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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**ARMENIA**

**LAW**

**ON CONFISCATION OF PROPERTY  
OF ILLICIT ORIGIN**

**Adopted on 16 April 2020**

## CHAPTER 1

### GENERAL PROVISIONS

#### **Article 1. Scope of the Law**

1. This Law shall regulate the relations pertaining to proceedings for confiscation of property of illicit origin, define the grounds for initiating an investigation, the scope of authorities competent to initiate proceedings and implement an investigation for confiscation of property of illicit origin, and the rules of international cooperation regarding the confiscation of property of illicit origin, as well as regulate other relations pertaining to the confiscation of property of illicit origin.

#### **Article 2. Legislation regulating the confiscation of property of illicit origin**

1. In the Republic of Armenia, the relations pertaining to the confiscation of property of illicit origin shall be regulated under this Law, the Civil Procedure Code of the Republic of Armenia, the Civil Code of the Republic of Armenia, and other laws.

2. If this Law prescribes rules other than those prescribed by the Civil Procedure Code of the Republic of Armenia, the Civil Code of the Republic of Armenia or other laws, the rules prescribed by this Law shall apply.

#### **Article 3. Main Concepts used in the Law**

1. The following main concepts shall be used in this Law:

(1) **property** — **property** prescribed by Part 1 of Article 132 of the Civil Code of the Republic of Armenia, including cryptocurrency;

(2) **property of illicit origin** — property, including one unit of property, several units of property or share of one unit of property, the acquisition of which is not justified by legitimate income in the manner prescribed by this Law, irrespective of whether it was acquired before or after the entry into force of this Law, as well as the proceeds obtained from the use of such property (fruits, products, incomes);

(3) **legitimate income** — incomes received by observing the norms of applicable law determined in accordance with Article 1277 of the Civil Code of the Republic of Armenia expressed in Drams of the Republic of Armenia (AMD), foreign currency, cryptocurrency, or in-kind (non-monetary) payment, excluding taxes and compulsory payments, including:

(a) remuneration of work or any other equivalent payments;

(b) remuneration (royalty) and author's remuneration for the right to use literature, art or scientific work or for use or exercise of the right to any copyright, any patent, trademark, design or model, plan, secret formula or process, software and database for electronic computing machines or industrial, commercial, scientific equipment or for providing information on industrial, technical, organizational, commercial, scientific experience;

(c) credits (loans) received;

(d) interest and other remuneration in return for loans issued;

(e) dividends;

(f) incomes (winnings) received in casinos or games of chance;

(g) in-kind or monetary winnings (prizes) from competitions or contests, as well as lotteries;

(h) property (also monetary means) received as a gift or aid;

(i) property (also monetary means) received by way of succession;

(j) insurance indemnities;

(k) income received from entrepreneurial activities;

- (l) income received from alienation of property;
- (m) payment or other compensation received for lease;
- (n) lump sum payments;
- (o) income received from property rights;
- (p) income received from other civil law contracts;
- (q) pension,
- (r) income received from the sale of agricultural products or from agricultural activities;

(4) **crime prescribed by this Law** — an act committed within or beyond the territory of the Republic of Armenia, which contains elements of crime prescribed by Article 183, Article 188, Article 189, Parts 3-4 of Article 210, Article 218, Article 219, Article 220, Clause 3 of Part 3 of Article 252, Clauses 1 and 3 of Part 3 of Article 253, Clauses 1 and 3 of Part 3 of Article 254, Clause 2 of Part 2 of Article 255 or Part 3 of Article 255 (where committed by use of public or official position, or by use of the influence conditioned thereby), or Clauses 1 and 2 of Part 3 of Article 255, Clause 2 of Part 2 of Article 256 or Part 3 of Article 256 (where committed by use of public or official position, or by use of the influence conditioned thereby), or by Clauses 1 and 2 of Part 3 of Article 256, Clauses 1 and 2 of Part 3 of Article 257, Part 3 of Article 258, Article 267, Article 274, Article 275, Article 276, Clause 3 of Part 2 of Article 282 or Part 3 of Article 282 (where committed by use of public or official position, or by use of the influence conditioned thereby), Clause 2 of Part 2 of Article 284 or Part 3 of Article 284 (where committed by use of public or official position, or by use of the influence conditioned thereby), Article 291, Article 296, Part 2 or Part 3 of Article 298, Part 2 or Part 3 of Article 299, Article 308, Article 310, Part 2 of Article 318, Part 2 of Article 319, Clause 1 of Part 2 of Article 320, Clause 1 of Part 2 of Article 321, Article 322, Article 323, Article 324, Article 325, Article 331, Part 3 of Article 335, Article 340, Article 393, Article 394, Article 399, Article 435, Article 436, Article 437, Article 438, Article 439, Article 440, Article 441, Article 442, Article 443, Article 444, Article 445, Clause 2 of Part 2 of Article 486, Part 3 of Article 486 (where committed by use of public or official position, or by use of the influence conditioned thereby), Article 482, Article 505, or Article 549 of the Criminal Code of the Republic of Armenia;

(5) **property owned by a person** — property:

(a) owned by the given person by the right to property, including in case of the right of common shared ownership — the share owned by the person, and in case of the right of common joint ownership — the entire property;

(b) owned by another person by the right to property, or whereto the right to property has not arisen, while the actual beneficiary whereof is the given person;

(c) which, during the period under investigation, has been transferred by the given person to other persons without compensation or virtually without compensation or at a price significantly lower than the market value;

(6) **actual beneficiary** — a natural person on behalf, for the benefit or at the account of whom the transaction (action) has been carried out, or a natural person who exercises or has exercised control over the transaction (action) or a person on behalf or for the benefit of whom the transaction (action) has been carried out;

