit origin.

### **Assets of illicit origin**

#### **Article 5**

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

(2) Assets shall be presumed to be of illicit origin if there is a notable disproportion between the amount of assets and income minus taxes and contributions paid by the person against whom the procedure is pending in support of this Act.

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

### **Presumption of a gratuitous transfer of assets**

#### **Article 6**

Domneva se, da je bilo premoženje nezakonitega izvora preneseno brezplačno ali za plačilo, ki ne ustreza dejanski vrednosti, če je bilo preneseno na ožje povezane osebe ali ožje družinske člane.

## **Pristojni organi**

### **7. člen**

(1) Postopek finančne preiskave vodi državno tožilstvo, ki je pristojno za predkazenski ali kazenski postopek zaradi kataloškega kaznivega dejanja, pri čemer sodeluje s pristojnim državnim tožilcem Specializiranega državnega tožilstva Republike Slovenije (v nadaljnjem besedilu: SDT RS).

(2) SDT RS zastopa Republiko Slovenijo kot tožečo stranko v postopku za odvzem premoženja nezakonitega izvora ali v zvezi z njim. V postopku z izrednimi pravnimi sredstvi, ki jih obravnava Vrhovno sodišče Republike Slovenije, zastopa Republiko Slovenijo Vrhovno državno tožilstvo Republike Slovenije.

(3) V postopku začasnega zavarovanja odvzema in začasnega odvzema premoženja nezakonitega izvora odloča sodišče, ki je pristojno za odločanje v predkazenskem ali kazenskem postopku iz prvega odstavka tega člena.

(4) V postopku za odvzem premoženja nezakonitega izvora odloča Okrožno sodišče v Ljubljani.

## **Sodelovanje in posredovanje podatkov**

### **8. člen**

(1) Državni organi, nosilci javnih pooblastil, banke in druge finančne organizacije so dolžni dajati pristojnim organom iz 7. člena tega zakona in organom, pristojnim za izvrševanje odločb po tem zakonu,

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

## **Competent authorities**

### **Article 7**

(1) Financial investigation proceedings shall be conducted by the State Prosecutor's Office, which is competent for commencing pre-trial or trial proceedings for listed criminal offences in conjunction with the competent State Prosecutor of the Specialised Office of the State Prosecutor of the Republic of Slovenia (hereinafter: the SDT RS).

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

(3) Decisions in the proceedings of freezing and temporary confiscation of assets of illicit origin shall be made by the court with jurisdiction to decide in the pre-trial or trial proceedings referred to in the preceding paragraph.

(4) The Ljubljana District Court shall have the jurisdiction to determine the proceedings for the confiscation of assets of illicit origin.

## **Cooperation and provision of information**

### **Article 8**

(1) State bodies, bearers of public authority, banks and other financial institutions shall provide the required free-of-charge assistance to the competent authorities referred to in Article 7 of this Article and to

zahtevano pomoč, ki je brezplačna.

(2) Upravljavci uradnih evidenc, registrov in javnih knjig ter drugih varovanih podatkov, informacij in dokumentacije, potrebnih za namen izvrševanja pristojnosti po tem zakonu, morajo pristojnim organom na njihovo pisno zahtevo brezplačno posredovati zahtevane podatke. V zahtevi za posredovanje podatkov, informacij in dokumentacije pristojni organ navede, katere podatke zahteva, ime in priimek ter datum in kraj rojstva ali enotno matično številko in podatke o prebivališču lastnikov, katerih podatke zahteva, enoznačno številko, pod katero vodi zadevo, in primeren rok, v katerem morajo biti podatki posredovani, ter opozorilo, da se osebi, na katero se podatki nanašajo, ne sme razkriti, da so bili posredovani.

(3) Pri posredovanju podatkov, informacij in dokumentacije iz prejšnjega odstavka za sodišče, državno tožilstvo, drug državni organ, nosilca javnih pooblastil, notarja, banke in druge finančne organizacije ter njihove delavce ne velja obveznost varovanja tajnih podatkov, poslovne skrivnosti ter bančne in poklicne tajnosti.

## **Smiselna uporaba drugih predpisov**

### **9. člen**

(1) V postopku finančne preiskave, začasnega zavarovanja in začasnega odvzema premoženja nezakonitega izvora se smiselno uporabljajo določbe zakona, ki ureja kazenski postopek, če ni s tem zakonom drugače določeno.

(2) V postopku za odvzem premoženja nezakonitega izvora se smiselno uporabljajo določbe zakona, ki ureja pravdni postopek, če ni s tem zakonom drugače določeno.

(3) Glede prenosa premoženja brezplačno ali za plačilo, ki ne ustreza dejanski vrednosti, ter glede domneve brezplačnosti prenosa se smiselno uporabljajo določbe KZ-1 o odvzemu premoženjske koristi,

authorities having the competence to enforce decisions under this Act.

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

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

## ***Mutatis mutandis* application of other regulations**

### **Article 9**

(1) The provisions of the Act governing criminal proceedings shall apply, *mutatis mutandis*, to the financial investigation procedure, freezing and temporary confiscation of assets of illicit origin.

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

(3) The provisions of the Criminal Code (KZ-1) concerning the confiscation of proceeds of crime or proceeds associated with crime shall apply, *mutatis mutandis*, to the transfer of assets free of charge or for

pridobljene s kaznivim dejanjem ali zaradi njega, če ni s tem zakonom drugače določeno.

## II. FINANČNA PREISKAVA

### Uvedba finančne preiskave

#### 10. člen

(1) Državni tožilec odredi finančno preiskavo, kadar so izpolnjeni naslednji pogoji:

1. v predkazenskem ali kazenskem postopku se ugotovi, da so podani ali so bili podani razlogi za sum, da je osumljenec, obdolženec ali zapustnik storil kataloško kaznivo dejanje;
2. oseba iz prejšnje točke ima v lasti, posesti, uporabi ali uživanju premoženje, v zvezi s katerim so podani razlogi za sum, da je nezakonitega izvora, oziroma je s takim premoženjem razpolagala ali je prešlo na njene pravne naslednike ali ga je prenesla na povezane osebe ali je bilo pomešano s premoženjem teh oseb, in
3. premoženje iz prejšnje točke ne predstavlja premoženjske koristi, pridobljene s kataloškim kaznivim dejanjem ali zaradi njega.

(2) Predlog za finančno preiskavo z obrazloženimi razlogi za sum lahko poda policija, Davčna uprava Republike Slovenije (v nadaljnjem besedilu: DURS), Carinska uprava Republike Slovenije (v nadaljnjem besedilu: CURS), Komisija za preprečevanje korupcije ali Urad Republike Slovenije za preprečevanje pranja denarja.

(3) O odreditvi finančne preiskave pristojni državni tožilec obvesti DURS, CURS, Urad Republike Slovenije za preprečevanje pranja denarja, Komisijo za preprečevanje korupcije in policijo.

(4) Državni tožilec lahko pod pogoji iz prvega odstavka tega člena odredi finančno preiskavo zoper osebo, zoper katero je tekel

consideration that is disproportionate to the actual value of the assets, and to the presumption of a gratuitous transfer of assets unless otherwise provided by this Act.

## II. FINANCIAL INVESTIGATIONS

### Investigation launch

#### Article 10

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

1. during pre-trial or trial proceedings it is established that there are grounds for suspicion that a suspect, an accused person or a testator has committed a listed criminal offence;
2. the persons referred to in the preceding point own, possess, use or enjoy assets in respect of which there are grounds to suspect that these assets are of illegal origin or that they have been held or have been passed to such persons' legal successors or transferred to their related parties or have been blended with the assets of these persons; and
3. the assets referred to in the preceding point are not the proceeds of a listed criminal offence or the subject of such an offence.

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

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

(4) The State Prosecutor may, under the conditions referred to in paragraph one of this Article, order a financial investigation to be



predkazenski ali kazenski postopek za kataloško kaznivo dejanje najkasneje v enem letu po pravnomočnosti sodbe ali po pravnomočni ustavitvi kazenskega postopka ali po zavrženju kazenske ovadbe.

(5) V odredbi o finančni preiskavi državni tožilec določi osebo, zoper katero se preiskava opravi, in obdobje, za katero se opravi. Finančna preiskava se lahko opravi najdalj za obdobje petih let pred letom, v katerem je bilo storjeno očitano kataloško kaznivo dejanje ter do vložitve tožbe po tem zakonu.

(6) Če se med finančno preiskavo pokažejo razlogi za sum, da je bilo premoženje preneseno ali je prešlo na povezane osebe, državni tožilec odredi, da se finančna preiskava razširi tudi zoper te osebe.

(7) Če niso podani pogoji za uvedbo finančne preiskave, pristojni državni tožilec zavrne predlog za uvedbo finančne preiskave in o tem obvesti predlagatelja finančne preiskave.

## **Namen in obseg finančne preiskave**

### **11. člen**

(1) Namen finančne preiskave je, da se zberejo dokazi in podatki, ki so potrebni za odločitev o začasnem zavarovanju odvzema in začasnem odvzemu premoženja nezakonitega izvora, ter ali in zoper katere osebe naj se začne postopek za odvzem premoženja nezakonitega izvora.

(2) V finančni preiskavi se zberejo:

- podatki o obsegu premoženja osumljenca, obdolženca, obsojenca ali zapustnika in razmerju med njegovimi dohodki, zmanjšanimi za davke in prispevke, ki jih je plačal, ter vrednostjo premoženja, ki ga je imel oziroma ga ima v lasti, posesti, ga uporablja, uživa, z njim razpolaga ali je razpolagal v obdobju, za katero se opravi finančna preiskava;

carried out against the person who was the subject of pre-trial or trial proceedings for having committed a listed criminal offence no later than within one year of the date when the judgement of conviction becomes final or following the final discontinuation of criminal proceedings or the dismissal of the criminal complaint.

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

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

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

## **Purpose and scope of financial investigation**

### **Article 11**

(1) The purpose of financial investigation is to gather the evidence and information required to decide on the freezing and temporary confiscation of assets of illicit origin and to determine whether and against whom the procedure for the confiscating assets of illicit origin should be commenced.

