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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

SECOND REVISED DRAFT LAW

**ON FORFEITURE IN FAVOUR OF THE STATE
OF CRIMINAL ASSETS**

OF BULGARIA

Chapter one

GENERAL PROVISIONS

Article 1. (1) This Act shall regulate the terms and procedure of forfeiture in favour of the State of assets acquired through criminal activity.

(2) Any assets acquired through criminal activity which are not subject to restoration for victims of crime or have not been forfeited in favour of the State or confiscated under other laws shall be subject to forfeiture under the procedure established by this Act.

Article 2. (1) The purpose of this Act shall be to protect the interests of the society by preventing and limiting the possibilities for deriving benefits and disposing of assets acquired through criminal activity.

(2) For the achievement of the purpose referred to in para. 1 restriction on the property may be imposed during the proceedings with respect to the right of defense of affected persons and the proportionality of the measures imposed.

(3) The restrictions covered by this Act shall not apply for a purpose other than the one they were imposed for.

Chapter two

IDENTIFICATION OF CRIMINAL ASSETS BODIES

Article 3. (1) The Commission for Establishing Property Acquired through Criminal Activity, hereinafter referred to as "the Commission" shall be a specialized State body carrying out, under the terms and procedure established by this Act, examination and identification of assets acquired through criminal activities.

(2) The Commission shall be a legal person with a head office in Sofia and a first-level spending unit.

(3) The activity of the Commission shall be assisted by administration.

Article 4. (1) The Commission shall be a collegial body which shall consist of five members, including a Chairperson and a Deputy Chairperson.

(2) The Chairperson of the Commission shall be a person who has graduated in law from a higher educational establishment and shall be appointed by the Prime Minister. The Deputy Chairperson and two of the members shall be elected by the National Assembly, and one of the members shall be appointed by the President of the Republic.

(3) The election of the members of the Commission by the National Assembly shall be exercised by a majority of two thirds (2/3) of its members present.

(4) The term of office of the Commission is 5 years. A Commission member shall be entitled to not more than two successive terms of office.

(5) The term of office begins from the date of election, respectively the appointment of all of its members.

(6) The State authorities referred to in para 2 shall appoint, elect respectively, the new members of the Commission not later than a month prior to the expiry of the terms of office of the Commission.

Article 5. (1) Eligibility for membership of the Commission shall be limited to a legally capable Bulgarian citizen, who:

1. has not been convicted of a deliberate publicly actionable criminal offence, regardless of whether he/she has been exonerated or not;
2. has graduated in Law or Economics from a higher educational establishment, and have at last five years' experience in the relevant field.
3. has not been released from criminal liability for deliberate publicly actionable criminal offence;
4. has not been disqualified from occupying a particular State position.

(2) The member of the Commission may not:

1. exercise commercial activity or be unlimitedly liable associate, managing directors or member of supervisory, management or control bodies of any commercial companies, cooperatives, State-owned enterprise or not-for-profit legal entity;
2. receive remunerations for pursuit of activities under contract or under a civil-service relationship with any State or public organization, commercial company, cooperative or not-for-profit legal entity, natural person or sole trader, with the exception of scientific research and teaching or exercise of copyright.

Article 6. A Commission member shall be dismissed ahead of term by the respective authority upon:

1. death;
2. resignation;
3. objective inability to perform the duties thereof for a period exceeding six months;
4. entry into effect of a sentence imposing a penal sanction for a deliberate publicly actionable criminal offence;
5. incompatibility under art. 5, para (2);
6. serious breach or systematical failure to discharge his/her obligations,
7. entry into effect of a written statement, ascertaining conflict of interests under the Conflict of Interest Prevention and Disclosure Act.

(2) Where a Commission member is dismissed ahead of term of, a new member of the respective quota shall be appointed or elected, as the case may be, to serve the term of office.

Article 7. (1) The Chairperson of the Commission shall receive a basic monthly remuneration to an amount equivalent to 90 per cent of the basic monthly remuneration of the Chairperson of the National Assembly.

(2) The basic monthly remuneration of the Deputy Chairperson shall be 90 per cent of the remuneration of the Chairperson.

(3) The rest of the Commission members shall receive the basic monthly remuneration to an amount equivalent to 85 per cent of the remuneration of the Chairperson of the Commission.

Article 8. (1) The Commission shall make decisions on:

1. carrying out examination of correspondence between the value of the assets and the income of the examined person;
2. institution of proceedings for identification of assets acquired through criminal activity within a specified period;
3. termination of proceedings for identification of assets acquired through criminal activities;
4. extension of the term under art. 25, para 2;
5. submission to the court of a request for imposition of injunctions;
6. starting an action for forfeiture in favour of the State of assets acquired through criminal activities;
7. conclusion of a settlement under art. 94;
8. appointment and dismissal of the directors of territorial directorates;
9. appointment and dismissal of the inspectors upon proposals of the directors of territorial directorates;
10. exercise of other powers as provided for in this Act.

(2) The decisions of the Commission shall be adopted by a majority of more than one half of the members and shall be reasoned. In its decisions the Commission shall state the facts of the case, the evidences on the basis of which they have been established and the legal conclusion of the body.

Article 9. The Chairperson of the Commission shall:

1. represent the Commission;
2. organize and direct the operation;
3. schedule and preside over the meetings;
4. control and be responsible for implementation of the budget;
5. issue penalty decrees on violations committed under this Act.

Article 10. (1) The supervision on the Commission's activity shall be exercised by a standing commission of the National Assembly.

(2) The members of the Commission shall be obliged to appear, upon invitation, before the Commission under para 1 and provide the information requested;

Article 11. (1) The Commission shall submit annual reports on its activity to the National Assembly by 31 of May.

(2) The reports shall be further submitted to the President of the Republic and the Council of Ministers and shall be published on the Commission's website.

Article 12. (1) The Commission shall have local units having the status of territorial directorates.

(2) The territorial directorates shall be guided by directors.

Article 13. (1) The directors of territorial directorates and the inspectors at the territorial directorates shall be Commission authorities in the process of identification of assets acquired through criminal activities.

(2) Eligibility for the offices of directors and inspectors shall be limited to persons who meet the requirements referred to in art. 5.

Article 14. The Commission members, as well as the authorities referred to in art. 13, para.1 and the officers in the administration of the Commission may not be members of a political party or a coalition, organization pursuing political goals as well as to perform political activity.

Article 15. (1) The information of which the Commission members, the authorities referred to in art. 13, para 1 and the officers in the administration have become aware in the course of exercising or on the occasion of discharging their duties the powers granted to them under this Act constitutes an official secret.

(2) When coming into office the Commission members, the authorities referred to in art. 13, para 1 and the officers in the administration shall sign a declaration that they will not divulge the information mentioned in para 1 during tenure of office as well as after stepping out of office.

Article 16. The members, the authorities referred to in art. 13, para 1 and the officers in the administration shall be compulsorily insured against accident on the account of the republican budget.

Article 17. (1) The length of service of the persons under art. 13, para 1 as well as of the persons holding a position for which a degree in law and legal capacity is required shall be recognized as length of service in this field.

(2) The length of service of the persons under art. 13, para 1 as well as the persons holding a position for which a degree in economics is required shall be recognized as length of service in this field.

Article 18. (1) Bearing of a service weapon is allowed for officers of the Commission, nominated by an order of the Chairperson of the Commission and having access to information classified as "Top Secret".

(2) Bearing of a service weapon is allowed under the terms and procedures of the Control of Explosives, Firearms and Ammunitions Act.

Article 19. (1) The Commission shall adopt Regulations governing its organization and activities as well as the organization and activities of its administration.

(2) The Regulation shall be published in the State Gazette.