(7) **person affiliated** — a legal entity, close relative, or any legal entity or natural person affiliated with the person, with whom the given person maintains a common household or carries out common entrepreneurial activity, or any legal entity or natural person to whom the given person transferred property — without compensation or actually without compensation or at a price significantly lower than the market value;

(8) **legal entity affiliated** — legal entity considered affiliated within the sense of Clauses 25 and 26 of Part 1 of Article 3 of the Law on State Registration of Legal Entities, State Record-Registration of Separated Subdivisions of Legal Entities, Institutions, and Private Entrepreneurs;

(9) **close relative** — a family member, adult child, parent, sister, brother (including paternal or maternal siblings), grandmother, grandfather, grandchildren, uncle, aunt, or the members of their families, parents of the person's spouse, for the latter — the son-in-law and daughter-in-law;

(10) **family member** — a spouse, minor child, person under guardianship or curatorship, or every adult cohabitating no less than 180 days per year during the investigation period;

(11) **official** — a person who, by virtue of holding a public position, shall be considered a person having a duty to submit a declaration within the meaning of the edition of the Law on Public Service in force at the time the investigation is initiated, or having held such position or a person having held a position equivalent to such position. A person shall be deemed to be a person having held position equivalent to such position, where the person implementing functions identical or similar to the functions implemented by him is deemed to be a person holding a public position within the meaning of the edition of the Law on Public Service currently in force at the time an investigation is initiated, who shall be considered a person having a duty to submit a declaration;

(12) **proceedings for confiscation of property of illicit origin** — a procedure initiated by a competent authority for the purpose of confiscation of property of illicit origin, which shall start by rendering a decision on initiating an investigation of grounds for initiating a claim for in rem proceedings and shall be completed by a final judicial act, that has entered into legal force, on the claim submitted for confiscation of property of illicit origin, or based on other grounds prescribed by this Law;

(13) **investigation on the grounds for initiating a claim** (hereinafter referred to as investigation) — a procedure aimed at obtaining data on the existence of illicit property, the volume thereof and the scope of persons concerned;

(14) **price significantly lower than the market value** — the value of compensation for the transaction which is 80 or more percent lower than the actual value of transaction for alienation of the same property, and in case of absence thereof — of such property in the period of alienation of the similar one;

(15) **competent authority** — the responsible subdivision of the Prosecutor General's Office of the Republic of Armenia;

(16) **person concerned** — a person, the rights and obligations of which may be prima facie affected by the confiscation of property;

17) **court of first instance** — the Court of First Instance of General Jurisdiction of Yerevan.

*(Article 3 supplemented by HO-91-N of 03.03.21, edited by HO-159-N of 09.06.22, amended and edited by HO-270-N of 09.06.22)*

## CHAPTER 2

### INVESTIGATION ON THE GROUNDS FOR INITIATING A CLAIM

#### Article 4. Obligation to initiate an investigation

1. With regard to Clauses 1-4 of Part 1 of Article 5 of this Law — the prosecutor conducting oversight over the lawfulness of the pre-trial criminal proceedings, and with regard to Clause 5 of Part 1 of Article 5 of this Law — the authority having carried out the respective measures shall be obliged to notify, within a 10-day period upon becoming aware of the grounds for initiating an investigation, the competent authority thereon, and transfer all documents and data which may

refer to the grounds for initiating an investigation prescribed by this Law. The data concerning the process prescribed by this Part shall not be subject to publication.

2. Based on the results of verification of existence of the grounds for initiating an investigation prescribed by Clauses 1-5 of Part 1 of Article 5 of this Law, the competent authority shall, within a 10-day period, render a decision on initiating an investigation or not initiating an investigation.

2.1. In the case prescribed by Clause 6 of Part 1 of Article 5 of this Law, within a 10-day period after revealing the grounds for initiating an investigation, the competent authority shall render a decision on initiating a new investigation.

3. The competent authority shall initiate an investigation based on the materials submitted or on own initiative, where:

- (1) at least one of the grounds for initiating an investigation prescribed by this Law exists, and
- (2) there are sufficient grounds to assume that the property of illicit origin revealed as a result of an investigation may, with its market price, exceed the threshold prescribed by Part 1 of Article 24 of this Law.

4. The decision on initiating an investigation shall, immediately after it is rendered, be forwarded to the deputy of the Prosecutor General of the Republic of Armenia (hereinafter referred to as the Prosecutor General) coordinating the sphere, and the latter shall be entitled to vacate the rendered decision within a seven-day period from the time of receipt of the decision.

5. The decision on not initiating an investigation shall be immediately forwarded to the superior prosecutor, which shall — in case of considering the grounds for initiating an investigation as sufficient — vacate the rendered decision and order the initiation of an investigation within a seven-day period.

6. Where materials provided to the competent authority as prescribed by Part 1 of this Article are sufficient for initiating a claim as prescribed by this Law and there are no other circumstances subject to clarification, the competent authority may, immediately after initiating an investigation, summarize the preliminary results of an investigation, after which the competent authority shall prepare a summary about taking measures to initiate a claim for confiscation of property of illicit origin.