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

- data on the amount of assets held by a suspect, an accused person, a convicted person or a testator in proportion to their income minus taxes and contributions paid and the amount of assets owned, used, enjoyed or held by such persons in the period covered by the financial investigation;

- podatki o obsegu premoženja iz prejšnje alineje, ki je bilo preneseno na povezane osebe ali je prešlo na pravne naslednike v obdobju, za katero se opravi finančna preiskava, ter način prenosa oziroma prehoda;
- drugi podatki, ki utegnejo biti koristni za postopek oziroma je glede na okoliščine primera smotno, da se pridobijo za ugotovitev izvora, obsega in prenosa premoženja.

## Finančna preiskovalna dejanja

### 12. člen

(1) V finančni preiskavi se lahko uporabijo ukrepi, ki so po zakonu, ki ureja kazenski postopek, dopustni za pridobitev podatkov in dokazov za zavarovanje zahtevka za odvzem premoženjske koristi, pridobljene s kaznivim dejanjem ali zaradi njega.

(2) Preiskava stanovanja in drugih prostorov lastnika ter osebna preiskava lastnika se sme opraviti, če so za sum iz 10. člena tega zakona podani utemeljeni razlogi in je verjetno, da bo mogoče pri preiskavi odkriti premoženje nezakonitega izvora ali da se bodo našli sledovi, predmeti in dokazi, ki so pomembni za postopek po tem zakonu. Hišna in osebna preiskava se smeta opraviti le po odredbi sodišča.

(3) Premoženje in predmeti, pridobljeni pri preiskavi iz prejšnjega odstavka, oziroma tisti, ki jih lastnik sam izroči, in utegnejo biti dokaz ali predmet odvzema, se zasežejo po določbah zakona, ki ureja kazenski postopek. Premoženje, ki utegne biti predmet odvzema, se izroči v začasno hrambo CURS.

(4) V primerih, ko začasno zavarovanje odvzema premoženja nezakonitega izvora še ni bilo odrejeno, mora državni tožilec v osmih delovnih dneh po zasegu premoženja iz prejšnjega odstavka sodišču predlagati odreditev začasnega zavarovanja ali začasnega odvzema,

- the data on the amount of assets referred to in the preceding item that are transferred to related parties or passed on to legal successors during the period covered by the financial investigation and the method of transfer;
- other data which may prove useful for the proceedings or of which acquisition would be appropriate with regard to the circumstances of the case in order to determine the origin, amount and transfer of the assets.

## Financial investigation actions

### Article 12

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

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

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

(4) In cases where no freezing of assets of illicit origin has yet been ordered, the State Prosecutor shall, within eight days of the confiscation of the assets referred to in the preceding paragraph, request that the court issue an order for the freezing or temporary confiscation of

sicer se premoženje vrne.

(5) Državni tožilec lahko s pisno odredbo začasno do izdaje sodne odločbe, vendar največ do 72 ur, odredi prepoved razpolaganja s sredstvi na bančnem računu ter z drugim premičnim ali nepremičnim premoženjem preiskovanca in o tem obvesti pristojne organe.

## **Usmerjanje finančne preiskave**

### **13. člen**

Državni tožilec lahko pri opravljanju finančne preiskave usmerja delo policije, DURS, CURS, Urada Republike Slovenije za preprečevanje pranja denarja in drugih pristojnih državnih organov z obveznimi navodili, strokovnimi mnenji in predlogi za zbiranje obvestil ter izvedbo drugih ukrepov, za katere so pristojni, z namenom, da se odkrije premoženje nezakonitega izvora in ugotovi njegova vrednost ter zberejo podatki, potrebni za odločitev o začasnem zavarovanju odvzema, začasnem odvzemu premoženja nezakonitega izvora in za odvzem premoženja nezakonitega izvora.

## **Finančna preiskovalna skupina**

### **14. člen**

(1) O uvedbi finančne preiskave pristojni državni tožilec obvesti vodjo pristojnega državnega tožilstva, ki ustanovi finančno preiskovalno skupino, in odredbo vroči tudi vodji SDT RS. Finančno preiskovalno skupino vodi pristojni državni tožilec, sestavljajo pa jo predstavniki policije, DURS, CURS, Državnega pravobranilstva Republike Slovenije, Urada Republike Slovenije za preprečevanje pranja denarja, Komisije za preprečevanje korupcije, Agencije za trg vrednostnih papirjev, Javne agencije Republike Slovenije za varstvo konkurence ali Računskega sodišča v skladu s predlogom pristojnega državnega tožilca.

assets; otherwise the assets shall be returned to the owner.

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

## **Directing the financial investigation**

### **Article 13**

During the financial investigation, the State Prosecutor may set guidelines for the work of the Police, the Financial Administration, the Customs Administration, the Office for the Prevention of Money Laundering, as well as for other competent state bodies by giving them compulsory instructions, professional opinions and suggestions for gathering intelligence and for the performance of other measures within their competence with a view to identifying assets of illicit origin, determining their value and gathering the information required to issue a decision on the freezing, temporary confiscation and/or confiscation of assets of illicit origin.

## **Financial investigation group**

### **Article 14**

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

(2) Ob zaključku finančne preiskave vodja skupine iz prejšnjega odstavka izdela pisno poročilo in ga skupaj z zbranimi podatki posreduje vodji pristojnega državnega tožilstva in vodji SDT RS. V poročilu navede natančne podatke in zbrane dokaze o premoženju, za katero obstaja sum nezakonitega izvora, o prenosih takega premoženja na povezane osebe ter o njihovem premoženju in o razlogih za morebitno začasno zavarovanje odvzema oziroma začasen odvzem premoženja nezakonitega izvora.

(3) Glede opredelitve podatkov o premoženju se smiselno uporabljajo določbe zakona, ki ureja izvršbo in zavarovanje, o posredovanju podatkov oziroma o seznamu dolžnikovega premoženja.

(4) Glede ustanovitve, sestave, vodenja ter usmerjanja finančne preiskovalne skupine se smiselno uporabljajo določbe zakona, ki ureja kazenski postopek, o specializiranih preiskovalnih skupinah.

(5) (črtan).

## Uporaba dokazov in podatkov

### 15. člen

(1) Za potrebe finančne preiskave se smejo uporabljati tudi dokazi in drugo gradivo, pridobljeno v predkazenskem ali kazenskem postopku zaradi kataloškega kaznivega dejanja, ter podatki iz zbirke osebnih podatkov, katerih vsebino sme pridobiti državno tožilstvo.

(2) Dokazi in drugo gradivo, pridobljeno v postopku finančne preiskave po tem zakonu, se smejo uporabiti v predkazenskem ali kazenskem postopku le, če so bili pri njihovi pridobitvi izpolnjeni vsi pogoji, ki jih zahteva zakon, ki ureja kazenski postopek.

## Tajnost podatkov

proposal of the competent state prosecutor.

(2) At the end of the financial investigation, the head of the team referred to in the preceding paragraph shall prepare a written report and send it, together with the information gathered, to the head of the competent State Prosecutor's Office. The report shall include detailed information and evidence gathered on the assets for which there are grounds for suspicion that they may be of illegal origin, on the transfers of such assets to related parties, on the related parties' assets, and on the reasons for possible freezing or temporary confiscation of assets of illicit origin.

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

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

(5) (Deleted).

## Use of evidence and data

### Article 15

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

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

## Data confidentiality

## **16. člen**

(1) Podatki, pridobljeni v finančni preiskavi, so tajni.

(2) Uradne osebe, ki sodelujejo v postopku, morajo na dolžnost varovanja tajnosti opozoriti vse osebe, ki sodelujejo v postopku.

### **Trajanje finančne preiskave**

## **17. člen**

(1) Pristojni organi v finančni preiskavi morajo postopati posebej hitro.

(2) Finančna preiskava lahko traja največ eno leto. Z odredbo vodje pristojnega državnega tožilstva se trajanje zaradi objektivnih razlogov lahko podaljša za največ šest mesecev.

### **Pravica do izjave**

## **17.a člen**

(1) Pred vložitvijo tožbe po prvem odstavku 26. člena tega zakona, povabi pristojni državni tožilec preiskovanca na državno tožilstvo, ki je uvedlo finančno preiskavo, da se preiskovancu omogoči vpogled v zbrane podatke iz finančne preiskave. V vabilu se navede razlog vabljenja in posledice neodziva. Če se povabilu odzove, seznanjeni državni tožilec preiskovanca z rezultati finančne preiskave in s pravico izjaviti se o zbranih podatkih ter predlagati dokaze.

(2) V primeru iz prejšnjega odstavka sestavi pristojni državni

## **Article 16**

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

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

### **Duration of the financial investigation**

## **Article 17**

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

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

### **The right to be heard**

## **Article 17a**

(1) Before lodging an action under paragraph one of Article 26 of this Act, the competent State Prosecutor shall summon the person under investigation to the State Prosecutor's Office which has initiated a financial investigation to allow the person under investigation to take a look at the data gathered during the financial investigation. The summons shall cite the reasons for the summoning and the consequences of a failure to attend. If the person under investigation responds to the summons, the State Prosecutor shall acquaint him/her with the results of the financial investigation and his/her right to be heard regarding the collected data and submit evidence.

(2) In instances referred to in the preceding paragraph, the

tožilec zapisnik o naroku, v katerega vpiše izjavo preiskovanca in druge njegove navedbe. Zapisnik, podpisan s strani preiskovanca in pristojnega državnega tožilca, se pošlje sodišču ob vložitvi tožbe.

(3) Če se preiskovanec ne odzove vabilu, ga ni dopustno ponovno vabiti.

## Ustavitev finančne preiskave

### 18. člen

(1) Če državni tožilec v roku iz drugega odstavka 17. člena tega zakona sodišču ne predlaga začasnega zavarovanja odvzema premoženja nezakonitega izvora oziroma ne vloži tožbe za odvzem takega premoženja, se finančna preiskava z odredbo ustavi.

(2) O ustavitvi finančne preiskave državni tožilec obvesti DURS, CURS, Urad Republike Slovenije za preprečevanje pranja denarja, Komisijo za preprečevanje korupcije in policijo.