Chapter Three

PROCEEDINGS FOR IDENTIFICATION OF ASSETS ACQUIRED THROUGH CRIMINAL ACTIVITY

Section I

Examination of the sources of acquiring of assets

Article 20. (1) The Commission, upon its estimation shall carry out examination of the sources of acquisition of assets of a person in all cases where there is a possibility that the person has acquired the assets as a benefit of crime.

(2) It is assumed that a person has acquired assets as a benefit of crime where:

1. A pre-trial proceedings are instituted against the person for crimes under:

- a). art. 108a and art. 109;
- b). art. 116, para 1, it. 7 and 10;
- c). art. 142 and 142a;
- d). art. 155, 156 and 159;
- e).art. 159a – 159r;
- f). art. 195, para 2 and 3 and 196a;
- g).art. 199;
- h).art. 201 - 203;
- i). art. 209 - 211, art. 212, para 3, 4 and 5, art. 212a and 213;
- j).art. 213a - 214;
- k).art. 215, para 2, it. 1 and art. 217;
- l).art. 220, art. 225c, art. 227c, art. 227d and art. 227e;
- m). art. 233, 234, 234a, 234b and art. 235;
- n). art. 242 - 242a;
- o).art. 243 – 246 and art. 253a, para 1 and 2 and art. 254b;
- q). art. 255 – 256, art. 259 and art. 260;
- r). art. 278, 278b and art. 280;
- s). art. 282, art. 28 and, art. 283a;
- t). art. 301 - 306;
- u). art. 308, para 2, 3 and 5 and art. 310;
- v). art. 319a, para 2 – 5, art. 319b, para 3, art. and 319e, para 2;
- w). art. 321, art. 321a and art. 327, para 1 - 3;
- x). art. 337, art. 339; art. 346, para 2, т. 4 , para 3, para 5 and para 6 and art. 349a, para 2;
- y). art. 354a, art. 354b, para 4 – 6 and art. 354c, para 1 – 3.

2. There is an effective administrative act against the person for customs offence under art. 233, paras. 1-3 and art. 234-235 of the Customs Act;

3. There is an effective administrative act against the person for conflict of interest pursuant to the Law on prevention and disclosure of conflicts of interest;

4. The person has not filed a declaration or a statement of inconsistency has been drawn against him under the Public Disclosure of Senior Public Officials' Financial Interests Act.

Article 21. (1) The examination referred to in art.20, para. 1 shall be initiated by the Commission upon its estimation or upon receipt of a signal containing sufficient data on illegal origin of the assets. Anonymous signals can not serve as grounds for initiation of an examination.

(2) In cases under art. 20, para. 2, sub-para. 1 the examination shall be initiated pursuant to a notification from the pre-trial proceedings authorities.

(3) In cases under art. 20, para. 2, sub-paras. 2, 3 and 4 the examination shall be initiated pursuant to a notification from the competent authorities referred to in the Customs Act, the Law on the prevention and disclosure of conflicts of interest and the Public Disclosure of Senior Public Officials' Financial Interests Act.

(4) The notification shall contain information on:

- 1. the person falling under art. 20;
- 2. the violation or crime committed;
- 3. the assets of the person upon availability of the data about them.

Article 22. (1) Upon the initiation of the examination the Commission shall forthwith send a request for carrying out a joint examination of the person to the State Agency for National Security, the Ministry of Interior, the Public Prosecutor's Office and the National Revenue Agency.

(2) The pre-trial proceedings authorities shall notify the Commission on criminal proceedings instituted against persons examined by Commission other than those stated in art. 20, para. 2, sub-para. 1, but for crimes listed in it.

Section II

Initiation of proceedings for identification of assets acquired through criminal activity

Article 23. (1) The Commission initiates proceedings in cases where the examination establishes that:

1. by the time of acquisition the value of the assets substantially exceeds the net income of the examined person and of his/her family members, and
2. the person is constituted as accused for any of the crimes referred to in art. 20, para. 2, sub-para. 1.

(2) The evidence gathered during the examination can be used in the trial proceedings.

Article 24. (1) In addition, proceedings under art. 23 shall be instituted also where:

1. the criminal proceeding for a crime under art. 20, para 1 was terminated on the grounds of art. 24, para 1, sub-para 2 – 5 of the Criminal Procedure Code or was suspended on the grounds of art. 25 of the Criminal Procedure Code;
2. there is an act of a foreign court concerning any of the crimes under art. 20, para 1, recognized under the procedure provided for in the Criminal Procedure Act.

(2) Proceedings shall be instituted as well in the cases where there have been identified assets acquired through criminal activity carried out abroad which does not fall under the criminal jurisdiction of the Republic of Bulgaria.

(3) In cases referred to in paras. 1 and 2 the pre-trial proceedings authorities and the court shall forthwith notify the Commission.

Section III

Powers of the Commission's bodies

Article 25. (1) The examination of the sources of acquiring of assets is carried out by the authorities referred to in art. 13, para. 1.

(2) The examination shall last up to 12 months and may be extended by 6 months by a decision of the Commission.

(3) Evidences on the correspondence of the assets to the net income of the examined person and of his/her family for a specified period shall be collected during the examination.

Article 26. (1) The authorities referred to in art. 13, para 1 herein shall examine:

1. the assets, their value and the legal grounds for the acquisition thereof;
2. the transformation of the assets;
3. the income of the person under examination and of his/her family members;
4. the obligations at public law to the State and the municipalities, paid by the person under examination and his/her family members;
5. the customary and extraordinary expenditures for maintenance of the person under examination and his/her family members;
6. the tax declarations of the examined person and of his/her family members;

7. the transactions with assets of the person under examination and of his/her family members;
8. the travels abroad of the person under examination and of his/her family members;
9. any other circumstances relevant to clarification of the origin of the assets and of the manner of acquisition thereof by the examined person, the members of his/her family and the third parties to which they were transferred.

(2) When conducting the examination under para 1, the authorities referred to in art. 13, para 1 herein shall have the right to:

1. require explanations from the examined person, from his/her spouse as well as from third parties;
2. appoint expert witnesses;
3. collect written evidence;
4. require from natural persons information and documents in view of identification of the source and value of the assets;
5. require the statutorily established documents regarding the source of income and for the manner of acquisition and disposition of the assets of the legal person;
6. gather and examine also other evidence relevant to clarification of the origin of the assets;
7. request assistance from the bodies of the Ministry of Interior for performing search or seizure under the procedure of the Penal Procedure Code with the permission by a judge where there are sufficient grounds to assume that in certain premises or in some person there are assets, object, papers or computer information systems containing data of relevance to the proceedings under this Act.

(3) In the cases where there is a requirement that the prove should be made with a written document, the Commission may not draw conclusions in respect of the evidence to the detriment of the person under examination if the document was not preserved due to expiry of the term for storing thereof specified in a law.

Article 27. (1) In cases as referred to in art. 26, para. 2, sub-paras. 4 and 5 the powers are exercised with authorization of the court of first instance in the district of which the actions take place upon request of the director of the respective territorial directorate.

(2) The court shall consider the request in accordance with the procedures of Chapter Forty Nine of the Civil Procedure Code and, if the request is considered reasonable, the court may empower the authorities referred to in art. 13, para. 1 to collect all the necessary evidences.

Article 28. (1) The authorities referred to in art. 13, para 1 herein shall have the right to require from the natural person under examination to submit a declaration in writing regarding:

1. the corporeal immovable and motor vehicles, any ships and aircraft, limited real rights to corporeal immovable, cash deposits, securities, works of art, movable archaeological values, participating interests in commercial companies, receivables, patents, trademarks and industrial designs, owned by the examined person and by the members of his/her family;
2. a list of the bank accounts held by the person under examination and by the members of his/her family in Bulgaria and abroad;
3. the sources of income and the grounds for acquisition of the assets and for the maintenance of his/her family;
4. any transactions with corporeal immovable, movable things, shares and interests in commercial companies and with other property effected by the person concerned and by the members of his/her family, as well as the sources of income used to effect the said transactions;
5. any debts to third parties when they have been reflected in the annual tax declarations.