***(Article 4 amended by HO-91-N of 03.03.21, edited and supplemented by HO-270-N of 09.06.22)***

## **Article 5. Grounds for initiating an investigation**

1. The competent authority may initiate an investigation as prescribed by this Law when the following grounds exist:

(1) there is a judicial act of conviction having entered into legal force by which the commission of one of the crimes prescribed by this Law is established, and there are sufficient grounds with regard to materials available in the given criminal case to suspect that the convicted person or a person affiliated with him owns a property of illicit origin that has not been confiscated by a judgment;

(2) a person has been involved as an accused in the frames of an initiated criminal case for committing one of the crimes prescribed by this Law and there are sufficient grounds to suspect that the accused or a person affiliated with him owns a property of illicit origin;

(3) there are sufficient grounds to suspect that a certain person or a person affiliated with him owns a property of illicit origin, but the criminal prosecution with regard to committing one of the crimes prescribed by this Law is impossible on one of the following grounds:

- a. person is subject to release from criminal liability upon an act of amnesty;
- b. a person is subject to release from criminal liability by virtue of the provisions of the general or special part of the Criminal Code of the Republic of Armenia;

- c. a person has died;
- d. at the time of committing the act, a person has not attained the age of criminal liability;

(4) there are sufficient grounds to doubt that a certain person or a person affiliated with him owns a property of illicit origin, but the criminal prosecution period initiated with regard to committing one of the crimes prescribed by this Law has been suspended on any one of the grounds prescribed by Part 1 of Article 31 of the Criminal Procedure Code of the Republic of Armenia;

(5) based on the information revealed following the operational intelligence measures prescribed by the Law on Operational Intelligence Activity, there are sufficient grounds to doubt that the official or a person affiliated with him owns a property of illicit origin;

(6) according to the data obtained in the framework of the proceedings for the confiscation of property of illicit origin, there are sufficient grounds to doubt that the official or a person affiliated with him owns a property of illicit origin.

2. Actions included in the framework of an investigation may also be undertaken in case of necessity to provide international mutual assistance as prescribed by this Law.

3. An investigation may also be initiated based on Clause 1 of Part 1 of this Article in case there is a judicial act of conviction rendered by a foreign court, where it is recognized in the Republic of Armenia.

***(Article 5 amended and edited by HO-159-N of 09.06.22, supplemented by HO-270-N of 09.06.22)***

***(The Law HO-270-N of 09.06.22 envisages a transitional provision)***

## **Article 6. Initiation of investigation and lawfulness of investigation**

1. The competent authority shall, in the case prescribed by Part 3 of Article 4 of this Law, render a decision on initiation of investigation by indicating the factual data underlying it and the ground prescribed by Article 5 of this Law, based whereon the proceedings for the confiscation of property of illicit origin is initiated. The competent authority shall also indicate in the decision on initiation of investigation the data on the person who allegedly owns the property of illicit origin.

2. An investigation may be initiated with regard to the same property, where there is a ground other than the grounds of the previous investigation, which was not known and could not have been known to the competent authority at the time of initiating the previous investigation.

3. The competent authority may resume the completed investigation based on new or newly emerged circumstances, as prescribed by the Civil Procedure Code of the Republic of Armenia, with the view to elaborate and lodge an appeal against the judicial act, in accordance with the relevant regulations of the Civil Procedure Code of the Republic of Armenia.

4. Violations of the procedural requirements regulating the initiation of investigation and implementation thereof, as prescribed by this Law, shall only entail consequences that are directly prescribed by this Law, the Civil Procedure Code of the Republic of Armenia, or other laws.

## **Article 7. Scope of investigation**

1. The competent authority shall, with the view to clarify the grounds necessary for initiating a claim for confiscation of property of illicit origin, collect materials concerning the following issues:

- (1) property owned by a person, the place of location and the sources of acquisition thereof;
- (2) market value of property as of the time of acquisition and implementation of an investigation thereof;

- (3) alteration of property into another property and the proceeds obtained from the use of such property;
- (4) known incomes and expenses, including the average monthly cost of living of a person acquiring the property;
- (5) transactions concluded in relation to the property;
- (6) encumbrance of property by the rights of other persons.

2. Taking as a basis the known circumstances on the property of illicit origin based on the materials of the investigation, the competent authority shall define the period of time for the investigation, which shall cover the period of time between rendering of the decision on initiating an investigation and the completion of the investigation, as well as the period of time preceding rendering of a decision on the initiation of an investigation, which may not be longer than ten years preceding rendering of a decision on the initiation of an investigation, except for the cases prescribed by Part 3 of this Article.

3. Where doubts about property of illicit origin acquired before the period prescribed by Part 2 of this Article are revealed on the basis of the materials of the investigation, and evidence regarding acquisition of such property is protected, the competent authority shall render a decision, establishing a new period for investigation which may cover only the period of time after September 21, 1991.

***(Article 7 amended by HO-270-N of 09.06.22)***

#### **Article 8. Time limits for conducting investigation**

1. An investigation may last three years maximum.
2. A claim submitted in violation of the time periods prescribed by this Article shall be deemed to be submitted in violation of the statute of limitation.

***(Article 8 edited by HO-270-N of 09.06.22)***

***(The Law HO-270-N of 09.06.22 envisages a transitional provision)***

#### **Article 9. Confidentiality of investigation**

1. The circumstance of initiating an investigation, the grounds therefor, the data on the course thereof and the data obtained as a result of an investigation shall be confidential, subject to provision to persons concerned only in the manner prescribed by this Law, and to other persons — only upon consent of the competent authority, based on the goals of the proceedings for the confiscation of property of illicit origin. The competent authority shall warn the persons concerned, their representatives, experts, specialists, translators and other persons involved on the obligation to refrain from disclosure of data received based on the results of an investigation without permission and the liability for violating the relevant obligation as prescribed by law.

#### **Article 10. Specifics of conducting an investigation in parallel with criminal proceedings**

1. Statements made within the framework of proceedings for the confiscation of property of illicit origin and testimony given during trial may not be used, according to the rules of the criminal procedure, against a person having given testimony or his close relatives within the framework of criminal proceedings, except for criminal proceedings initiated with regard to giving false testimony or false denunciation, or where a person himself introduces his testimony or statement as evidence under criminal proceedings.