(3) DURS ima dolžnost v treh mesecih od prejema obvestila iz prejšnjega odstavka vpogledati zbrane podatke. Državni tožilec lahko na zaprosilo DURS podaljša rok iz prejšnjega stavka za največ eno leto. Podatke lahko DURS uporabi kot dokaz v davčnem postopku. V primeru podatkov, ki dokazujejo sum storitev kaznivih dejanj, DURS po uradni dolžnosti obvesti državno tožilstvo, ki lahko podatke uporabi v predkazenskih in kazenskih postopkih zoper storilce kaznivih dejanj, če so bili izpolnjeni vsi pogoji, ki jih določa zakon, ki ureja kazenski postopek.

(4) V kolikor DURS podatkov ne uporabi kot dokaz v davčnem postopku ali državnemu tožilstvu ne prijavi sumov kaznivih dejanj, CURS in državni tožilec po preteku daljšega izmed rokov iz prejšnjega odstavka brez odlašanja vrneta upravičencem zaseženo premoženje in predmete.

competent State Prosecutor shall draw up an official note of the hearing, in which he/she shall record the statement and other allegations of the person under investigation. The official note, signed by the person under investigation and the competent State Prosecutor, shall be sent to the court when lodging the action.

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

## Suspension of financial investigation

### Article 18

(1) If the State Prosecutor proposes no freezing of assets of illicit origin to the court and brings no action for the confiscation of such assets within the time limit specified in paragraph two of Article 17 of this Act, the financial investigation shall be suspended by order.

(2) The competent State Prosecutor shall notify DURS, CURS, the Office of the Republic of Slovenia for Money Laundering Prevention, the Commission for the Prevention of Corruption and the Police about the decision to commence a financial investigation.

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

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

(5) Druge podatke, zbrane v okviru ustavljene finančne preiskave, se v enem mesecu od izteka roka iz tretjega odstavka tega člena uniči pod nadzorstvom preiskovalnega sodnika s smiselno uporabo drugega odstavka 154. člena Zakona o kazenskem postopku (Uradni list RS, št. 32/07 – uradno prečiščeno besedilo, 102/07 – ZSKZDČEU, 23/08 – ZBPP-B, 68/08, 77/09 in 29/10 – odločba US).

## **Mednarodno sodelovanje**

### **19. člen**

(1) Kadar je treba pridobiti gradiva za potrebe finančne preiskave po tem zakonu iz drugih držav, lahko državni tožilec neposredno na podlagi mednarodne pogodbe, ali če velja vzajemnost, zahteva ta gradiva od pristojnih organov drugih držav.

(2) Državni tožilec lahko za potrebe finančne preiskave uporabi tudi podatke, ki so jih pristojni organi tujih držav posredovali brez zaprosila, če to ni v nasprotju z mednarodno pogodbo. Pod enakimi pogoji lahko državni tožilec brez zaprosila pristojnega organa tuje države temu posreduje podatke, pridobljene v finančni preiskavi.

## **III. ZAČASNO ZAVAROVANJE ODVZEMA IN ZAČASEN ODVZEM PREMOŽENJA NEZAKONITEGA IZVORA**

### **Pogoji za začasno zavarovanje**

### **20. člen**

(1) Sodišče na predlog državnega tožilca odredi začasno zavarovanje odvzema premoženja nezakonitega izvora, če so podani naslednji pogoji:

(5) Other data gathered within the framework of the suspended financial investigation shall be destroyed within one month of the expiry of the time limit referred to in paragraph three of this Article under the supervision of the investigating judge and subject to the application of the provisions of paragraph two of Article 154 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 32/07 - official consolidated text, 102/07 – ZSKZDČEU, 23/08 - ZBPP-B, 68/08, 77/09 and 29/10 – Dec. of the CC).

## **International cooperation**

### **Article 19**

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

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

## **III. FREEZING AND TEMPORARY CONFISCATION OF ASSETS OF ILLICIT ORIGIN**

### **Conditions for freezing**

### **Article 20**

(1) The court shall order the freezing of assets of illicit origin on the proposal of the State Prosecutor provided that the following conditions have been satisfied:

- je bilo v predkazenskem ali kazenskem postopku ugotovljeno, da so podani ali so bili podani utemeljeni razlogi za sum, da je osumljenec, obdolženec, obsojenec ali zapustnik storil kataloško kaznivo dejanje,
- iz zbranih podatkov in dokazov za obdobje, za katero se opravlja oziroma je bila opravljena finančna preiskava, izhaja očitno nesorazmerje med dohodki, zmanjšanimi za davke in prispevke, ki jih je osumljenec, obdolženec, obsojenec ali zapustnik plačal, ter vrednostjo premoženja, ki ga ima v lasti, posesti, ga uporablja, uživa ali z njim razpolaga ali je razpolagal, oziroma ga je prenesel na povezane osebe ali je prešlo na njegove pravne naslednike,
- obstaja nevarnost, da bi lastnik, sam ali preko drugih oseb, to premoženje uporabil za kriminalno dejavnost ali da bi ga skrnil, odtujil, uničil ali kako drugače z njim razpolagal, tako, da bi onemogočil ali precej otežil njegov odvzem in
- premoženje, ki je predmet predloga za začasno zavarovanje po tem zakonu, ni predmet zavarovanja odvzema premoženjske koristi pridobljene s kataloškim kaznivim dejanjem ali zaradi njega po določbah zakona, ki ureja kazenski postopek.

(2) Predmet zavarovanja po tem zakonu je lahko tudi premoženje, glede katerega je bilo v kazenskem postopku odrejeno začasno zavarovanje odvzema premoženjske koristi, pa je bilo odpravljeno, če je na tem premoženju zadržana izvršitev spremembe ali odprave začasnega zavarovanja, odrejenega v kazenskem postopku, zaradi načrtovane uvedbe postopka pristojnega davčnega organa.

## **Odreditev začasnega zavarovanja**

### **21. člen**

(1) Začasno zavarovanje se odredi zoper osumljenca, obdolženca, obsojenca ali zapustnika, za katerega so podani utemeljeni razlogi za sum, da razpolaga s premoženjem nezakonitega izvora ali zoper pravnega naslednika ali povezano osebo, če so podani utemeljeni razlogi za sum, da je bilo premoženje nezakonitega izvora preneseno na to osebo.

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

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

## **Freezing orders**

### **Article 21**

(1) freezing shall be ordered for a suspect, an accused person, a convicted person or a testator for which there are reasonable grounds to suspect that they hold assets of illicit origin, or for a legal successor or a related party provided there are reasonable grounds to suspect that the assets of illicit origin have been transferred to such persons.



(2) V sklepu sodišče navede podatke o lastniku, opis dejanja, iz katerega izhajajo zakonski znaki kataloškega kaznivega dejanja, čas in kraj storitve ter zakonsko označbo tega dejanja, premoženje, ki je predmet zavarovanja ter način in trajanje zavarovanja. Sklep mora biti obrazložen.

(3) Sodišče ugotavlja obseg premoženja nezakonitega izvora in odreja zavarovanje na podlagi predloženih dokazov državnega tožilca. Pri tem se sodišče ne spušča v presojo zakonitosti podlag za pridobitev premoženja, temveč se omeji samo na oceno sorazmernosti na podlagi predloženih podatkov.

(4) Sklep iz drugega odstavka tega člena se nemudoma pošlje pristojnemu organu oziroma osebi, ki ga izvrši. Sklep se vroči lastniku in SDT RS.

(5) Če lastniku ni mogoče vročiti sklepa o začasnem zavarovanju, ker njegov naslov ni znan ali ga ni mogoče pridobiti, mu sodišče po uradni dolžnosti postavi pooblaščenca izmed odvetnikov za postopek začasnega zavarovanja.

## Zagotavljanje pravne in socialne varnosti

### 22. člen

(1) Sodišče po potrebi osebi, zoper katero se odredi začasno zavarovanje, omogoči, da razpolaga s tolikšnim delom premoženja, ki ji omogoča plačilo stroškov pravne pomoči v postopku po tem zakonu, in ki njej in osebam, ki jih je dolžna preživljati, omogoči socialno varnost.

(2) O plačilu stroškov iz prejšnjega odstavka sodišče odloči s sklepom na predlog osebe, zoper katero je bilo začasno zavarovanje odrejeno.

(3) Za plačilo stroškov pravne pomoči se smiselno uporabljajo

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

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

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

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

## Provision of legal and social security

### Article 22

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

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

(3) The payment of legal aid costs shall be subject, *mutatis*

predpisi o odvetniški tarifi za zastopanje v kazenskem postopku po uradni dolžnosti, za omogočanje socialne varnosti pa predpisi, ki določajo sredstva za zadovoljevanje minimalnih življenjskih potreb v višini, ki omogoča preživetje.

## Trajanje in prenehanje začasnega zavarovanja

### 23. člen

(1) Začasno zavarovanje po tem zakonu preneha, če državni tožilec Specializiranega državnega tožilstva Republike Slovenije v enem mesecu od zaključka finančne preiskave oziroma od poteka roka iz drugega odstavka 17. člena tega zakona, s katerim je bilo odrejeno, ne predloži dokazila, da je vložil tožbo za odvzem premoženja nezakonitega izvora in predlagal podaljšanje začasnega zavarovanja v pravnem postopku.

(2) Rok iz prejšnjega odstavka se na predlog državnega tožilca lahko podaljša največ za en mesec, če iz objektivnih razlogov ni bilo mogoče vložiti tožbe za odvzem premoženja in predloga za podaljšanje začasnega zavarovanja v roku iz prejšnjega odstavka.

(3) Če državni tožilec v roku iz prejšnjih odstavkov vloži tožbo za odvzem premoženja in hkrati predlaga podaljšanje začasnega zavarovanja v pravnem postopku, se začasno zavarovanje podaljša do odločitve sodišča o tem predlogu.

(4) Če državni tožilec v roku iz prejšnjih odstavkov ne vloži tožbe in predloga za podaljšanje začasnega zavarovanja odvzema premoženja nezakonitega izvora v pravnem postopku, mora sodišče, ki je odredilo začasno zavarovanje, izdati sklep o prenehanju zavarovanja in ga vročiti državnemu tožilcu, lastniku, njegovemu pooblaščenцу, organom, ki so pristojni za izvršitev zavarovanja, DURS in CURS.

(5) Sklep o prenehanju zavarovanja se ne sme izvršiti pred potekom enega meseca od vročitve sklepa iz prejšnjega odstavka DURS.