(2) Should the person referred to in para 1 be deceased, the declaration shall be required from the legal and testamentary heirs thereof.

(3) The person from whom the declaration has been required is obliged to submit it within 1 month, 2 months after the receipt of the request respectively if the said person is abroad.

Article 29. A declaration under art. 28, para. 1 may furthermore be required from:

1. a third party who has acquired assets from the examined person;
2. a person in respect of which data exist that he/she has acquired assets in his/her name with funds belonging to the examined person.

Article 30. (1) In respect of legal entities under examination, a declaration shall be required from the persons who represent, manage or control the said legal person, as well as from all persons who represented, managed or controlled the said legal entity during the period of examination.

(2) The declaration shall state accordingly the circumstances covered under art. 33, para. 1, regarding the legal entity.

Article 32. The standard form of the declaration shall be endorsed by the Commission and shall be published in the State Gazette.

Article 33. In the cases where the examined person fails to submit declaration or submits incomplete declaration he/she shall bear responsibility under art. 313 of the Criminal Code.

Article 34. For each action under this Act the authorities referred to in art. 13, para. 1 shall draw up a record of proceedings except in the cases where for the action that was carried out there is another written document.

Article 35. (1) In cases where the collected evidences are not sufficient to reasonably assume that the person has acquired assets through criminal activity, the Commission shall terminate the proceedings with a decision.

(2) The Commission shall terminate the proceedings also when it deems insignificant the total value of disparity between the acquired assets and the net income of the examined person and of his/her family members for the specified period.

(3) The commission may resume the proceedings where new facts relevant to the case have been substantiated.

Article 36. Records of the meetings of the Commission shall be kept. The decisions of the Commission shall be reasoned. The reasoning includes consideration on the factual circumstances, the evidences on the basis of which they have been established and the legal conclusions of the Commission on the subject of examination.

Section IV **Interaction with other public authorities**

Article 37. (1) The authorities under art. 13 para. 1, in exercise of their powers under this Act may seek assistance and information from all state and municipal authorities, merchants, credit institutions and other entities, notaries and public enforcement agents.

(2) Authorities and persons under para. 1 shall be obliged to provide information within one month of the request.

(3) Classified information shall be exchanged in accordance with the Classified Information Protection Act.

(4) Personal data shall be processed in accordance with the Personal Data Protection Law.

Article 38. Public authorities and other institutions grant the Commission access to their information data-bases and records, including through provision of personal data in electronic form or by remote access, following procedures established by joint instructions.

Article 39. (1) For the achievement of the purposes of this Act the authorities referred to in art. 13, para. 1, police authorities, State Agency for National Security authorities, National Revenue Agency authorities, Customs Agency authorities and the Prosecution office take joint actions.

(2) The procedure for forming groups and the control of their activity shall be defined by a joint instruction of the Commission, the Chairperson of State Agency for National Security, the minister of interior and the Prosecutor General.

(3) The interaction under para. 1 shall also take place where criminal activities of persons according to art. 124, para. 5 of the Code of Civil Procedure have been established.

Article 40. (1) The authorities under art. 13, para. 1 shall exchange information with the police concerning:

1. Assets of persons which is supposed to be acquired through criminal activity on behalf of the examined persons in the country or abroad;
2. Vehicles belonging to the examined persons;
3. Location of persons and vehicles when necessary for the proceedings under this Act;
4. Other facts and circumstances relevant to the proceedings under this Act.

(2) Information under para. 1 shall be exchanged in compliance with the provisions of the Ministry of Interior Act.

Article 41. (1) The authorities under art. 13 para. 1 shall exchange information with the authorities of the State Agency for National Security concerning:

1. Assets of the examined persons and its transformation;
2. Import and export of assets, Bulgarian and foreign currency in cash, precious metals, gemstones and articles made with and of them;
3. Bank accounts of the persons in the country or abroad;
4. Involvement of the persons in business companies or other entities;
5. Other facts and circumstances relevant to proceedings under this Act.

(2) The exchange of information under para.1 shall comply with the provisions of the State Agency for National Security Act.

(3) The procedure for the interaction between the Commission and the State Agency for National Security shall be defined by a joint instruction of the Chairperson of the Commission and the Chairperson of State Agency for National Security.

Article 42. In cases where the person is constituted as an accused party for any of the offences referred to in art. 20, sub-para. 1, the investigating authority shall forthwith notify in writing the

authority referred to in art. 13, para. 1. For any amendment of the indictment shall be sent a notification.

Article 43. (1) Prosecutors, assigned to supervise pre-trial proceedings or cases with a known perpetrator of a crime under art. 20 shall forthwith notify the competent authority under art. 13, para. 1:

1. on the pre-trial proceedings instituted against the person when the actions under art. 212, art. 219, paras. 1 and 2, art. 356, para. 4 and art. 362, para. 4 of the Criminal Procedure Code are performed by a prosecutor;
2. on a rejection of initiation, of termination or of suspension of criminal proceedings as well as on resumption of the proceedings in cases referred to in art. 24, para. 1, sub-para. 1;
3. on submission to the Court of an indictment.

(2) The Prosecutor shall notify in writing the respective territorial directorate and where the grounds for conducting the proceedings under this Act were eliminated because of the criminal proceedings for crimes under art. 20, para. 2 against the person being totally or partially terminated for reasons other than those listed in art. 24, para. 1, sub-para. 1.

(3) In cases under para. 1, sub-paras 1 and 2, the Prosecutor shall:

1. provide access to the respective authorities referred to in art. 13, para. 1 to all information, collected for the case file or for the proceedings, containing data on the assets of the examined persons;
2. submit copies of all documents, requested by the respective authorities referred to in art. 13 para. 1 relating to the establishment of the fact of criminal activity under art. 97, para. 4 of the Civil Procedure Code.

Article 44. When the indictment is for a crime under art. 20 imposing forfeiture in favor of the state or confiscation, the Prosecutor may:

1. assign to the respective territorial directorate of the Commission to carry out certain steps to establish the wealth of the person, constituted as an accused;
2. request a copy of the collected materials relating to the wealth of the person, constituted as an accused, from the respective territorial directorate.

Article 45. (1) The authorities referred to in art. 13, para. 1 shall notify the respective prosecution office of initiated, terminated or suspended proceedings for the establishment of assets acquired through criminal activity.

(2) The authorities referred to in art. 13, para. 1 shall forthwith notify the respective prosecution office of the evidence of crime, established within the examination pursuant to art. 26, para 1.

Article 46. The Prosecution office of the Republic of Bulgaria and the Commission interact also for the implementation of Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

Article 47. The authorities under art. 13, para. 1 exchange information of the examined persons with the National Revenue Agency and the Customs Agency relating to:

1. their assets;
2. sources of income and its value;

3. customary and extraordinary expenditures;
4. paid obligations at public law;
5. filed tax declarations;
6. transformation of the assets;
7. import and export of assets, including Bulgarian levs and foreign currency in cash.

Article 48. (1) The Directors of territorial directorates may request the respective revenue authorities to audit pursuant to art. 122 of the Tax and Social Insurance Procedure Code the person under examination, provided that a lack of correspondence between the value of the assets acquired and the net income of the examined person and his/her family members is established.

(2) The revenue authorities assign an audit where:

1. the person has not been audited in the period specified in the request;
2. new facts relevant to the audit have been established in the course of the audit which were not known by the revenue authorities.

(3) The request referred to in para. 1 shall be addressed in writing and shall contain particularities about the person for whom the audit has been requested.