2. Immediately after applying provisional measures and in the absence of necessity for applying thereof — immediately after the investigation results are preliminarily summed up, the pending investigation of the grounds for initiating a claim shall be suspended by the decision of the competent authority, in case data of the preliminary investigation not having been disclosed by the authority conducting criminal proceedings are to serve as a ground for the claim. In case a

decision on suspension of pending investigation is rendered based on this Article, all the time limits related to the pending investigation shall also be suspended. The suspended time limits shall continue running for the remaining part thereof after the pre-trial investigation is completed.

3. Completion of criminal proceedings pending concurrently with proceedings prescribed by this Law, including the rendering of a judgment of acquittal, or dismissal of the criminal proceedings or termination of the criminal prosecution on an acquitting ground, shall not serve as grounds for termination of proceedings for the confiscation of property of illicit origin.

***(Article 10 amended by HO-159-N of 09.06.22)***

### **Article 11. Powers of the competent authority when conducting an investigation**

1. For the purpose of conducting an investigation and initiating a claim, the competent authority shall have the right to:

- (1) request and receive legal acts, documents and other information, including information deemed to be a tax or customs secret, data of pre-trial investigation necessary for conducting an investigation and initiating a claim, from state or local self-government authorities, state or community organizations, as well as organizations with state or community participation;
- (2) request and receive from natural persons and legal entities information and documents in possession thereof, except for the information and documents prescribed by Article 12 of this Law which may be provided without the consent of the person in the manner prescribed by Article 12 of this Law, interrogate persons having information with regard to the case in order to obtain necessary information by making a protocol thereon;
- (3) use, free of charge, the information database used for official purposes (including electronic);
- (4) engage, where necessary, a relevant specialist or expert (of a specialized expert institution) at the expense of funds prescribed by the State Budget;
- (5) assign to carry out operational intelligence measures prescribed by the Law on Operational Intelligence Activity in order to determine the scope of actual beneficiaries, affiliated persons and the volume of property. Operational intelligence measures prescribed by Clauses 8, 11, 12, 13, 15, and 16 of Part 1 of Article 14 of the Law on Operational Intelligence Activity may not be carried out on the basis of the order prescribed by this Clause;
- (6) with the view to receive information on the property located beyond the territory of the Republic of Armenia, use the online databases containing necessary data and request for provision of information from the competent authorities of a foreign state in the manner prescribed by the international treaties ratified by the Republic of Armenia or the legislation of the state concerned;
- (7) exercise other powers prescribed by this Law.

2. The competent authority may apply to the Corruption Prevention Commission in order to conduct an analysis of the declaration issued in the manner prescribed by this Law and receive the results of the analysis.

3. The information requested in the manner prescribed by Clauses 1 and 2 of Part 1 of this Article shall be subject to provision within a two-week period from the time of receiving the relevant inquiry.

### **Article 12. Requesting evidence before initiating a claim**

1. The competent authority may, during the implementation of an investigation, collect information containing secrets protected by law in the manner prescribed by this Article.

2. The competent authority shall undertake necessary measures aimed at the preservation of information obtained during an investigation and containing secrets.



3. The competent authority may apply to the court of first instance by submitting a request for information constituting notarial, bank, insurance or trade secrecy, service information prescribed by the Law on Securities Market (except for the information prescribed by Clause 6 of Part 2 of Article 98 of the Law on Securities Market), credit information or credit history.
4. The court shall examine the request without convening a session and shall render a decision within a seven-day period upon receipt of the application. Upon the initiative of the court, a court session may be convened for the purpose of receiving additional clarifications, and only the competent authority shall be notified about the time and venue of the court session.
5. The court shall render a decision on requesting the requested information, where the competent authority justifies that the data are necessary for revealing the facts of significant importance for the investigation. The court decision shall only be sent to the competent authority.
6. If the application on requesting evidence is satisfied, the court of first instance shall render a decision on requesting the evidence, indicating the evidence which shall be provided to the competent authority and the time limit for the provision of such evidence, and, where necessary, also the procedure for the provision thereof.
7. The decision on rejecting the application can be appealed by the competent authority to the Civil Court of Appeal of the Republic of Armenia (hereinafter referred to as the Civil Court of Appeal) within a seven-day period upon receipt thereof, and the decision of the Civil Court of Appeal can be appealed to the Cassation Court within a 15-day period upon receipt of a decision of the Civil Court of Appeal. The decision on accepting the appeal and the cassation complaint for proceedings shall only be sent to the competent authority.
8. The decision on satisfying the application may be appealed by person in connection with the obtaining of whose data the court decision was rendered. The court decision may be appealed to the Civil Court of Appeal within a seven-day period upon receipt thereof as prescribed by this Law, and the decision of the Civil Court of Appeal may be appealed to the Cassation Court within a fifteen-day period upon receipt of the decision of the Civil Court of Appeal. Appealing the judicial act shall not suspend the course of proceedings for the confiscation of property of illicit origin.
9. The appeals and cassation complaints lodged on the basis of Parts 7 and 8 of this Article shall be examined in the manner prescribed by the Civil Procedure Code of the Republic of Armenia for examination of the appeal lodged against the interim judicial acts, without convening a court session.
10. The competent authority may, on the basis of the court's decision on requesting evidence, apply and receive information prescribed by the decision from persons possessing such information.
11. In case of failure to submit the evidence to the competent authority within the time limits referred to in the court decision, the competent authority shall receive a writ of execution issued on the basis of the decision of the court of first instance on requesting evidence and shall forward it for compulsory enforcement. The decision on requesting evidence shall be enforced immediately as prescribed by the Law on Compulsory Enforcement of Judicial Acts.
12. Persons providing the requested information on the basis of this Article shall be obliged to keep the confidentiality of provision of those data and refrain from disclosing the existence of examination or provision of data to other persons, including their customers.