*mutandis*, to the provisions on lawyer fees for *ex officio* representation in criminal proceedings, and the provision of social security to the provisions on the funds necessary to meet the minimum cost of living requirements.

## Duration and termination of freezing

### Article 23

(1) The freezing under this Act shall be terminated if the State Prosecutor of the Specialised State Prosecutor's Office of the Republic of Slovenia fails to submit evidence that he/she has lodged an action for the confiscation of assets of illicit origin and proposed an extension of the freezing in civil procedure.

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

(6) If the State Prosecutor lodges an action to confiscate the assets within the time limit specified in the preceding paragraphs and simultaneously requests an extension of the freezing in civil proceedings, the freezing shall be extended until the court decides on this request.

(4) If the State Prosecutor lodges no action and request to extend the freezing of assets of illicit origin in the civil procedure, the court that ordered the freezing shall issue a decision terminating the security and deliver it to the State Prosecutor, the owner and his/her proxy, authorities competent for the implementation of security, DURS and CURS.

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

## Začasen odvzem premoženja nezakonitega izvora

### 24. člen

(1) Sodišče lahko na predlog pristojnega državnega tožilca odredi tudi začasen odvzem premoženja ali dela premoženja nezakonitega izvora v naslednjih primerih:

- če obstaja resna nevarnost, da bi se vrednost premoženja pri lastniku zmanjšala, ali
- če nevarnosti, da bi lastnik sam ali preko drugih oseb premoženje uporabil za kriminalno dejavnost, ni mogoče odpraviti brez prevzema premoženja v hrambo oziroma upravljanje, ali
- če nevarnosti, da bi lastnik sam ali preko drugih oseb s premoženjem razpolagal tako, da bi onemogočil ali precej otežil njegov odvzem, ni mogoče odpraviti le z začasnim zavarovanjem po tem zakonu.

(2) Začasni odvzem premoženja nezakonitega izvora lahko državni tožilec predlaga tudi po izdaji sklepa o začasnem zavarovanju, če se šele takrat pokažejo razlogi iz prejšnjega odstavka.

(3) Sodišče s sklepom določi premoženje, ki se začasno odvzame, in pristojni organ, kateremu se premoženje izroči v hrambo oziroma upravljanje. Pri tem upošteva tudi vrednost in vrsto premoženja, za katero je predlagan začasen odvzem, ter stroške in tveganja začasnega odvzema, hrambe oziroma upravljanja.

(4) Če v tem členu ni drugače določeno, se za začasen odvzem premoženja nezakonitega izvora smiselno uporabljajo določbe tega zakona o začasnem zavarovanju odvzema.

**Smiselna uporaba predpisov**

## Temporary confiscation of assets of illicit origin

### Article 24

(1) At the request of the competent State Prosecutor, the court may also order a temporary confiscation of all or part of assets of illicit origin in the following cases:

- if there is a serious risk that the value of the owner's assets would be reduced; or
- if the risk that the owner, either by him/herself or through another person, could use the assets for the purpose of criminal activity cannot be eliminated without placing the assets in secure storage or management; or
- if the risk that the owner, either by him/herself or through another person, could use the assets in a manner that could prevent confiscation or render the confiscation more difficult cannot be eliminated merely by means of freezing under this Act.

(2) The State Prosecutor may also request a temporary confiscation of assets of illicit origin after the decision on freezing has been issued if the reasons referred to in the preceding paragraph only then become evident.

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

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

**(Application *mutatis mutandis*)**

## 25. člen

Če s tem zakonom ni drugače določeno, se za začasno zavarovanje odvzema premoženja nezakonitega izvora in za začasen odvzem premoženja nezakonitega izvora smiselno uporabljajo določbe zakona, ki ureja kazenski postopek glede začasnega zavarovanja odvzema premoženjske koristi, ter določbe kazenskega zakonika glede odvzema premoženjske koristi, pridobljene s kaznivim dejanjem ali zaradi njega.

### IV. POSTOPEK ODVZEMA PREMOŽENJA NEZAKONITEGA IZVORA

#### Začetek postopka

## 26. člen

(1) Pravdni postopek za odvzem premoženja nezakonitega izvora se začne s tožbo, ki jo tožeča stranka vloži zoper lastnika kot toženo stranko.

(2) Tožba mora obsegati vse sestavine v skladu z zakonom, ki ureja pravdni postopek, o vsebini tožbe. Tožbi je treba priložiti zapisnik iz drugega odstavka 17.a člena tega zakona, pisno poročilo o finančni preiskavi in sodne odločbe o začasnem zavarovanju odvzema premoženja oziroma začasnem odvzemu premoženja nezakonitega izvora, izdane na podlagi tega zakona.

(3) Sodišče je dolžno izvod kopije tožbe za odvzem premoženja nezakonitega izvora nemudoma posredovati DURS.

(4) Stroški zastopanja tožeče stranke v postopku za odvzem premoženja nezakonitega izvora ali v zvezi z njim se obračunavajo po predpisu, ki ureja odvetniško tarifo.

(5) Predujmi in stroški tožeče stranke se vnaprej izplačajo iz proračuna Republike Slovenije pri proračunskem uporabniku SDT RS,

## Article 25

Unless otherwise provided by this Act, the provisions of the Act governing Criminal Proceedings on the Freezing of Criminal Proceeds and the provisions of the Criminal Code on the confiscation of the proceeds of crime or proceeds associated with crime shall apply, *mutatis mutandis*, to temporarily ensure the confiscation of assets of illicit origin and to temporarily confiscate assets of illicit origin.

### IV. PROCEDURE FOR THE CONFISCATION OF ASSETS OF ILLICIT ORIGIN

#### Start of the procedure

## Article 26

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

(2) The lawsuit shall include all elements under the Act governing civil procedure. The lawsuit shall be accompanied by a written financial investigation report and evidence of court decisions on freezing or temporary confiscation of assets of illicit origin issued in accordance with this Act.

(3) The court shall immediately submit a copy of the lawsuit for the confiscation of assets of illicit origin to DURS.

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

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

pozneje pa se izterjajo od tistih, ki so jih po določbah zakona, ki ureja pravdni postopek, dolžni poravnati.

## **Dokazno breme**

### **27. člen**

(1) Tožeča stranka v pravdnem postopku navaja dejstva in predlaga dokaze, iz katerih izhaja domneva nezakonitosti izvora premoženja tožene stranke po določbah tega zakona.

(2) Če je bilo premoženje nezakonitega izvora preneseno na povezano osebo, tožeča stranka v pravdnem postopku navaja tudi dejstva in predlaga dokaze, iz katerih izhaja, da je bil prenos opravljen brezplačno ali za plačilo, ki ne ustreza dejanski vrednosti, če gre za ožje povezano osebo ali ožjega družinskega člana, pa dejstva in dokaze, iz katerih izhaja domneva o brezplačnosti prenosa.

(3) Tožena stranka lahko izpodbije domnevo iz drugega odstavka 5. člena tega zakona, če dokaže, da premoženje ni nezakonitega izvora, domnevo iz 6. člena tega zakona pa, če dokaže, da je za premoženje plačala dejansko vrednost.

## **Začasno zavarovanje in začasen odvzem premoženja nezakonitega izvora**

### **28. člen**

(1) Če je državni tožilec predlagal odreditev ali podaljšanje začasnega zavarovanja ali začasnega odvzema premoženja v pravdnem postopku, sodišče odloči o razpisu naroka v osmih delovnih dneh od prejema predloga. O predlogu odloči v osmih delovnih dneh po opravljenem naroku, če naroka ne opravi, pa v osmih delovnih dneh od prejema predloga. Enak rok velja za odločitev o pravnih sredstvih.

the SDT RS budget user and shall subsequently be collected from those persons who, pursuant to the provisions of the Act governing civil proceedings, are obliged to cover these costs.

## **Burden of proof**

### **Article 27**

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

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

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

## **Freezing and temporary confiscation of assets of illicit origin**

### **Article 28**

(1) If the State Prosecutor requests an order for the freezing or temporary confiscation of assets or an extension thereof in civil proceedings, the court shall decide on scheduling the hearing within eight business days of receipt of the request. The proposal shall be decided on within eight business days of the hearing being held. If, however, the hearing does not take place, the decision shall be passed within eight

(2) V postopku začasnega zavarovanja in začasnega odvzema po tem poglavju se smiselno uporabljajo določbe prejšnjega poglavja tega zakona in zakona, ki ureja izvršbo in zavarovanje.

## **Hitrost postopka**

### **29. člen**

(1) Pravdni postopek za odvzem premoženja nezakonitega izvora je nujen in se zadeve obravnavajo prednostno.

(2) Narok za glavno obravnavo sodišče razpiše najkasneje v treh mesecih po prejemu odgovora na tožbo.

## **Varstvo upravičencev**

### **30. člen**

(1) Odvzem premoženja nezakonitega izvora lastniku ne vpliva na pravice, ki jih imajo na tem premoženju tretje osebe, razen če so v času pridobitve teh pravic vedele ali bi bile mogle vedeti, da je bilo premoženje pridobljeno nezakonito.

(2) Sodišče po uradni dolžnosti takoj po prejemu tožbe preveri, ali so v postopku udeležene vse tretje osebe, ki so znane in na katerih pravice ali pravne koristi, o katerih še ni bilo pravnomočno odločeno, bi lahko vplivala izdana sodna odločba. Tretje osebe, ki niso udeležene, pozove, da v enem mesecu od prejema poziva podajo izjavo o vstopu v pravdo v skladu z zakonom, ki ureja pravdni postopek, glede sospornikov in udeležbe drugih oseb v pravdi, in jih opozori na pravne posledice iz 32. člena tega zakona ter pouči o pravici iz četrtega odstavka 33. člena tega zakona.

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

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

## **Promptness of the proceedings**

### **Article 29**

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

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

## **Protection of beneficiaries**

### **Article 30**

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

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

(3) Pod pogoji, ki jih KZ-1 določa za varstvo oškodovanca pri odvzemu premoženjske koristi, pridobljene s kaznivim dejanjem ali zaradi njega, ima položaj tretje osebe iz prejšnjih odstavkov tudi oškodovanec, ki je v kazenskem postopku zaradi kataloškega kaznivega dejanja, zoper osumljenca, obdolženca, obsojenca ali zapustnika uveljavljal premoženjskopравни zahtevek.