(4) Upon termination of the audit the revenue authorities shall submit the audit report and the audit act to the authorities referred to in art. 13, para. 1.

(5) In cases where the audit establishes a lack of correspondence due to undeclared gains and income the Commission can terminate the examination upon entry into force of the audit act establishing public obligation.

(6) In case of rejection to assign an audit, the Director of the respective territorial directorate of the National Revenue Agency shall notify in writing the respective territorial director of the Commission of the reasons for the refusal.

Article 49. (1) Upon written request from the Executive Director of the National Revenue Agency, the authorities referred to in art. 13, para 1. provide information on the assets, forfeited in favor of the state and their location.

(2) Within seven day term of the entry into force of the Court's order for forfeiture under this law, the authorities under art. 13 para. 1 shall notify the National Revenue Agency of the fact by sending to the Agency certified copies of documents required for the identification of assets, forfeited in favor of the state and its location.

Section V

Subject to forfeiture

Article 50. (1) Assets, acquired by the person before being convicted for crimes under art. 20, para.2, sup-para. 1, for which it could be reasonably assumed to have been acquired through criminal activity shall be forfeited under the procedure of this Act.

(2) A reasonable assumption is present where sufficient data has been collected to reasonably conclude that the assets have been acquired through criminal activity.

(3) Assets at a value equivalent to the imparity established between the acquired assets and the net income of the examined person and of his/her family members shall be subject to forfeiture. Where it is not possible to forfeit assets equivalent in value to the established lack of correspondence, the monetary equivalent shall be forfeited up to the full amount of the imparity.

(4) Imparity shall be established by juxtaposing the value of the assets and the net income of the examined person and of his/her family members for each year of the examined period. The established imparity for the respective years can not be justified with revenue, income or sources of financing of the following years.

(5) The value of the assets acquired or alienated from the examined person shall be defined as of the time of acquisition or alienation of:

1. immovables and limited real rights thereon – at the market value and where it cannot be identified – at tax assessment;
2. foreign currency and noble metals - **according to the central exchange rate** of the Bulgarian National Bank;
3. securities – at the market price and where the market price cannot be identified - at their nominal value;
4. vehicles – at their market value and where it cannot be identified - at their insurance value;
5. the remaining movables and rights – at market value.
6. enterprises or participating interests in commercial companies or cooperatives – at market prices, and where it cannot be identified - according to the accounting data.

Article 51. Under the procedure of this Act no assets can be forfeited:

1. if not subject to seizure;
2. where the imparity found is insignificant.

Article 52. Until the reverse is established by evidence, considered as acquired through criminal activity of the examined person shall be the assets acquired by the underage children or his/her spouse regardless of the property regime chosen by the spouses where the value of the assets exceeds the family net income.

Article 53. Until the reverse is established by evidence, considered to be acquired through criminal activity shall be the assets transferred in the period of examination by the person under examination to the spouse, a person who is the de facto cohabitee with the examined person, to a former spouse, to lineal relatives up to any degree of consanguinity and to collateral relatives up to the forth degree of consanguinity and affines up to the second degree inclusive.

Article 54. Until the reverse is established by evidence, considered to be acquired through criminal activity of the examined person shall be the assets which he/she has gratuitously transferred to third parties during the period of examination.

Article 55. Assets acquired through criminal activity shall be further forfeited from the legal and testamentary heirs up to the amount received by the said heirs.

Article 56. (1) Subject to forfeiture shall also be the assets onerously transferred in the period of examination by the examined person to a third party provided he/she knew or from the circumstances could have supposed that the assets had been acquired through criminal activity.

(2) In the cases where the examined person transferred the assets under para. 1 to a bona fide purchaser for value, the real cost being fully paid, subject to forfeiture should be the received from the examined person.

(3) Subject to forfeiture shall also be the assets acquired through simulated transaction by a third party on the account of the examined person provided that the third party knew or from

the circumstances could have supposed that the assets are transferred in order to avoid the forfeiture thereof, or to conceal the origin or the real rights on them.

Article 57. (1) Subject to forfeiture shall be any assets acquired through criminal activity, which are incorporated into the assets or acquired by a legal entity which is controlled by the person under examination, whether independently or jointly with another person. The assets shall be forfeited also in cases of succession of the legal entity concerned.

(2) Subject to forfeiture shall be any assets acquired through criminal activity which are incorporated into the assets or acquired by a legal entity which is not controlled by the examined person but the persons who manage or control the legal entity knew or could have supposed from the circumstances that the assets had been acquired through criminal activity.

Article 58. In the cases where the assets acquired through criminal activity has been partially or entirely transformed to another property subject to forfeiture are the transformed assets.

Article 59. Until the reverse is established by evidence, for movable things and cash belonging to the person under examination are considered also those found with him/her, in his/her home or in other owned or rented by him/her premises, motor vehicles, offices, cases or safes.

Article 60. Transactions with assets acquired from criminal activity, including those under which obligations were taken, or encumbrances created, or abandonment of rights was made, shall have no effect in respect of the State.

Article 61. (1) The rights of the State under this Act shall be extinguished upon the lapse of a 20-year period of prescription.

(2) Prescription shall start running from the date of acquisition of the assets and shall cease with the institution of proceedings under this Act.

Chapter Four

TERMS AND PROCEDURE FOR IMPOSITION OF INJUNCTIONS AND FORFEITURE IN FAVOUR OF THE STATE OF CRIMINAL ASSETS

Section I

Injunctions

Article 62. (1) The Commission shall make decision on presenting to the court of a request for imposition of injunctions on assets for which it is assumed that they have been acquired through criminal activity on the basis of a report provided by the director of the respective territorial directorate.

(2) The Commission shall file the request referred to in para 1 before the regional court exercising jurisdiction over the permanent address of the individual or over the registered office of the legal entity respectively.

(3) In cases where movable things and corporeal immovable are incorporated into the assets, the request shall be filed at the regional court over the location of the property and where more than one corporeal immovables are incorporated into the assets - over the location of the property with the highest assessed value.

(4) The request for imposition of injunctions shall be reasoned and evidence gathered under the procedure of this Act shall be attached thereto.

(5) The Commission may not require imposition of injunction on assets which are not subject to coercive enforcement under article 414 of the Civil Procedure Code.

Article 63. (1) The court shall pronounce within 48 hours of receipt of the request, rendering a ruling whereby it shall grant or refuse the imposition of the injunction.

(2) The imposition of injunction shall be granted where it will be impossible or difficult to exercise the rights under the court's decision and where the request of the Commission is backed with persuasive documentary evidences establishing the lack of correspondence between the assets and the net income of the person and proving his criminal activity.

(3) The ruling granting an injunction shall be subject to immediate enforcement.

(4) The court ruling referred to in para 1 shall be appealable with an interlocutory appeal within seven days, which period shall start running for the appellant from the date of serving of the ruling, and for the respondent – from the date where a communication for the injunction imposed was served by the public enforcement agent, by the registry service or by the court.

(5) Upon request of the Commission and on the basis of the court ruling different injunction orders shall be issued for movable things and immovable property with respect to the territorial jurisdiction of the public enforcement agent.

Article 64. (1) Injunctions are:

1. preventive attachment of a corporeal immovable;
2. by means of a garnishment of movable things, receivables or participation in legal entities;
3. garnishment of the bank accounts;
5. other appropriate measures defined by the court upon request of the Commission.

(2) The injunction comprises further the interest on and the acquisition of other civil fruits from the assets on which it has been imposed.

(3) The court may admit several kinds of injunctions up to the amount of the claim.

(4) Should there be a risk of the assets, acquired through criminal activity, being squandered, destroyed, concealed or disposed of, upon request of the authorities referred to in art. 13, para 1, the court may order the sealing of premises, equipment, means of transport and any other where such assets are stored.