***(Article 12 edited by HO-91-N of 03.03.21)***

### **Article 13. Preliminary summary of investigation results**

1. Based on the preliminary results of the investigation, the competent authority shall draw up a summary on the investigation results, deciding to:
  - (1) terminate the proceedings for confiscation of property of illicit origin or

(2) undertake measures for initiating a claim for confiscation of property of illicit origin

2. The competent authority may undertake measures prescribed by this Law for initiating a claim on the confiscation of property of illicit origin, where there are sufficient grounds to assume that the person owns illicit property the value whereof, according to the investigation, exceeds the threshold prescribed by Part 1 of Article 24 of this Law.

3. In case it is not possible to reasonably conclude, on the basis of a summary, that there is illicit property subject to confiscation in the manner prescribed by this Law, the competent authority shall render a decision on terminating the confiscation proceedings. The decision on terminating the confiscation proceedings shall immediately be forwarded to the deputy of the Prosecutor General coordinating the sphere which, in case the decision is groundless or unlawful, shall be competent to eliminate it and assign the competent authority to take measures to institute a claim for confiscation of property of illicit origin.

**Article 14. Application of provisional securing measures with regard to a claim on property**

1. After preparing a summary based on the preliminary results of the investigation, the competent authority may file an application with the court of first instance on applying provisional measures for securing the claim, which shall be examined in the manner prescribed by the Civil Procedure Code of the Republic of Armenia for examination of applications on applying provisional measures for securing the claim, taking into account the peculiarities prescribed by this Law.

2. The requirements prescribed by Clauses 1-4 and Clause 6 of Part 4 of Article 137, and Clause 1 of Part 5 of Article 137 of the Civil Procedure Code of the Republic of Armenia shall apply to the application on applying provisional measures for securing the claim.

3. When filing the application prescribed by this Article, the applicant shall be exempt from the obligation to transfer the amount of state duty, as well as the amount ensuring compensation of possible damages to the deposit account of the court.

4. Partial or full overlap of the subject matter of the claim and the subject matter of application on provisional measures for securing the claim shall not serve as grounds for rejecting the application.

5. The period prescribed by Part 9 of Article 137 of the Civil Procedure Code of the Republic of Armenia with regard to the applied provisional measures for securing the claim shall be six months. Where the competent authority has rendered a decision to suspend the pending investigation as prescribed by this Law, the period of six months prescribed by this Part shall be suspended from the time of receiving the decision on suspension by the court having applied the provisional measure for securing the claim. This shall be notified to the court having applied the provisional measure for securing the claim immediately after resuming the investigation, and the period for filing the statement of claim shall continue running for the remaining part thereof.

6. Provisions of the Civil Procedure Code of the Republic of Armenia on securing of the counterclaim may not be applied with regard to the applicant.

7. In case of applying provisional measures for securing the claim, and later applying measures for securing the claim on the ground of this Law, in addition to the grounds prescribed by Part 2 of Article 134 of the Civil Procedure Code of the Republic of Armenia, the measure for securing the claim may be fully or partially lifted upon the application of a person with regard to the property of which the securing measure has been applied, where he substantiates that lifting attachment from the property is necessary for covering expenses of an advocate or reasonable living expenses thereof or persons under the custody thereof or alimony payment or making reparations for damages caused to life or health.

***(Article 14 amended by HO-91-N of 03.03.21)***

### **Article 15. Provisional measures for securing evidence**

1. Prior to initiating a claim the competent authority may, based on investigation results, file an application with the court of first instance on provisional measures for securing evidence, where it considers that submitting indispensable evidence may become complicated or impossible otherwise. The filed application shall be examined in accordance with the rules for securing the evidence as prescribed by the Civil Procedure Code of the Republic of Armenia.

2. Taking as a basis the complexity of providing evidence located beyond the territory of the Republic of Armenia, the court may render a decision on applying provisional measures for securing evidence located beyond the territory of the Republic of Armenia through interrogation of witnesses and specialists, examination of written or physical evidence, calling for expert examinations, and interrogation of experts. The court decision shall be provided to the applicant, based on which the competent authority shall take necessary measures with regard to the execution of the decision beyond the territory of the Republic of Armenia.

### **Article 16. Notification of persons concerned**

1. The competent authority shall, within five working days after applying all the necessary provisional measures and, in case of absence of necessity to apply such measures — after preliminarily summarizing the investigation results, notify and invite all the persons concerned so far as known under the investigation materials for the familiarization with the materials obtained based on the results of the investigation and presenting their position on the data obtained.

2. The competent authority shall notify the person, on the legal origin of the property of which the investigation was conducted, and shall invite the latter to submit a declaration comprising the following data:

- (1) the property owned by the person and his family members as of the time of submission of the declaration;
- (2) the liabilities of the person and of his family members towards each other and to third parties as of the time of submission of the declaration;
- (3) the list of all bank accounts of the person and of his family members within and beyond the territory of the Republic of Armenia as of the time of submission of the declaration;
- (4) the incomes and the sources thereof of the person and of his family members during the period of time under investigation;
- (5) the property alienation or property acquisition transactions and the financing sources thereof of the person and of his family members during the period of time under investigation;
- (6) other circumstances related to the property subject to investigation.

3. The template of declarations and the completion procedure thereof shall be approved by the Government.

4. The persons concerned shall, within a one-month period upon receipt of a notice, have the right to familiarize with the materials obtained based on the results of the investigation and present their position.