(4) Na podlagi določb prejšnjih odstavkov, se v pravdi ugotovljene pravice tretjih oseb, ki ne preprečujejo odvzema premoženja nezakonitega izvora, iz odvzetega premoženja uveljavljajo po določbah četrtega odstavka 33. člena tega zakona.

## **Oklic o začetku postopka**

### **31. člen**

(1) Sodišče z oklicem takoj po prejemu tožbe za odvzem premoženja nezakonitega izvora obvesti tretje osebe iz prvega odstavka 30. člena tega zakona, ki niso znane, o začetku postopka odvzema.

(2) Oklic iz prejšnjega odstavka mora vsebovati:

1. podatke o sodišču, ki vodi postopek in opravljeni številki zadeve, pod katero se postopek vodi, ter o premoženju, zoper katero se vodi postopek,
2. osebno ime in naslov fizične osebe oziroma firmo in sedež pravne osebe kot tožene stranke,
3. izrek sklepa o začasnem zavarovanju odvzema oziroma začasnem odvzemu premoženja,
4. poziv, naj v treh mesecih po objavi oklica podajo izjavo o vstopu v pravdo v skladu z zakonom, ki ureja pravdni postopek, glede sospornikov in udeležbe drugih oseb v pravdi,
5. opozorilo na pravne posledice iz 32. člena tega zakona in pouk o pravici iz petega odstavka 33. člena tega zakona,
6. dan objave oklica.

(3) Under the circumstances defined by the KZ-1 for the protection of injured parties in the confiscation of proceeds of crime or proceeds associated with crime, the injured party exercising a claim for indemnification against a suspect, an accused person, a convicted person or a testator in criminal proceedings for a listed criminal offence shall also be deemed a third party referred to in the preceding paragraphs.

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

## **Announcement of the commencement of the proceedings**

### **Article 31**

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

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

1. data on the court conducting the proceedings, the reference number of the case and the assets that are the subject of the proceedings;
2. personal name and address of the natural person and/or the name and registered office of the legal entity as defendant;
3. the operative part of the decision on freezing and temporary confiscation of assets;
4. a call on third parties to submit a statement on the co-defendants and other persons involved in the proceedings within three months of the announcement;
5. a reminder of the legal consequences referred to in Article 32 of this Act and an instruction regarding the right referred to in paragraph five of Article 33 of this Act;
6. the date of publication of the announcement.

(3) Sodišče objavi oklic v Uradnem listu Republike Slovenije in razglasi na sodni deski, lahko pa odredi, da se oklic objavi tudi v drugih glasilih.

### **Posledica zamude roka**

#### **32. člen**

Če oseba iz 30. ali 31. člena tega zakona zamudi rok za podajo izjave o vstopu v pravdo, izgubi to pravico in pravico v zvezi s premoženjem, ki se odvzame zaradi ugotovljenega nezakonitega izvora, izpodbijati civilnopravne učinke pravnomočne sodne odločbe na njene pravice ali pravne koristi, o katerih še ni bilo pravnomočno odločeno.

(2) Pravne posledice iz prejšnjega odstavka nimajo učinka v primeru izdaje sodbe pred potekom roka za podajo izjave o vstopu v pravdo.

### **Vpliv na druge postopke**

#### **33. člen**

(1) Po začetku pravnega postopka za odvzem premoženja nezakonitega izvora se na nepremičnem premoženju, ki je predmet tožbenega zahtevka, ne more začeti postopek odmere davka na promet nepremičnin ter davka na darila.

(2) Po začetku pravnega postopka za odvzem premoženja nezakonitega izvora se na premoženju, ki je predmet tožbenega zahtevka, ne more začeti postopek izvršbe, zavarovanja, poplačila zemljiškega dolga, stečaja, likvidacije, izbrisa pravne osebe iz sodnega registra brez likvidacije ali prenehanja po skrajšanem postopku zaradi poplačila pravnomočno ugotovljenih terjatev do lastnika premoženja.

(3) The announcement shall be published in Official Gazette of the Republic of Slovenia and posted on the notice board at the court; however, it may be ordered that the announcement be made through other media as well.

### **The consequences of missing the deadline**

#### **Article 32**

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

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

### **Effect on other proceedings**

#### **Article 33**

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

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



(3) Začeti postopki iz prejšnjega odstavka na premoženju, ki je predmet tožbenega zahtevka po tem zakonu, se prekinejo do pravnomočne odločitve sodišča o tožbi za odvzem. Sklep o prekinitvi postopka izda Okrožno sodišče v Ljubljani.

(4) Od začetka pravnega postopka se do pravnomočne odločitve prekine tek zastaralnih rokov in zakonskih rokov za opravo dejanj v postopkih iz prvega in drugega odstavka tega člena.

(5) V dveh mesecih po pravnomočnosti sodbe o odvzemu premoženja nezakonitega izvora lahko upniki, ki so začeli postopke iz drugega odstavka tega člena, in tisti, ki imajo pravnomočno ugotovljene terjatve do lastnika premoženja ali pravice do ločenega poplačila iz odvzetega premoženja, predlagajo Državnemu pravobranilstvu Republike Slovenije poplačilo iz odvzetega premoženja, razen če so v času pridobitve upravičenja vedeli ali bi bili mogli vedeti, da je bilo premoženje pridobljeno nezakonito.

(6) Če skupna vrednost zahtevkov iz prejšnjega odstavka presega vrednost odvzetega premoženja, Državno pravobranilstvo Republike Slovenije v postopku, ki ga vodi po zakonu, ki ureja državno pravobranilstvo, ponudi poplačilo v skladu s pravili o poplačilu upnikov v stečajnem postopku. Če ponudba državnega pravobranilca ni sprejeta, Državno pravobranilstvo Republike Slovenije po uradni dolžnosti sodišču predlaga, da se na odvzetem premoženju opravi stečaj po določbah zakona, ki ureja finančno poslovanje, postopke zaradi insolventnosti in prisilno prenehanje.

## **Sodba**

### **34. člen**

(1) V sodbi, s katero ugotovi tožbenemu zahtevku, sodišče ugotovi, da je določeno premoženje nezakonitega izvora, ga odvzame

(3) The initiated proceedings for the assets referred to in the preceding paragraph that are the subject of a civil claim under this Act shall be suspended until the court has rendered its final judgment on the confiscation suit. The decree on the suspension of proceedings shall be passed by the Ljubljana District Court.

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

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

(6) If the total amount of claims referred to in the preceding paragraph exceeds the amount of the confiscated assets, the State Prosecutor's Office of the Republic of Slovenia shall, in the course of the proceedings it conducts under the Act governing state prosecution, offer repayment in accordance with the rules on the repayment of creditors in bankruptcy proceedings. If the state prosecutor's offer is not accepted, the State Prosecutor's Office of the Republic of Slovenia shall *ex officio* request that the court commence bankruptcy proceedings for the confiscated assets in accordance with the provisions of the Act governing financial operations, insolvency proceedings and compulsory winding-up.

## **Judgment**

### **Article 34**

(1) The court shall deliver a judgment granting the claim and establishing that particular assets are of illegal origin, whereupon these

lastniku in odloči, da to premoženje s pravnomočnostjo sodbe postane last Republike Slovenije.

(2) Tožeča stranka lahko do konca glavne obravnave brez privolitve tožene stranke spremeni tožbo tako, da zahteva odvzem premoženja, ki ustreza vrednosti premoženja nezakonitega izvora, ali da se toženi stranki naloži, da mora plačati denarni znesek, ki ustreza tej vrednosti, če zaradi okoliščin, ki so nastale po vložitvi tožbe, odvzem premoženja nezakonitega izvora ni mogoč.

(3) Če sodišče tožbenemu zahtevku ne ugodi, ne sme odpraviti začasnega zavarovanja in vrniti začasno odvzetega premoženja pred potekom enega meseca od dneva, ko je bila pravnomočna odločba vročena DURS.

#### V. IZVRŠEVANJE ODLOČB O ZAČASNEM ZAVAROVANJU, ZAČASNEM ODVZEMU IN ODVZEMU PREMOŽENJA NEZAKONITEGA IZVORA

##### Splošna določba

##### 35. člen

(1) Za izvrševanje odločb o začasnem zavarovanju odvzema, začasnem odvzemu, hrambi in upravljanju začasno odvzetega premoženja in o odvzemu premoženja nezakonitega izvora se poleg določb tega zakona uporabljajo tudi določbe zakonov, po katerih pristojni organi izvršujejo svoje naloge glede na vrsto premoženja, ki je predmet zavarovanja, hrambe, upravljanja oziroma odvzema.

(2) Če v tem ali v drugem zakonu ni drugače določeno, se glede izvrševanja odločb iz prejšnjega odstavka smiselno uporabljajo določbe zakona, ki ureja izvršbo in zavarovanje.

(3) Če v tem ali drugem zakonu ni določena pristojnost za

assets shall be confiscated and shall become the property of the Republic of Slovenia.

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

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

#### V. IMPLEMENTATION OF THE PROVISIONS ON FREEZING, TEMPORARY CONFISCATION AND THE CONFISCATION OF ASSETS OF ILLICIT ORIGIN

##### General provision

##### Article 35

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

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

(3) If this Act or any other Act contains no provision on the

izvrševanje odločb iz prvega odstavka tega člena, je pristojna CURS.

### **Izvršitev sklepa o začasnem zavarovanju**

#### **36. člen**

(1) Sklep, s katerim sodišče prepove razpolaganje s premoženjem, ki je vpisano v register ali evidenco, izvrši organ, ki vodi tak register ali evidenco.

(2) Sklep, s katerim sodišče prepove izpolnitev obveznosti, se izvrši z vročitvijo sklepa osebi, kateri je izpolnitev prepovedana.

(3) Sklep, s katerim sodišče dovoli začasno zavarovanje premoženja s hrambo, izvrši CURS.

(4) Drugi sklepi se izvršijo na način, ki ga določi sodišče v skladu z namenom začasnega zavarovanja.