Article 65. (1) After coming into force of the ruling for imposition of injunction the court, acting on a reasoned application by the interested person, may permit the effecting of a payment or other acts of disposition of the assets, where this is required for the purpose of:

1. medical treatment or other urgent humanitarian needs of the person on the assets whereof injunctions are imposed, or of a member of the family of the said person;
2. payment of support;
3. payment of obligations at public law to the State;
4. payment of remunerations for work performed;
5. compulsory social and health insurance;
6. payment of expenses needed to preserve and maintain the assets whereon injunctions are imposed;
7. payment of expenses in connection with the proceedings under this Act;

(2) The court shall pronounce within 48 hours after filing of any such application or request.

(3) The annulment of preventive attachment, the lifting of the garnishment as well as annulment of any other injunction shall be made on the basis of the effective court ruling.

Article 66. (1) The imposition of preventive attachment of a corporeal immovable upon request of the authorities referred to in art. 13, para. 1 is made through registration of the injunction order of the court by the order of the respective recordation judge.

(2) The recordation judge shall send a notification to:

1. the owner of the property on which preventive attachment has been imposed – for the registration;
2. the Central Pledge Register – for the preventive attachment imposed where the assets belong to a commercial company;

(3) A special pledge of a commercial company in which the immovable is included under para.1 recorded after such preventive attachment shall be inopposable to the public receivable of the State.

Article 67. (1) Garnishment of a corporeal movable shall be forthwith imposed by the public enforcement agent upon request of the authorities referred to in art. 13, para. 1 by notifying the defendant of the injunction.

(2) The garnishment shall be considered to have been imposed upon receipt of the notice of garnishment by the defendant of the injunction, and from this moment he cannot dispose, transform, damage or destroy it.

(3) Upon request of the authorities referred to in art. 13, para. 1, the public enforcement agent shall draw up an inventory, shall value and shall deliver the movable things for safe-keeping to the examined person or to a third party, or shall seize and store the movable things to the authorities referred to in art. 13, para. 1, and a garnishment mark (sticker) may be placed thereon.

(4) The public enforcement agent shall also notify the Central Pledge Register for preventive attachment imposed where the assets belong to a commercial company.

Article 68. (1) Upon a preventive attachment imposed on a ship or other water-craft the public enforcement agent shall notify the Maritime Administration Executive Agency for recording in the relevant ship registers.

(2) In cases where a motor vehicle is garnished, a notice of the garnishment imposed shall be forwarded to the authorities of the Ministry of Interior.

(3) In cases where a civil aircraft is garnished, a notice of the garnishment imposed shall be transmitted to the Directorate General of Civil Aviation Administration for entry into the civil aircraft register.

(4) In the cases where the garnishment is imposed on agricultural or forestry machinery subject to registration according to the procedure established by Article 11 of the Agricultural and Forestry Machinery Registration and Control Act, the public enforcement agent shall notice the Technical Control Inspection of the Ministry of Agriculture and Food.

Article 69. (1) Garnishment of the listed in art. 68 transport vehicles shall be considered to have been imposed from the date of the receipt of the notice of garnishment by the authorities of the respective registers.

(2) The defendant in injunction is notified of the imposed garnishment after receipt of the garnishment notice by the public officer of the respective register.

(3) Changes in the register of the vehicles under para. 1 and machinery shall not be admitted before the lifting of the garnishment.

(4) The public enforcement agent may request from the authorities of the Ministry of Interior the immobilization of the motor vehicle with imposed garnishment on it for a period of three months.

Article 70. (1) Garnishment of receivables which the defendant in injunction has in respect of natural persons or legal entities shall be imposed by the public enforcement agent by means of dispatch of garnishment notice to the third garnishee and the bank wherewith the third garnishee holds account.

(2) Garnishment shall be considered to have been imposed as from the date and hour of receipt of the garnishment notice by the third garnishee and the bank wherewith the third garnishee holds account.

(3) The defendant in injunction shall be notified of the imposed garnishment after the receipt of the garnishment notice by the third garnishee.

(4) Where the garnished receivable is secured by a pledge, the pledgee shall be ordered to surrender the said movable thing to the public enforcement agent who delivers it for safe-keeping to a person, appointed by the authority referred to in art. 13, para. 1.

(5) Where the garnished receivable is secured by a mortgage, the garnishment shall be noted in the relevant book at the Registry Service.

(6) Where there is a writ for the receivables the public enforcement officer shall withdraw it from the person holding it and deliver it for safe-keeping to a person, appointed by the authority referred to in art. 13, para. 1. with a record of proceedings.

(7) The extinctive prescription cease running from the time of the receipt of the garnishment notice from the third garnishee.

Article 71. (1) In the cases under in art. 70, para. 6 the authorities referred to in art. 13, para. 1 have the right to request the power for the collection of receivables and the initiation of a separate enforcement proceedings against the person – debtor on the writ.

(2) The collected amounts of the enforcement proceedings shall be transferred from the public enforcement agent to a special account of the Commission.

Article 72. (1) Cash in national or foreign currency shall be garnished by means of drawing up an inventory, seizing and depositing the cash on the account of the Commission. Where translating the exchange rate of the foreign currency the exchange rate of the Bulgarian National Bank for the day for the respective currency shall be applied.

(2) Garnishment of all types of bank accounts of the defendant in injunction in national or foreign currency shall be imposed by sending the garnishment notice to the bank.

(3) Garnishment may be also imposed on all kinds of movable things deposited in safe-deposit vaults, including the content of safe-deposit boxes and amounts delivered for trust management by the defendant in injunction.

(4) Garnishment under paras. 2 and 3 shall be considered to have been imposed from the date of the service of notice of garnishment to the bank and then a garnishment notice is served to the defendant in injunction.

(5) The person serving the garnishment notice shall record the date and time of the receipt. Where the notice is delivered by mail the respective officer shall record the date and time of receipt.

Article 73. (1) Available securities shall be garnished in their nominal value by means of drawing up an inventory and seizure of the securities by the public enforcement agent.

(2) Upon garnishment of physical registered shares or bonds, the public enforcement agent shall notify the company of this. The garnishment shall have effect in respect of the company as from the moment of receipt of the garnishment notice.

(3) The public enforcement agent shall deliver the physical securities for safe-keeping at a bank and draw up a record of proceedings.

Article 74. (1) Garnishment of dematerialized securities shall be imposed by means of dispatch of a garnishment notice to the Central Depository, simultaneously notifying the company.

(2) Garnishment shall have effect as from the moment of service of the garnishment notice to the Central Depository.

(3) The Central Depository shall forthwith notify the relevant regulated market of the garnishment imposed.

(4) Within three days after receipt of the garnishment notice, the Central Depository shall inform the public enforcement agent as to the securities owned by the defendant in injunction, whether other garnishments have been imposed on other receivables.

(5) The public enforcement agent shall notify the authorities referred to in art. 13, para. 1 of the information received under para. 4.

Article 75. (1) Garnishment of government securities shall be imposed by means of dispatch of a garnishment notice to the person keeping a register of government securities.

(2) Garnishment shall be considered to have been imposed as from the date of receipt of the garnishment notice by the person keeping a register of government securities.

(3) The person keeping a register of government securities is obliged within 3 days of the receipt of the garnishment notice to inform the public enforcement agent as to the securities owned by the defendant in injunction, whether other garnishments have been imposed on other receivables.

(5) The public enforcement agent shall notify the authorities referred to in art. 13, para. 1 of the information received under para. 3.

Article 76. (1) Garnishment of securities shall cover all property rights attaching to the securities.

(2) Any transfer of shares, including registered shares, occurring after the garnishment notice shall have no effect in respect of the State.

(3) The management bodies of joint-stock companies shall refuse to record transfers of registered shares by the defendant in injunction after garnishment.