5. Refusal by a person to submit a declaration or a position may not be interpreted and used against him or his family members. Submitting false information or information not corresponding to reality when submitting a declaration shall entail liability prescribed by law.

### **Article 17. Procedure for notifying the persons concerned**

1. The competent authority shall be obliged to notify all the persons concerned so far as known under the investigation materials, as prescribed by this Article. The persons concerned not having been notified in the manner prescribed by this Article, may, prior to the institution of proceedings

in the court of first instance, avail themselves of their rights in the manner and terms prescribed by Article 16 of this Law from the time when they learnt or may have learnt of the investigation.

2. A registered mail with return receipt shall be sent to the persons concerned, which shall contain information on the inviting authority and the addressee, the circumstances making the competent authority assume that the confiscation of investigated property may affect the rights or obligations of the party being invited, information on the right to familiarization with case materials, to submit a declaration and present a position, as well as on the means and terms for exercising that right.

3. The competent authority shall send a registered mail by applying the rules prescribed by Parts 2-4 of Article 95 of the Civil Procedure Code of the Republic of Armenia.

4. In case of availability of necessary data, the competent authority shall also notify the persons concerned via electronic communication by applying the rules prescribed by Article 97 of the Civil Procedure Code of the Republic of Armenia.

5. Alongside taking the measures prescribed by Parts 3 and 4 of this Article, the competent authority shall post data on the official website for public notifications of the Republic of Armenia on the existence of proceedings for confiscation of property of illicit origin and on the property included within the framework of those proceedings by inviting the persons concerned to become familiarized with case materials and present their position.

6. The persons concerned shall be deemed to be notified about the proceedings for confiscation of property of illicit origin upon receipt of the notice sent in the manner prescribed by Parts 3 and 4 of this Article, and in case of absence of data on receipt — a month after the announcement prescribed by Part 5 of this Article is posted.

***(Article 17 amended by HO-270-N of 09.06.22)***

#### **Article 18. Final summarization of investigation results and drawing up of a conclusion**

1. The competent authority shall, based on the materials submitted by the persons concerned and, on the evidence obtained draw up a conclusion concerning the results of the investigation.

2. Where there are sufficient grounds to assume that the person owns illicit property, the value whereof, according to the investigation, exceeds the threshold prescribed by Part 1 of Article 24 of this Law, the competent authority shall draw up a conclusion comprising:

- (1) data known to the competent authority on the type and market value of the acquired property and on the fact of its being encumbered by other persons' rights;
- (2) juxtaposition of property owned by a person within the meaning of this Law, to the person's lawful incomes known to the competent authority, used for acquisition of such property;
- (3) data on the fact the persons possessing the property are informed of the illicit origin of such property;
- (4) list of evidence whereon the conclusion is based;
- (5) decision on submitting a claim for confiscation of property of illicit origin or concluding a conciliation agreement.

3. In case it is not possible to reasonably conclude, on the basis of the obtained materials, that there is a property of illicit origin subject to confiscation in the manner prescribed by this Law, the competent authority shall render a decision on completion of the investigation, compulsorily referring in the decision to the information prescribed by Clauses 1-3 of Part 2 of this Article. The copy of the decision on completion of the investigation shall be immediately forwarded to the deputy of the Prosecutor General coordinating the sphere which, in case the decision is groundless or unlawful, within a two-week period, shall assign the prosecutor to continue the investigation or file a claim with the court of first instance.

4. The investigation may be completed by concluding a conciliation agreement, which should comply with the requirements prescribed by this Law. The procedure for concluding a conciliation agreement shall be established by the order of the Prosecutor General.

*(Article 18 edited by HO-270-N of 09.06.22)*

#### **Article 19. Completing the investigation by conciliation agreement**

1. The proceedings for confiscation of property of illicit origin may be completed by conciliation agreement, where the person owning the property of illicit origin submits a declaration prescribed by this Law.

2. An amount for transfer of property in favor of the Republic of Armenia lower than the 75 percent of the value of the alleged illicit property, based on the data in the conclusion on the investigation results, may not be established under the conciliation agreement. The value of the illicit property shall be calculated based on the market value of the property at the time the conciliation is concluded. The illicit property under conciliation agreement shall be transferred to the Republic of Armenia as in-kind, and where such property is transferred to a bona fide acquirer, is encumbered with the rights of other persons or it is impossible to identify, separate or confiscate the property, as well as where such a proposal is made by a person owning the given illicit property, the market value thereof shall be transferred to the Republic of Armenia.

3. The conciliation agreement shall be formulated in writing and shall, with an application jointly signed by the parties to the agreement, be submitted to the court of first instance for approval. The original copy of the conciliation agreement shall be attached to the application.

4. The court shall consider the conciliation agreement during a court session, with the participation of the persons having signed it, unless they have filed a motion to consider the conciliation agreement in their absence. Prior to approval of the conciliation agreement, the court shall explain the procedural consequences thereof to the persons having appeared at the court session.

5. Based on the results of examination of the application, the court shall, within a one-month period upon receipt of the application, render a court judgment on approving or not approving the conciliation agreement. Where the validity period of the provisional measures for securing the claim ends before expiry of the one-month period specified by this Article, the completion of the validity period of those measures shall be extended to the day after the court judgment is rendered.

6. The court shall not approve the conciliation agreement, where the notified persons having signed the conciliation agreement or the representatives thereof have not appeared at two consecutive court sessions and have not filed a motion to postpone the court session or determine the issue of approval of the conciliation agreement in their absence, as well as in the cases prescribed by Part 4 of Article 151 of the Civil Procedure Code of the Republic of Armenia.