### **Pristojnost za hrambo in upravljanje**

#### **37. člen**

Za hrambo in upravljanje začasnega zavarovanega, začasno odvzetega in odvzetega premoženja nezakonitega izvora so pristojni naslednji organi:

1. za lastniške vrednostne papirje po zakonu, ki ureja trg finančnih instrumentov in deležev v gospodarskih družbah, organ, pristojen za upravljanje kapitalskih naložb Republike Slovenije, v skladu z zakonom, ki ureja upravljanje kapitalskih naložb Republike Slovenije,
2. za drugo finančno premoženje, ministrstvo, pristojno za finance,
3. za premoženje, CURS, ki za izvajanje hrambe lahko pooblasti zunanje izvajalce,
4. za kmetijska zemljišča, kmetije in gozdove, Sklad kmetijskih zemljišč in gozdov Republike Slovenije,

competence for the implementation of the provisions of paragraph one of this Article, this competence shall rest with CURS.

### **Enforcement of the decision on freezing**

#### **Article 36**

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

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

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

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

### **Competence for secure storage and management**

#### **Article 37**

The secure storage and management of frozen, temporarily confiscated and confiscated assets of illicit origin shall be the competence of the following bodies:

1. for equity securities under the Act governing the financial instruments market, and for equity holdings in companies: the body responsible for managing financial assets of the Republic of Slovenia in accordance with the Act governing the management of financial assets of the Republic of Slovenia;
2. for other financial assets: the ministry responsible for finance;
3. for movable property: CURS, which may also authorise external secure storage service providers;
4. for agricultural areas and forests: the Farmland and Forest Fund of the Republic of Slovenia;

5. za druge nepremičnine, organ, pristojen za ravnanje s stvarnim premoženjem države.

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

### **Izvrševanje hrambe in upravljanja začasno zavarovanega in začasno odvzetega premoženja**

### **Secure storage and management of frozen and temporarily confiscated assets**

#### **38. člen**

#### **Article 38**

(1) Z začasno zavarovanim oziroma začasno odvzetim premoženjem mora pristojni organ ravnati kot dober gospodar.

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

(2) Če je hramba ali upravljanje iz prejšnjega odstavka povezana z nesorazmernimi stroški ali se vrednost premoženja ali predmetov zmanjšuje, lahko državni tožilec na predlog organa, pristojnega za hrambo ali upravljanje predlaga sodišču, da se tako premoženje proda v skladu z določbo drugega odstavka 40. člena tega zakona, uniči ali podari v javno korist.

(2) If the secure storage or management referred to in the preceding paragraph is associated with disproportionate costs or if the value of assets or objects decreases, the State Prosecutor may, on the proposal from a body responsible for the secure storage or management of such assets, request the court to order the assets to be sold, destroyed or donated for the public benefit in accordance with paragraph two of Article 40 of this Act.

(3) Pred odločitvijo iz prejšnjega odstavka mora sodišče pridobiti mnenje lastnika premoženja. Če lastnik ni znan ali mu poziva za podajo mnenja ni mogoče vročiti, sodišče poziv pritrdi na sodno desko in se po osmih dneh šteje, da je bila vročitev opravljena. Če lastnik v osmih dneh po vročitvi poziva ne poda mnenja, se šteje, da s prodajo, uničenjem ali podaritvijo soglaša.

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

### **Upravljanje odvzetega premoženja nezakonitega izvora**

### **Management of confiscated assets of illicit origin**

#### **39. člen**

#### **Article 39**

(1) Za upravljanje s finančnim premoženjem se uporablja zakon, ki ureja javne finance in zakon, ki ureja upravljanje kapitalskih naložb.

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

(2) Za upravljanje s stvarnim premoženjem se uporablja zakon, ki ureja stvarno premoženje države.

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

(3) Za upravljanje s kmetijskimi zemljišči, kmetijami in gozdovi, se uporablja zakon, ki ureja sklad kmetijskih zemljišč in gozdov.

## **Prodaja odvzetega premoženja**

### **40. člen**

(1) Premoženje, odvzeto s pravnomočno sodbo sodišča, se proda, razen če Vlada Republike Slovenije na predlog upravljavca odloči drugače.

(2) Prodaja premoženja se opravlja na podlagi zakona, ki ureja javne finance, zakona, ki ureja upravljanje kapitalskih naložb, zakona, ki ureja stvarno premoženje države, zakona, ki ureja davčni postopek in zakona, ki ureja sklad kmetijskih zemljišč in gozdov.

## **Stroški in prihodki**

### **41. člen**

(1) Za pokrivanje stroškov zavarovanja, hrambe, upravljanja in prodaje premoženja, ki je predmet začasnega zavarovanja, začasnega odvzema ali odvzema, se zagotovijo sredstva v proračunu Republike Slovenije.

(2) Kupnina od prodanega premoženja iz prejšnjega člena je prihodek proračuna Republike Slovenije.

## **Podzakonski akt**

### **42. člen**

Postopke hrambe, upravljanja in prodaje začasno

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

## **Sale of confiscated assets**

### **Article 40**

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

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

## **Costs and revenues**

### **Article 41**

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

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

## **Implementing regulation**

### **Article 42**

The procedure for the secure storage, management and sale of

zavarovanega, začasno odvzetega in odvzetega premoženja nezakonitega izvora po tem zakonu natančneje predpiše Vlada Republike Slovenije.

## VI. EVIDENCE

### Vodenje evidenc začasno zavarovanega in odvzetega premoženja nezakonitega izvora

#### 43. člen

(1) Za namene zagotavljanja zakonitega izvrševanja začasnega zavarovanja in začasnega odvzema premoženja nezakonitega izvora ter varnosti pravnega prometa organ, pristojen za hrambo in upravljanje začasno zavarovanega oziroma začasno odvzetega premoženja, vodi evidenco začasno zavarovanega premoženja oziroma začasno odvzetega premoženja nezakonitega izvora.

(2) Organ, pristojen za upravljanje odvzetega premoženja, vodi evidenco odvzetega premoženja v skladu z nameni iz prejšnjega odstavka.

(3) CURS vodi centralno evidenco, ki združuje evidence iz prvega in drugega odstavka tega člena v skladu z nameni iz prvega odstavka tega člena. Organi iz prvega in drugega odstavka tega člena posredujejo CURS podatke iz evidenc, ki jih vodijo v skladu s tem členom.

(4) CURS posreduje podatke iz prejšnjega odstavka pristojnemu državnemu tožilcu na njegovo zahtevo.

(5) Podrobnejšo obliko, in način vodenja evidenc, predpiše Vlada Republike Slovenije.

### Vsebina evidenc

#### 44. člen

frozen, temporarily confiscated and confiscated assets of illicit origin under this Act shall be determined in greater detail by the Government of the Republic of Slovenia.

## VI. RECORDS

### Keeping of records of frozen and confiscated assets of illicit origin

#### Article 43

(1) For the purpose of providing lawful execution of freezing and temporary confiscation of assets of illicit origin and the security of legal transactions, the body responsible for the secure storage and management of frozen and temporarily confiscated assets shall keep a record of the frozen and temporarily confiscated assets of illicit origin.

(2) The body responsible for the management of the confiscated assets shall keep a record of the confiscated assets in accordance with the purposes referred to in the preceding paragraph

(3) CURS shall keep the central records that combine the records referred to in paragraphs one and two of this Article. The bodies referred to in paragraphs one and two of this Article shall send CURS the data from the records kept in accordance with this Article.

(4) CURS shall send the data referred to in the preceding paragraph to the competent State Prosecutor upon his/her request.

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

### Content of records

#### Article 44

(1) Evidence iz prejšnjega člena vsebujejo podatke o premoženju, ki je predmet zavarovanja oziroma odvzema, podatke o lastnikih in imetnikih drugih pravic na tem premoženju ter podatke o odločbah, izdanih po tem zakonu in o vrsti, trajanju in načinu zavarovanja oziroma odvzema premoženja.

(2) V evidencah iz prejšnjega člena se obdelujejo naslednji osebni in drugi podatki o lastnikih in imetnikih drugih pravic na premoženju, ki je predmet zavarovanja oziroma odvzema:

- osebno ime,
- rojstni podatki (dan, mesec, leto, kraj),
- EMŠO, za tujega državljana pa številko osebnega dokumenta,
- naslov stalnega oziroma začasnega prebivališča ali drug zakoniti naslov,
- davčna številka,
- državljanstvo,
- podatki o zakonitem zastopniku (osebno ime, naslov, firma, sedež, pravnoorganizacijska oblika),
- podatki o izdanih odločbah (opr. št., datum izdaje, vrsta ukrepa),
- podatki o vrsti, trajanju in načinu začasnega zavarovanja in odvzema premoženja,
- podatki o zaznambah, bremenih in drugih omejitvah, opozorilih ali znakih, ki imajo pomen za pravni promet ali dejansko stanje,
- podatek o vrsti in fazi postopka,
- podatek o vrednosti premoženja,
- podatek o vrsti pravice, ki jo imajo drugi imetniki na premoženju.

(3) Evidence iz prejšnjega člena se upravljajo ločeno, glede na posamezno vrsto začasno zavarovanega oziroma začasno odvzetega ali odvzetega premoženja in vsebujejo naslednje podatke:

1. evidenca kmetijskih zemljišč, kmetij in gozdov (parcelna številka nepremičnine in oznaka katastrske občine, v kateri se nahaja, kot je vpisana v zemljiškem katastru);
2. evidenca drugih nepremičnin (parcelna številka nepremičnine in oznaka katastrske občine, v kateri se nahajajo, kot je vpisana v zemljiškem katastru; identifikacijska številka objekta ali dela objekta, tako kot je vpisana v katastru stavb, če pa se objekt v ta kataster ne vpisuje, drug enolični identifikacijski znak, s katerim se ta objekt vpisuje v uradni evidenci takih objektov; ulica, hišna številka, kraj in

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

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

- full name;
- data of birth (day, month, year and place);
- personal identification number or number of identity document;
- permanent residence or temporary residence address or other legal address;
- tax identification number;
- citizenship,
- data on the legal representative (full name, address, registered name and registered office and legal form);
- data on decisions issued (reference numbers, issue dates and types of measure);
- data on the type, validity term and method of freezing and confiscation of assets;
- data on official notes, debits and other restrictions, warnings or signs relevant to legal transactions or facts of the case;
- data on the type and stage of proceedings;
- data on the value of assets;
- data on the nature of rights enjoyed by other owners in the assets.