Article 77. (1) Garnishment of an equity interest of a commercial company shall be imposed by means of dispatch of a garnishment notice to the Registry Agency by the public enforcement agent.

(2) Garnishment shall be considered to have been imposed from the date of receipt of the notice of garnishment by the company.

(3) The garnishment shall be recorded according to the procedure applicable to the recording of a registered pledge of interests in commercial companies and shall take effect

from date of its record in the Commercial Register. The Registry Agency shall notify the commercial company of the garnishment recorded.

Article 78. The transfer of the right of ownership, the creation and transfer of rights in rem and the creation of encumbrances in respect of garnished corporeal immovable, as well as disposal of garnished movable things, securities, equity interests and receivables made after receipt of the notice of the garnishment imposed, shall have no effect in respect of the State.

Article 79. Assets in respect of which injunctions have been imposed according to the procedure established by this Act shall be excluded from the insolvency estate, from the property subject to liquidation respectively, in the cases where insolvency proceedings or proceedings for dissolution with liquidation, have commenced after the imposition of injunctions.

Article 80. The Commission may bring an action against the third garnishee the amounts or movable things which he/she refuses to surrender voluntarily.

Article 81. Coercive enforcement under the Civil Procedure Code and the Law on Pledge is not allowed for assets and receivables in respect of which injunctions have been imposed according to the procedure established by this Act.

Article 82. (1) The injunction under this section is imposed upon request of the Commission by the order of the respective recordation judge and the public enforcement agents with respect to the territorial jurisdiction under art. 427, para. 1 of the Civil Procedure Code.

(2) Records for preventive attachment and garnishments imposed shall be made immediately.

Article 83. (1) Injunctions may be imposed according to the procedure established by this Act also on assets acquired through criminal activity on the territory of the Republic of Bulgaria if the competent authorities of another State have so requested and where so provided for in an international treaty where to the Republic of Bulgaria is a party.

(2) For all other cases not regulated by this Act the general rules of the Civil Procedure Code shall apply.

Section II

Procedure before the court for forfeiture in favour of the State of assets acquired through criminal activity

Article 85. (1) The Commission shall give possibility to the examined person to participate in the proceedings after enactment of the injunctions imposed upon the assets.

(2) The authorities referred to in art. 13, para. 1 shall notify the examined person, provide the materials relevant to him/her and grant him/her a two months period for appeal and producing evidences.

(3) In the proceeding before the Commission the examined person may be represented by a lawyer or any other representative by proxy under the procedure established in the Civil Procedure Code possessing a written authorization with a signature certified by a notary.

(4) The statements of the examined person shall not be brought in evidence in the criminal proceedings against him/her.

Article 86. (1) The director of respective territorial directorate after considering the objections of the examined person and the evidences brought by him/her, shall prepare a special reasoned report for the Commission. The report shall contain:

1. description of the type and amount of the assets acquired through criminal activity;

2. evidences on the basis of which the lack of correspondence between the assets and the net income of the person and of his/her family members have been established;
3. evidences on the existence or lack of encumbrances or other injunctions imposed on the assets.
4. other evidence whereon the request is based.

(2) With the reasoned conclusion the director of the respective territorial directorate shall propose to the Commission to:

1. terminate the proceedings if the evidences collected are not sufficient to establish with a high-scale of probability that the assets have been acquired through criminal activity or if the assets are encumbered which make unreasonable its forfeiture in favour of the state; or
2. claim forfeiture in favour of the state of the assets acquired through criminal activity or the monetary value to the extent of the lack of correspondence where it is proved with a high-scale of probability that the assets of the examined person could have been acquired through criminal activity.

Article 87. (1) In cases where the Commission decides for the forfeiture the action against the examined person shall be brought before the regional court at his/her domicile address within three months from the imposition of the injunctions. Where the assets include immovable property as well, the application shall be brought before the regional court at the location of the corporeal immovable, but where the property includes more than one immovable property – at the location of the property with the highest assessed value.

(2) The statement of claim and the relating effective decision shall be subject to recording in the Property Register held by the Registry Agency.

(3) In the cases where the Commission has not brought evidences of the institution of an action within the time period prescribed by law the court shall revoke ex officio the injunction imposed.

Article 88. The commission may consolidate the claim for forfeiture with a claim for voidance of contract under art. 48 in respect of the State, a claim under art. 135 of the Law on obligations and contract, a claim under art. 124, para. 5 of the Civil Procedure Code as well as with other claims against the examined person or other persons in respect of their declared interests.

Article 89. (1) The regional court shall institute proceedings and shall publish in the State Gazette a notice containing: the number of the case, data for the received request, an inventory of the property and the date for which the first hearing is scheduled.

(2) The person under examination and the persons referred to in articles 52-57 shall be constituted as respondent in the proceedings.

(3) Respondents are obliged to exhaust all their objections within these proceedings.

Article 90. Within three months from the publication of the notice third parties claiming individual rights to separate objects of the property concerned, may bring claims within the framework of the initiated proceedings.

Article 91. (1) The Court shall sit in an open session.

(2) The Commission shall be represented by the Chairperson or legally capable officer authorized by him/her.

(3) Any evidence admissible under the Civil Procedure Code shall be submitted in the proceedings.

(4) The Commission shall provide any evidence for:

1. the type and value of the assets acquired by the examined person and his/her family members during the examination period;
2. the lack of correspondence between the assets acquired by the examined person and his/her family members for the period of examination and the value of such property;
3. the criminal activity through which economic benefit could have been received;
4. that the third persons under art. 56 and 57, para 2 knew or from the circumstances could have supposed that the assets had been acquired through criminal activity.

(5) With respect to the evidences under para. 4 the Commission shall establish the high-scale probability referring to the presumption of art. 50, para. 1 that the assets could be considered benefit from crime. The Commission shall not be obliged to bear the burden of proof of the connection between the crime, committed by the examined person and the benefits acquired.

(6) In the judicial proceedings the burden of proof that the property has a legitimate origin falls on the person under examination. He/she shall establish with the same scale of probability as applies to the weighting of evidences brought by the Commission that the assets have not been acquired through criminal activity by presenting evidences that he/she disposes with other possible source of income.

Article 92. (1) When deciding the court may not apply the provisions above where it can conclude from the circumstances of the case that there's a serious risk of breach of justice in case of forfeiture of assets.

Article 93. In consideration of the case the court establishes examination of the obligations of the examined person, the encumbrances or writs subject to claim. In cases where the property is encumbered and as such can make difficult the enforcement against the property and its disposal the court may forfeit the monetary equivalent.

Article 94. (1) Until conclusion of the oral arguments in first instance the parties to the proceedings may sign an agreement whereby it is provided for forfeiture of 80% of the amount of the established lack of correspondence between the acquired assets and the net income of the examined person and of his/her family members. In cases where the forfeiture of 80% of the lack of correspondence is not possible, subject to forfeiture shall be 80% of the monetary equivalent of such lack of correspondence.

(2) Agreement may be concluded if the value of the lack of correspondence between the property and the income established by the Commission for the relevant period does not exceed BGN 300 000 and provided the examined person deposits the amount specified in para 1 to the special account of the Commission within the term fixed by the Commission.

(3) The agreement shall be approved by the court if not contradictory to the law and good morals.

(4) The agreement shall have the effects of an enforced judgment from the day of the approval thereof.

(5) The costs for the proceedings shall be borne by the parties as they have been incurred.

Article 95. (1) Upon termination of the proceedings the Court shall deliver its decision which is subject to appeal by the general procedure.

(2) When rejecting the request for forfeiture of assets, the court shall overrule the injunctions imposed thereon.