### **CHAPTER 3**

#### **EXAMINATION OF REQUEST FOR CONFISCATION OF PROPERTY OF ILLICIT ORIGIN IN COURT**

#### **Article 20. Filing a statement of claim**

1. Based on the conclusion on the results of the investigation, the competent authority may, on behalf of the Prosecutor General's Office of the Republic of Armenia, file a statement of claim with the court of first instance.

2. The person having filed the statement of claim or the deputy of the Prosecutor General coordinating the sphere or the Prosecutor General may waive the statement of claim.

3. The applicant may file any other request related to the request for confiscation of property of illicit origin through the statement of claim or by means of changing the subject-matter of and/or ground for the claim as prescribed by the Civil Procedure Code of the Republic of Armenia, including a request to apply the consequences of invalidity of a null and void transaction, to declare a disputed transaction as invalid, and to apply the consequences of the invalidity of the disputed transaction, or to challenge the fact that any contract that is significant for the request for confiscation of property of illicit origin is concluded. The statutes of limitation prescribed by the Civil Code of the Republic of Armenia or other laws shall not apply to the requests prescribed by this Part. The requests prescribed by this Part may only be filed in regard to the relations having arisen within the time limits determined as prescribed by Parts 2 and 3 of Article 7 of this Law.

4. Where the illicit property has been transferred to a bona fide acquirer, or it is impossible to identify, separate or confiscate the illicit property, upon the court decision and in case there is a relevant request, an amount equal to the market value of the illicit property as of the time of filing a claim may be confiscated from the respondent, and in the case of impossibility of determining the market value - the amount equal to the acquisition of the given property.

4.1. Where the property of illicit origin is located beyond the territory of the Republic of Armenia, the competent authority may request confiscation of the amount equal to the acquisition of the property of illicit origin in case there is no information on the market value of the property as of the time of filing a claim.

5. Where the illicit property is encumbered with other persons' rights protected by Part 4 of Article 23 of this Law, the competent authority may, at its discretion, request either confiscation of property of illicit origin or confiscation of the amount of illicit property equal to the market value of the illicit property as of the time of filing a claim, and in the case of impossibility of determining the market value - the amount equal to the acquisition of the given property.

***(Article 20 edited by HO-270-N of 09.06.22)***

***(The Law HO-270-N of 09.06.22 envisages a transitional provision)***

**Article 21. Specifics of completing proceedings of a case by conciliation agreement and suspending proceedings of a case in court**

1. Persons participating in the case may, as prescribed by the Civil Procedure Code of the Republic of Armenia, complete the case by conciliation agreement complying with the requirements prescribed by Parts 2 and 3 of Article 19 of this Law.

2. Upon the institution of a civil case in court, in addition to the grounds prescribed by the Civil Procedure Code of the Republic of Armenia, the court shall also have the right to suspend case proceedings on the ground of the application of the person, in regard to the property of which the investigation was conducted, where the investigation was initiated on the ground prescribed by Clause 2 of Part 1 of Article 5 of this Law, and the fact that the applicant under the criminal proceedings, that are underway parallel to the investigation, has a status of the accused makes it difficult for the person to effectively participate in the instituted civil case.

3. The court may not suspend case proceedings on the ground prescribed by Clause 1 of Part 1 of Article 157 of the Civil Procedure Code of the Republic of Armenia, except when the examination of the given case is impossible before a final act is rendered in regard to another issue or case being examined through the constitutional or criminal procedure. The relevant final act under other issue or case being examined through the civil or administrative procedure shall, within the meaning of Article 419 of the Civil Procedure Code of the Republic of Armenia, serve as a new circumstance, where, by this circumstance, the transaction that served as a ground for rendering a court judgment on confiscation of property of illicit origin, has been declared as invalid

or the circumstance or fact that served as a ground for rendering a judgment on confiscation of property of illicit origin has been eliminated.

***(Article 21 amended by HO-159-N of 09.06.22)***

**Article 22. Presumption that property may be of illicit origin and submitting evidence**

1. In the relations of confiscation of property of illicit origin there is the presumption that property is of illicit origin so long as the lawfulness of acquisition of the property has not been proved.

2. The court may render a judgment based on the presumption that the property may be of illicit origin where, as a result of the investigation of the case, the applicant proves that the property owned by the respondent, including one unit of property, several units of property or a share of one unit of property are not substantiated by the data on the sources of legitimate income.

3. The respondent may refute the presumption that the property is of illicit origin, by delivering evidence justifying the acquisition of the property by legitimate incomes.

4. Where the facts, pursuant to the law or normative legal acts, must be confirmed only by certain evidence, a person shall not bear the negative consequences of a fact to be proved thereby staying disputed, if he proves that the evidence concerned was eliminated or lost not by his fault.

**Article 23. Confiscation of property of illicit origin from the acquirer of the property**

1. Within the meaning of this Law, the property owned by a person which is of illicit origin and which has been acquired by another person shall not be subject to confiscation from a bona fide acquirer.

2. A person shall not be deemed to be a bona fide acquirer, where the competent authority proves that the person knew or could have reasonably known about the illicit origin of the property at the time of acquisition thereof.

3. A person shall, irrespective of the regulations of Part 2 of this Article, be deemed to be a bona fide acquirer, where he proves that the property was transferred to him as compensation for damage caused to life or health or as alimony.

4. The property rights over the property owned by a person differing from the right to property of a person not affiliated to that person (hereinafter, within the meaning of this Article, referred to as the property rights) shall be protected, where the competent authority fails to prove that the person knew or could have reasonably known about the illicit origin of the property at the time of emergence of those rights.

5. Where the property is encumbered with the property rights of the legal entity affiliated to the person or the close relative thereof, or where the person who owns the property is the real beneficiary of the property rights concerned, these rights shall terminate upon entry into legal force of the court judgment regarding the confiscation of property of illicit origin.