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

1. Records on agricultural land, farms and forests (lot number of the real property and the cadastral community code where it is located, as entered in the cadastral register);
2. Records of other property (property lot number and the designation of the cadastral community in which such property is located, as recorded in the land cadastre; identification number of the building/facility or part thereof, as recorded in the buildings cadastre and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official

pošta, kjer se nahaja objekt);

3. evidenca premičnega premoženja:

- zaloge (parcelna številka nepremičnine in oznaka katastrske občine, v kateri se nahajajo, kot je vpisana v zemljiškem katastru; identifikacijska številka objekta ali dela objekta, tako kot je vpisana v katastru stavb, če pa se objekt v ta kataster ne vpisuje, drug enolični identifikacijski znak, s katerim se ta objekt vpisuje v uradni evidenci takih objektov; ulica, hišna številka, kraj in pošta, kjer se nahaja objekt);
- oprema (parcelna številka nepremičnine in oznaka katastrske občine, v kateri se nahaja oprema, kot je vpisana v zemljiškem katastru; identifikacijska številka objekta ali dela objekta, tako kot je vpisana v katastru stavb, če pa se objekt v ta kataster ne vpisuje, drug enolični identifikacijski znak, s katerim se ta objekt vpisuje v uradni evidenci takih objektov; ulica, hišna številka, kraj in pošta, kjer se nahaja objekt);
- motorna in tirna vozila, motorna kolesa ter prikolice in polprikolice (številka vozila (številka šasije), registrska označba, s katero so vozila vpisana v referenčnem registru, znamka, vrsta in kategorija ter komercialna oznaka, leto izdelave, datum prve registracije);
- živali (za goveda: identifikacijska številka, s katero je žival vpisana v referenčnem registru, spol, pasma, datum rojstva; za kopitarje, identifikacijska številka, s katero je žival vpisana v referenčnem registru);
- druge premičnine (vrsta premičnine, opis, količina in merska enota, ocenjena vrednost).

4. evidenca lastniških vrednostnih papirjev:

- oznako vrste vrednostnega papirja, identifikacijske podatke o izdajatelju, podatek, ali je vrednostni papir imenski ali prinosniški, skupno število izdanih vrednostnih papirjev, vpisanih v centralni register, če se vrednostni papir glasi na nominalni znesek: skupni nominalni znesek izdanih vrednostnih papirjev, vpisanih v centralni register, datum vpisa vrednostnega papirja v centralni register;
- za nematerializirane delnice se poleg podatkov iz prejšnje alineje vpisujejo še naslednji podatki: oznaka razreda delnice, nominalni znesek, na katerega se glasi, ali oznako, da gre za kosovno delnico, podatek, ali imetniku daje glasovalno pravico, če ima značilnost

records of such buildings/facilities; street and number, place and post office in which the building/facility is located);

3. Movable property records:

- inventories (property lot number and the designation of the cadastral community in which inventories are located, as recorded in the land cadastre; identification number of the building/facility or part thereof, as recorded in the buildings cadastre and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official records of such buildings/facilities; street and number, place and post office in which the building/facility is located);
- equipment (property lot number and the designation of the cadastral community in which such equipment is located, as recorded in the land cadastre; identification number of the building/facility or part thereof, as recorded in the buildings cadastre and if the building/facility is not entered in this cadastre, then another unique identification mark under which it is entered in the official records of such buildings/facilities; street and number, place and post office in which the building/facility is located);
- motor vehicles and rail vehicles, motorcycles, trailers and semi-trailers (the number of the vehicle [chassis number], registration code under which the vehicles are entered in the reference register, make, type, category and commercial code, year of manufacture, date of first registration);
- animals (for bovine animals: identification number under which the animal is entered in the reference register, sex, breed, date of birth; for equine animals: identification number under which the animal is entered in the reference register);
- other movables (type of movable, description, quantity and measurement unit, estimated value).

4. Records of issued securities:

- code type of security, identification data on the issuer, designation of the security as a registered or bearer security, the total number of issued securities entered in the central register; when the security is issued in nominal amount: the total nominal amount of issued securities entered in the central register, the date of entry of securities in the central register;
- in addition to the information referred to in the preceding indent, the following information shall be entered for book entry shares: designation of the class of the security, the face value or indication of a non-par value share, the information about whether the security



prednostne delnice, tudi vsebino prednostne pravice ali prednostnih pravic imetnika.

5. evidenca drugega finančnega premoženja:
  - denarna sredstva (znesek, valuta in datum priliva na računa, določena z uredbo iz 42. člena tega zakona, znesek, valuta in datum nakazila natečenih obresti za posamezen priliv);
  - terjatve (podatki o fizični ali pravni osebi, do katere je vzpostavljena terjatev, matična oziroma davčna številka, datum zapadlosti, izračun morebitnih zamudnih obresti);
  - dolžniški vrednostni papirji ter delnice in deleži na kapitalu pravnih oseb;
  - druge naložbe v pravne osebe in drugi finančni instrumenti (naložbe v sklade: ime sklada, identifikacijska številka sklada in število točk; obveznice: ime izdajatelja obveznic, vrednost obveznice, obresti);
  - podatki o znesku zaseženih sredstev, valuti, datum nakazila na račun Uprave Republike Slovenije za javna plačila oziroma Banke Slovenije, znesek natečenih obresti, valuta natečenih obresti.
6. evidenca drugega začasno zavarovanega, začasno odvzetega oziroma odvzetega premoženja (podatki o vrsti, količini, merski enoti in ocenjeni vrednosti).

## **Rok hrambe**

### **44.a člen**

Podatki iz evidenc, ki jih določa 43. člen tega zakona, se hranijo še tri leta po pravnomočnosti sklepa o ustavitvi finančne preiskave, sklepa o prenehanju začasnega zavarovanja ali začasnega odvzema premoženja nezakonitega izvora oziroma sodne odločbe iz 34. člena tega zakona, nato se izbrišejo.

VII. ODGOVORNOST REPUBLIKE SLOVENIJE

gives voting rights to its holder; when the security also has the characteristics of a preference share, the content of the holder's preferential right(s) should also be indicated.

5. records of other financial assets:
  - cash (the amount, currency and date of inflow to the account, as determined by the order referred to in Article 42 of this Act, and the amount, currency and date of transfer of accrued interest for each inflow);
  - accounts receivable (data on natural or legal person towards whom the claim is established, registration number and/or tax identification number, date of maturity, the calculation of any default interest);
  - debt securities and shares and interests in the equity of legal entities;
  - other investments in legal entities and other financial instruments (investment funds: name of the fund, identification number of the fund and the number of fund units held; bonds: the name of the issuer of bonds, the value of bonds, interest);
  - data on the amount of confiscated assets, currency, date of transfer to the account of the Public Payments Administration of the Republic of Slovenia and/or the Bank of Slovenia, the amount of accrued interest, and the currency of accrued interest.
6. Records of other frozen, temporarily confiscated and/or confiscated assets (data on their type, quantity and the measurement unit used, and estimated value).

## **Storage period**

### **Article 44a**

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

VII. RESPONSIBILITIES OF THE REPUBLIC OF SLOVENIA

## **Podlaga odgovornosti**

### **45. člen**

(1) Lastnik, zoper katerega je bilo odrejeno začasno zavarovanje ali začasen odvzem premoženja, pa mu premoženje ni bilo odvzeto, ima po pravnomočno končanem postopku pravico do vrnitve premoženja in do povrnitve škode, povzročene s protipravnim ravnanjem ali kršitvijo dolžne skrbnosti pri izvrševanju pooblastil pristojnih organov po tem zakonu.

(2) Za vračilo premoženja in povrnitev škode je zavezana Republika Slovenija.

## **Pravila vračanja**

### **46. člen**

(1) V primeru iz 45. člena tega zakona je Republika Slovenija ob vrnitvi dolžna odstopiti lastniku tudi plodove in vse druge koristi dosežene z upravljanjem začasno odvzetega premoženja in mu plačati zamudne obresti po pravilih zakona, ki ureja obligacijska razmerja o neupravičeni pridobitvi.

(2) Če je med začasnim zavarovanjem ali začasnim odvzemom premoženje ali njegov del prodano, je Republika Slovenija dolžna lastniku odstopiti prejeto kupnino z obrestmi. Republika Slovenija odstopi lastniku obresti v enaki višini kot jih je ustvarila v času hrambe in upravljanja s kupnino.

(3) Obveznost iz prejšnjih odstavkov je pristojni organ, ki je premoženje hranil, upravljal oziroma prodal, dolžan izpolniti v petnajstih dneh po poteku roka iz drugega odstavka 34. člena tega zakona.

## **Basis for responsibility**

### **Article 45**

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

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

## **Rules of restitution**

### **Article 46**

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

(2) If the assets or a part thereof are sold during the freezing or temporary confiscation period, the Republic of Slovenia shall surrender to the owner the proceeds received from this sale plus accrued interest. The Republic of Slovenia shall transfer to the owner the interest in the amount that was generated during the storage and management of the purchase price.

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

## **Odškodninski zahtevek**

### **47. člen**

Zahtevek za povrnitev škode iz prvega odstavka 45. člena tega zakona je lastnik dolžan vložiti najkasneje v treh mesecih od dneva, ko mu je bilo premoženje vrnjeno, sicer izgubi to pravico.

## **VIII. MEDNARODNO SODELOVANJE**

### **Splošna določba**

#### **48. člen**

(1) Mednarodno sodelovanje za namene tega zakona se izvaja na podlagi mednarodnih sporazumov ali pravnih aktov Evropske unije, ki se v Republiki Sloveniji uporabljajo neposredno. Če teh ni ali ne rešujejo odprtih vprašanj, se mednarodno sodelovanje izvaja na podlagi določb tega zakona.

(2) Mednarodno sodelovanje v smislu določb tega zakona vključuje zagotavljanje pomoči pri iskanju, začasnem zavarovanju ali odvzemu premoženja nezakonitega izvora.