Chapter Five

MANAGEMENT OF PROPERTY WHEREUPON INJUNCTIONS HAVE BEEN IMPOSED AND OF FORFEITED PROPERTY

Section I

Management of the property under injunction

Article 96. With respect to the circumstances of the case the property whereupon injunction has been imposed shall be left for safe-keeping to the examined person, the person holding the property as at the moment of imposing injunction or other person, appointed by a decision of the Commission.

Article 97. (1) The person referred to in art. 96 shall have obligations, other than the obligations under art. 469-471 of the Civil Procedure Code, to:

1. inform the Commission about any damages of the property;
2. inform the Commission about any proceedings affecting the property;
3. inform the Commission in writing about any steps relating to the transfer or rise of third persons' rights to the property or to a change in the identity of the property and shall provide copies of the documents establishing the transfer or creation of the rights;
4. inform the Commission in the event of a risk of destroying or damaging of the property;

(2) The person referred to in art. 96 is obliged to secure to the authorities referred to in art. 13, para 1 access in order to check the state of the property.

(3) If the examined person or the person holding the property as at the moment of imposing injunction fails to fulfill his/her obligations, the Commission may request from the public enforcement agent to transfer the property under injunction to another person for safe-keeping.

(4) Where the property has been left for safe-keeping to a third person – the creditor, the expenses related to the use and maintenance of the property shall be covered by the persons referred to in para. 3.

Article 98. (1) Movable things of historical value shall be given for safe-keeping to the National Historic Museum or another museum.

(2) Movable things of scientific value shall be given for safe-keeping to the National Library, the relevant institute of the Bulgarian Academy of Sciences or to a university.

(3) Movable things of noble metals, precious stones or artifacts made thereof shall be given for safe-keeping to the Bulgarian National Bank.

(4) Movable things of artistic, antiquarian or numismatic value shall be given for safe-keeping to the Ministry of Culture.

(5) Exotic animals and herbals shall be given to zoological gardens or other relative institutes.

(6) In the cases referred to in paras. 1-5 the expenses related to the use and maintenance of the property shall be covered by the Commission.

Article 99. (1) The Commission may decide exceptionally on the sale of movable things which:

1. can be subject to substantial devaluation during the period of safe-keeping or the preservation thereof is related to great expenses;

2. are perishable.

(2) Movable things shall be sold by the public enforcement agent on a public auction conducted within a month from the date of receipt of the request or shall be given to a salesperson in a store, commodity mart or board of trade, defined by the Commission upon written consent of the acceptance of the movables by the salesperson.

(3) Delivery of the movables shall be proved by a record of proceedings signed by the public enforcement agent and the salesperson. The salesperson shall receive a commission for the sale, which shall be retained upon deposition of the received amount.

(4) In cases where there's a lack of documentary for conducted sanitary control or lack of information about the origin, ingredients or the best before date, the sale shall be exercised upon decision of the respective authorities under art. 28 of the Law on Food.

(5) Animals from the national genetic fond, seeds and seedlings with certified origin shall be sold by the public enforcement agent only to other agriculture manufacturers upon authorization of the minister of agriculture and food or officer authorized by him/her.

(6) The competent authority referred to in paras. 4 and 5 shall consider the request in three days.

Article 100. The transfer of the proceeds from the sale of property received according to the provisions of art. 99 shall be made by the public enforcement agent to a bank account of the Commission, opened on special conditions and procedure.

Article 101. (1) The Commission shall keep a register where the following shall be recorded:

1. the person against which the proceedings are initiated;
2. the property whereupon injunction has been imposed;
3. data for the owner and the person holding the property as at the moment of imposing injunction;
4. other data required for identification of the property whereupon injunction has been imposed;

(2) The standard form of the register shall be endorsed by the Chairperson of the Commission.

(3) The disposal of property or its encumbrance or undertaking of any obligations by the examined person that may make it difficult to exercise the rights under the court's decision for forfeiture of assets acquired through criminal activity shall have no effect in respect of the State.

(4) The Commission shall issue an official document stating the existence of injunction on the property under this Act within a month from the date of the request from the court, public enforcement agents, National Revenue Agency authorities and other public authorities.

Article 102. For the cases not regulated under this section the provisions of the Code of Civil Procedure shall apply.

Section II

Management of the forfeited assets

Article 103.(1) Interdepartmental Board for management of the forfeited assets, hereinafter referred as "the Board" shall be set up.

(2) Members of the Board shall be deputy ministers of the Ministry of Justice, Ministry of Finance, the Ministry of Regional Development and Public Works, the Ministry of Labour and Social Policy, the Ministry of Economy, Energy and Tourism, appointed by the respective Ministers.

(3) A Deputy Minister of Finance shall act as Chairperson.

(4) The administration of the Ministry of Finance shall ensure the technical support of the activity of the Fund.

Article 104. (1) The Commission shall inform monthly the Board about the enforced judicial acts concerning forfeiture of assets acquired through criminal activity.

(2) The court decisions for forfeiture entered into force, the writs of execution issued on the basis thereof as well as any other documents required for the enforcement of the decision for forfeiture shall be forwarded by the Commission to the Minister of Finance within 3 days from the completion of the file.

(3) For the meetings of the Board the Commission shall prepare a separate report on each particular case.

Article 105. (1) The Board shall take decisions by simple majority and shall propose to the Council of Minister to leave for management the assets forfeited under the procedure established by this Act, to grant them for humanitarian purposes or to entrust the sale thereof.

(2) The Board shall sit at least once in two months.

(3) The Board shall endorse rules for the organization of its work.

(4) Representatives of the National Association of Municipalities *in the Republic of Bulgaria, of NGOs*, branch and professional organizations may be invited at the Board meeting.

Article 106. (1) The property for which authorization for sale has been obtained shall be turned into cash by a public enforcement agent appointed by the Minister of Finance.

(2) The public enforcement agent shall be obliged to immediately proceed with the turning into cash under the procedure of Section IV of the Tax and Social Insurance Procedure Code.

(3) Immovable property and movable things cannot be sold at a price lower than the initial sale price. If the sale is not made in the course of two proceedings, the sale may be made through direct negotiations or the assets could be granted for humanitarian purposes.

Article 107. (1) Management of the proceeds from forfeited criminal assets fund, hereinafter referred to as "the Fund" shall be set up.

(2) The Fund is a legal entity with head office in Sofia, a second-level spending unit under the Minister of Finance.

(3) The organization of the activity of the Fund shall be regulated with rules adopted by the Managing Board.

(4) The administration of the Ministry of Finance shall ensure the technical support of the activity of the Fund.

Article 108. (1) The managing body of the Fund shall be the Managing Board, which shall consist of the Director, the Deputy Director and three members. The Director and the Deputy Director will be appointed by the Minister of Finance, who shall also determine by order the rest of the Board members.

(2) A member of the Board may be dismissed before the expiry of the term of office, which is five years under the following circumstances:

1. at his own request;
2. in case of long-term inability to perform *de facto* the duties for more than one month;
3. waiver of the ground for his appointment;
4. after a verdict for intentional crime becomes final;
5. in case of death.

Article 109. (1) The Managing Board of the Fund shall:

1. adopt rules for the organization of the activity of the Fund;
2. propose the budget of the Fund for endorsement by the Minister of Finance
3. decide on the necessary costs for managing the forfeited assets and other costs in connection with law enforcement, their amount and procedure of disbursement;
4. approve the annual financial statements in accordance with the Accountancy Act;

(2) The Board holds meetings in the presence of two thirds of its members. Decisions shall be taken by a majority of more than a half of the total number of its members.

(3) The Managing Board shall draw up the annual report on the activities of the Fund by March 1 of the following year, which shall be submitted for consideration to the Council of Ministers.

Article 110. (1) The Director of the Fund shall:

1. organize the activity and chair the sessions of the Managing Board;
2. represent the Fund;
3. be entitled, pursuant to a decision of the Board, to dispose of amounts of up to BGN 3,000 per month within the operating expenses, approved with the annual budget of the Fund.