(3) Prošnja za mednarodno sodelovanje v zvezi s pomočjo pri iskanju premoženja nezakonitega izvora v tujini sestavi državno tožilstvo, ki vodi postopek finančne preiskave, po vložitvi tožbe za odvzem premoženja nezakonitega izvora pa SDT RS.

(4) Organ, pristojen za mednarodno sodelovanje v zvezi z odvzgom premoženja nezakonitega izvora v tujini, je Vrhovno državno tožilstvo Republike Slovenije.

## **Claim for compensation**

### **Article 47**

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

## **VIII. INTERNATIONAL COOPERATION**

### **General provision**

#### **Article 48**

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

(2) International cooperation within the meaning of the provisions of this Act shall include the provision of assistance in the identification, freezing or confiscation of assets of illicit origin.

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

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

(5) Pristojnost državnega tožilstva oziroma sodišča pri mednarodnem sodelovanju v zvezi s pomočjo pri iskanju ali začasnem zavarovanju premoženja nezakonitega izvora v Republiki Sloveniji se določi v skladu s predpisi, ki urejajo mednarodno pravno pomoč v kazenskih zadevah.

(6) Sodišče, pristojno za mednarodno sodelovanje v zvezi odvzemom premoženja nezakonitega izvora v Republiki Sloveniji, je Okrožno sodišče v Ljubljani.

## **Pogoji**

### **49. člen**

Pogoji za zagotavljanje pomoči pristojnemu organu tuje države so:

1. da zahtevan ukrep ni v nasprotju s temeljnimi načeli notranjega pravnega reda;
2. da izvršitev zahtevanega ukrepa ne bi škodovala suverenosti, javnemu redu ali drugim interesom Republike Slovenije;
3. da so v postopku v tuji državi glede odvzema premoženja zagotovljeni standardi poštenega sojenja.

## **Posredovanje prošnje**

### **50. člen**

Če mednarodni sporazum ali pravni akt Evropske unije, ki se v Republiki Sloveniji uporablja neposredno, ne določata drugače, se prošnje domačih in tujih organov pošiljajo po diplomatski poti.

## **Vsebina prošnje**

### **51. člen**

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

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

## **Conditions**

### **Article 49**

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

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

## **Transmission of requests for international cooperation**

### **Article 50**

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

## **The contents of the request**

### **Article 51**

(1) Če mednarodna pogodba ali pravni akt Evropske unije, ki se uporablja neposredno, ne določata drugače, prošnja za mednarodno sodelovanje vsebuje:

1. naziv organa, ki prosi za sodelovanje;
2. podatke o osebi, na katero se nanaša (osebno ime, datum in kraj rojstva, državljanstvo in prebivališče), če gre za pravno osebo, pa podatke o firmi in sedežu pravne osebe;
3. podatke o premoženju, v zvezi s katerim se predlaga sodelovanje in njegovo povezavo z osebo iz prejšnje točke;
4. konkretne ukrepe, ki bi jih bilo treba opraviti in pravno podlago države prositeljice, ki je podlaga za izvrševanje njenih pristojnosti.

(2) Predlog za začasno zavarovanje premoženja nezakonitega izvora vsebuje poleg podatkov iz prejšnjega odstavka tudi okoliščine, iz katerih izhajajo utemeljeni razlogi za sum, da gre za premoženje nezakonitega izvora in da se je začel predkazenski ali kazenski postopek v zvezi s kataloškim kaznivim dejanjem ali da je bila oseba obsojena za tako kaznivo dejanje. Predlogu je treba priložiti predloge, zahteve oziroma odločbe, iz katerih izhajajo navedene okoliščine.

(3) Predlogu za izvršitev pravnomočne sodne odločbe o odvzemu premoženja nezakonitega izvora v tujini je treba priložiti pravnomočno sodno odločbo.

## **Postopek**

### **52. člen**

(1) Po prejemu prošnje državno tožilstvo oziroma sodišče preveri, ali so izpolnjeni pogoji po tem zakonu. Če prošnja ne vsebuje vseh potrebnih sestavin, se pristojni organ tuje države zaprosi, da prošnjo dopolni v roku, ki ne sme biti krajši od treh mesecev, drugače se prošnja zavrne.

(2) Če je za ugoditev prošnji treba ugotoviti, ali in kje se nahaja

Unless international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia determine otherwise, a request for international cooperation shall include the following:

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

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

(3) A request for the enforcement of a valid court decision to confiscate assets of illicit origin shall be accompanied by a copy of the valid court decision.

## **Procedure**

### **Article 52**

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

(2) If the existence and whereabouts of the assets of the

premoženje osebe, zoper katero je predlagano začasno zavarovanje, postopa državni tožilec po določbah tega zakona o finančni preiskavi.

(3) Če je za ugoditev prošnji treba opraviti procesno dejanje, za katerega je po tem zakonu pristojno sodišče na predlog državnega tožilca, se prošnja odstopi Specializiranemu državnemu tožilstvu Republike Slovenije. O predlaganem ukrepu odloča Okrožno sodišče v Ljubljani.

### **Začasno zavarovanje odvzema premoženja nezakonitega izvora**

#### **53. člen**

(1) Sodišče prošnji pristojnega organa tuje države za začasno zavarovanje odvzema premoženja nezakonitega izvora ugotovi ali jo zavrne.

(2) Za postopek odločanja o prošnji in izvršitev začasnega zavarovanja se smiselno uporabljajo določbe tega zakona.

(3) Začasno zavarovanje odvzema premoženja traja do pravnomočne zaključitve kazenskega postopka v državi prositeljici oziroma do konca postopka za odvzem premoženja nezakonitega izvora.

(4) Če postopek iz drugega odstavka tega člena ni končan v dveh letih od izdaje odločbe o začasnem zavarovanju, seto odpravi. Sodišče o nameri vrnitve premoženja obvesti organ tuje države šest mesecev pred potekom navedenega roka. Izjemoma lahko sodišče, če organ tuje države predloži dodatne dokaze, podaljša zavarovanje še za največ dve leti. Stroške začasnega zavarovanja premoženja nosi država prositeljica.

### **Izvršitev odločbe o odvzemu premoženja nezakonitega izvora v Republiki Sloveniji**

person for whom freezing has been requested need to be determined in order to grant a request, the State Prosecutor shall act in accordance with the financial investigation provisions of this Act.

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

### **Freezing of assets of illicit origin**

#### **Article 53**

(1) The court shall either grant or reject the request of the competent authority of a foreign country to freeze assets of illicit origin.

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

(3) Freezing shall be in force until the valid conclusion of criminal proceedings in the applicant country or until the conclusion of the proceedings for the confiscation of assets of illicit origin.

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

### **Implementation of the provision on the confiscation of assets of illicit origin**

## **54. člen**

(1) Premoženje nezakonitega izvora v Republiki Sloveniji se odvzame, ko pristojni organ tuje države sodišču predloži pravnomočno odločbo o odvzemu premoženja nezakonitega izvora v svoji državi.

(2) Za postopek priznanja in izvršitve se uporabljajo določbe zakona, ki ureja priznanje in izvršitev tujih sodnih odločb v civilnih zadevah, če mednarodni sporazum ali pravni akt Evropske unije, ki se v Republiki Sloveniji uporablja neposredno, ne določata drugače.

(3) Z odvzetim premoženjem nezakonitega izvora se postopa po določbah tega zakona, če ni z mednarodnimi pogodbami ali pravnimi akti Evropske unije, ki se v Republiki Sloveniji uporabljajo neposredno, določeno drugače.

## **IX. PREHODNE IN KONČNA DOLOČBA**

### **Podzakonski predpisi**

## **55. člen**

(1) Vlada Republike Slovenije sprejme predpis iz 42. člena tega zakona in petega odstavka 43. člena tega zakona v treh mesecih po uveljavitvi tega zakona.

(2) Organ, pristojen po zakonu, ki ureja državno tožilstvo, uskladi določbe Državnotožilskega reda in državnotožilske interne akte z določbami tega zakona v treh mesecih po uveljavitvi tega zakona.

### **Izvajanje pristojnosti**

## **Article 54**

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

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

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

## **IX. TRANSITIONAL AND FINAL PROVISIONS**

### **Secondary legislation**

## **Article 55**

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

(2) The body, responsible under the Act governing the state prosecutor's office, shall harmonise the provisions of the State Prosecutor's Rules and internal regulations of State Prosecution with the provisions of this Act within three months of entry into force of this Act.

### **Exercise of jurisdiction**

## 56. člen

(1) Naloge, ki so po tem zakonu v pristojnosti Specializiranega državnega tožilstva Republike Slovenije, do njegove ustanovitve opravlja Skupina državnih tožilcev za pregon organiziranega kriminala pri Vrhovnem državnem tožilstvu Republike Slovenije.

(2) Določba četrtega odstavka 192. člena Zakona o državnem tožilstvu (Uradni list RS, št. 58/11) o izključni pristojnosti SDT se uporablja za vložitev in zastopanje tožbe v postopku odvzema premoženja nezakonitega izvora, v skladu z zakonom.

(3) Do začetka delovanja Javnega nepremičninskega sklada Republike Slovenije, nepremično premoženje po tem zakonu upravlja ministrstvo, pristojno za javno upravo.

## Uporaba zakona

### 57. člen

(1) **(razveljavljen)**.

(2) Za zadeve iz prejšnjega odstavka ne velja rok iz četrtega odstavka 10. člena tega zakona.

(3) Ta zakon se uporablja tudi za zadeve, v katerih je bila pravnomočna obsodba za kataloško kaznivo dejanje izdana pred njegovo uveljavitvijo, oziroma po 1. 1. 1990.

## Končna določba

### 58. člen

## Article 56

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

(2) The provision of paragraph four of Article 192 of the State Attorney Act (Official Gazette Republic of Slovenia [*Uradni list RS*], No. 58/11 on the exclusive jurisdiction of the Specialised State Prosecutor's Office shall apply to the bringing and representation of an action in proceedings for the confiscation of assets of illicit origin in accordance with an Act.

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

## Scope of the Act

### Article 57

(1) **(Abrogated)**.

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

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

## Final provision

### Article 58



Ta zakon začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije, uporabljati pa se začne šest mesecev po njegovi uveljavitvi.

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia and shall apply after six months from its entry into force.