Article 111. The revenues of the Fund shall be collected from:

1. revenues obtained from sale of corporeal immovable forfeited;
2. revenues obtained from sale of movable things forfeited;
3. resources raised to the special accounts under Art. 100;
4. income from the sale of the forfeited noble metals – raw or processed ingots and precious stones, or artifacts thereof;
5. receivables from third persons;
6. resources from bank accounts and money deposited and the revenues from the sold movable things from safe-deposit vaults;
7. money and securities (shares, bonds, coupons thereof, etc.)
8. revenues from cheques, bills of exchange, promissory notes, credit letters and others
9. revenues from the sale of shares in commercial companies, cooperatives and others;
10. grants from the national budget;

11. fines and property sanctions collected under this Act;
12. revenues from interests;
13. other.

Article 112. (1) The assets of the Fund shall be disbursed to cover the costs the management of forfeited assets and other costs related to the enforcement of the Act.

(2) The excess of revenues over expenses shall be transferred to the Fund for Social Assistance under the Minister of Labour and Social Policy or for financial assistance of small and medium enterprises for the implementation of the projects and measures included in the national strategy for encouragement of small and medium enterprises and the annual programs for its implementation.

Article 113. (1) The Agency for Public Financial Inspection and the National Audit Office will exercise control over the revenues and the expenditures of the Fund.

(2) The Agency for Public Financial Inspection and the National Audit Office will submit annually by March 31 of the following year reports on the activities under para. 1 to the Council of Ministers and the National Assembly.

Chapter six

OTHER PROVISIONS

Article 114. Each person who has sustained damages from illegal acts or omissions of the authorities and officials referred to in this Act committed in the course of or on occasion of exercising the powers or their duty may bring an action under the terms and according to the procedure established by the Liability of the State and the Municipalities for Damages Act.

Article 115. The Commission for Establishing Property Acquired through Criminal Activity shall exchange, for the purposes of this Act, information with the competent authorities of other States and international organizations based on international instruments and international treaties in force for the Republic of Bulgaria.

Chapter Seven

ADMINISTRATIVE PENAL PROVISIONS

Article 116. (1) For the violation of the obligation under Article 26, para 2 the officials found guilty shall be fined with BGN 1000 up to BGN 5000, if the act does not constitute a criminal offence.

(2) Where a breach of Article 26, para 2 was committed by a company, bank or other credit institution, the property sanction amounting from BGN 2000 to BGN 20000 shall be imposed.

Article 101. (1) Acts establishing violation shall be drawn up by officials appointed by the Chairperson of the Commission, and the penal decrees shall be issued by the Chairperson of the Commission.

(2) The drawing up of the acts, the issuance, appeal and enforcement of the penal decreed shall be made under the procedure established by the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 1. Under this law:

1. "Assets" shall mean money, assets of any kind, tangible or intangible, movable or immovable, documents or instruments evidencing title to such assets or other rights associated with them.
2. "Criminal activity" shall be any activity perpetrating the constituent elements of the criminal offences listed in Article 20, para. 2, sub-para. 1 of this Act.
3. "Controlling of a legal person" shall be present where:
 - a) a natural person possesses, directly or indirectly, more than 25 percent of the shares or of the capital of the legal entity and controls it, directly or indirectly;
 - b) a natural person exercises controlling functions in terms of § 1c of the Additional provisions of the Commercial Act;
 - c) 25 percent or more of the assets of a not-for-profit organization are managed and allocated in favour of a natural person;
 - d) a not-for-profit organization has been set up and is functioning in favour of a group of natural persons.
4. "Family members" shall mean a spouse and the children under age.
5. "Market value" shall be the value of the property or the corporeal thing without any taxes and fees calculated which would be paid on the same conditions for a similar immovable property or corporeal thing between persons which are not interrelated.
6. "Income" shall be remuneration obtained: by a person under employment, income from services performed in person, income from practicing of free-lance professions, the net income from entrepreneurial activity, dividends and other income from movable and immovable property, income from agricultural activity and retail sale, other income from lottery and sport betting, interests, licence and commission remunerations and any other income obtained from economic activity.
7. "Net Income" shall be revenues, income and sources of financing after deduction of the customary expenditures and the extraordinary expenses made by the examined person and his/her family members.
8. "Customary expenditure" shall be the expenses for maintenance of the person and his/her family members according to data provided by the National Statistical Institute.
9. "Significant lack of correspondence" shall be a lack of correspondence between the assets and the net income of the person and his/her family members exceeding 60 000 Bulgarian levs.
10. "Defendant in injunction" shall be the examined person, the members of his/her family, legal entities under control of the examined person, third parties who have acquired assets from the examined person.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. (1) Proceedings before the Commission for Establishing Property Acquired through Criminal Activity instituted up to the coming into force of this Act for which no claim for forfeiture has been submitted to the court shall be completed under the procedure of this Act.

(2) Within three months from the coming into force of this Act the Commission for the establishment of assets acquired through criminal activity shall bring claims for forfeiture of assets of persons against which criminal proceedings were conducted with no final decision.

§ 3. The Commission shall continue its activity until expiry of the term of office.

§ 4. Within three months from the coming into force of this Act, the Chairperson of the Commission shall ensure the implementation of Article .

§ 5. The Commission shall adopt the Regulation under Article within two months from the enactment of this Act.

§ 6. Instructions under Article shall be issued within six months from the enactment of this Act.

§ 7. The Forfeiture in Favour of the State of Assets Acquired through Criminal Activity Act (published, SG No 19 of 2005, amend., No. 86 and 105 of 2005, SG 33 and 75 in 2006 , No. 52, 59 and 109 of 20.12.2007, SG No 16 of 2008, SG No. 12, 32 and 42 of 5.06.2009) shall be repealed.

§ 8. In the Civil Procedure Code (published, SG № 59 of 2007, amended and complemented № 50 of 2008, Decision № 3 of the Constitutional court of the Republic of Bulgaria of 2008 - № 63 of 15.07.2008 r.; amend., № 69 of 2008, № 12, 32, 19 and 42 of 2009; Decision № 4 of the Constitutional court of the Republic of Bulgaria of 2009 r. - № 47 of 23.06.2009 r.; amend. № 82 of 2009, №13 of 2010 r.) Article 84 shall be amended and complemented as follows:

1. New para. 2 is created:

„2. The Commission for the establishment of assets acquired through criminal activity – on claims for forfeiture in favour of the State of assets, acquired through criminal activity; ”.

2. Paras. 2 and 3 become respectively paras. 3 and 4.

§ 9. In the Public Disclosure of Senior Public Official's Financial Interests Act (published SG No. 38 of 2000 r., amended, No. 28 of 19.03.2002 r., No. 74 of 30.07.2002 r., amended and complemented, No. 8 of 28.01.2003 r., in force from 1.03.2003 r., No. 38 of 11.05.2004 r., amended, No. 105 of 29.12.2005 r., in force from 1.01.2006 r., No. 38 of 9.05.2006 r., amended and complemented, No. 73 of 5.09.2006 r., in force from 1.01.2007 r., complemented, No. 109 of 20.12.2007 r., in force from 1.01.2008 r., amended, No. 33 of 28.03.2008 r., No. 69 of 5.08.2008 r., amended and complemented, No. 94 of 31.10.2008 r., in force from 1.01.2009 r., amended, No. 93 of 24.11.2009 r., in force from 25.12.2009 r.) para 9 shall be added to art. 7:

„(9) In the cases of failure to submit declaration by the persons under art. 2, para 1, as well as where there has been drawn a conclusion for lack of correspondence, the Chairperson of the Audit Office shall notify the Commission for Establishing Property Acquired through Criminal Activity to carry out examination of the assets of the persons concerned.”