**Article 24. Delivery of judgment on confiscation of property of illicit origin**

1. The illicit property shall be subject to confiscation where, based on the assessment of the submitted evidence, the court concludes that the market value of such property exceeds AMD 50.000.000 at the time of filing a claim.

2. Improvements of illicit property shall also be calculated in the market value, where it is impossible to separate them from the property, irrespective of the lawfulness of the income used to make such improvements. Upon confiscation of property, the person shall have the right to

require compensation for the expenses that were made by him for the implementation of the improvements that have been made through the use of lawful incomes.

3. Property of illicit origin shall be confiscated in favor of the Republic of Armenia.

4. All registered rights to the confiscated property shall be deemed to be terminated upon entry into legal force of the court judgment, except for the cases prescribed by Part 4 of Article 23.

## CHAPTER 4

### PROPERTY MANAGEMENT

#### **Article 25. Management of property transferred into the possession of the State**

1. The court, guided by the peculiarities prescribed by this Law, shall apply one of the securing measures prescribed by Article 129 of the Civil Procedure Code of the Republic of Armenia.

2. Where, in exceptional cases and based on the peculiarities of examination of a case, the court decides upon the transfer of a property into the possession of the State by applying a securing measure, the management and custody of the given property shall be conducted by the State.

3. The property may, as a measure for securing the claim, be transferred to the State, where:

- (1) it is probable that the value of the property may significantly reduce otherwise;
- (2) it is probable that the property may be used for committing a crime;
- (3) given the peculiarities of the property or the use thereof, it is probable that leaving the property with the respondent may make impossible or significantly complicate the further confiscation of the property.

4. The property may be transferred by the competent authority to the State and local self-government authorities with equipment, premises, and specially qualified staff necessary for maintenance of the property, as well as to the state organizations (organizations with state share).

5. The State may transfer the given property to trust management where specialized current management of the property is necessary for securing the value of the property.

6. The procedure for holding a tender for trust management of property, as well as the template of the trust management contract shall be approved by the Government.

7. The necessary expenses relating to the custody and management of the property shall be financed from the State Budget.

#### **Article 26. Alienation of property transferred into the possession of the State**

1. Where perishable or movable property requiring considerable expenses for maintenance of the value of the property is transferred into the possession of the State, the competent authority may apply to the court examining the case by requiring an alienation of the property.

2. A court session shall be convened for the examination of the issue on authorizing the alienation of the property, on which the person having filed the motion and the known owner of the property shall be notified, the failure to appear by which shall not be an obstacle for the consideration of the motion.

3. The court shall render a decision on the motion taking into account the opinion of persons participating in the case and the peculiarities for maintenance of the property.



4. Based on the court's decision on authorizing the alienation of the property, the realization of the property shall be performed in the manner prescribed by the Law on Compulsory Enforcement of Judicial Acts.

5. Sums generated from the alienation of the property shall be kept under the State's administration until the securing measures are lifted.

## CHAPTER 5

### INTERNATIONAL COOPERATION

#### **Article 27. Authority carrying out communication in matters concerning the confiscation of property of illicit origin**

1. The Republic of Armenia cooperates with other states within the frames of investigations and procedures implemented by the latter targeted at the confiscation of property of illicit origin, regardless of the legislative formulations used by a given State.

2. Unless otherwise prescribed by international treaties of the Republic of Armenia, communication received from the competent authorities of foreign states on matters of attachment and confiscation of property located in the territory of the Republic of Armenia, as well as on attachment and confiscation of property located in the territory of a foreign state by a competent court of the Republic of Armenia shall be carried out through the Prosecutor General's Office of the Republic of Armenia.

3. The Republic of Armenia shall execute the request received from another State based on reciprocity in the area of mutual assistance, unless the execution thereof does not contradict the public order of the Republic of Armenia.

#### **Article 28. Requirements for requests received from foreign States**

1. Grounds for communication prescribed by this Law shall be the request received from the competent authorities of foreign States (hereinafter referred to in this Article as the request) in relation to the property located in the territory of the Republic of Armenia.

2. Unless otherwise prescribed by an international treaty in force between the requesting State and the Republic of Armenia, a request shall contain:

- (1) the name of the applicant authority;
- (2) the title of the request;
- (3) sufficient information on persons and property relating to the subject matter of the request;
- (4) the essence of the request and the legal grounds substantiating the competence of the applicant's authority to submit the given request.

3. Where the request relates to the execution of a court judgment, a court order or a decision on securing measure of a foreign court within the territory of the Republic of Armenia, the certified copy of a judicial act of a State having submitted it shall be attached to the request, and in cases provided by international treaties — other materials as well.

#### **Article 29. Procedure for execution of the requests received from foreign States**

1. The Prosecutor General's Office of the Republic of Armenia may, upon receiving from a relevant authority of a foreign State the request on the discovery of property and provision of information, undertake measures prescribed by Articles 11 and 12 of this Law, with the view to receiving and providing the requested information.

2. Acts of a foreign court on confiscation of property of illicit origin and securing measures applied in connection therewith shall be recognized based on reciprocity, which shall be deemed to be existing unless proved otherwise.

3. The Prosecutor General's Office of the Republic of Armenia shall, upon receipt from a competent authority of a foreign State a request on confiscation of property, application of a court order or securing measures against the property, as well as information and documents necessary for recognition and execution of such foreign judicial act, file an application on recognition of the requested judicial act and authorization of execution thereof in the procedure prescribed by Chapter 52 of the Civil Procedure Code of the Republic of Armenia.

4. The Prosecutor General's Office of the Republic of Armenia shall immediately inform on the decision rendered to the relevant authority of the foreign State.

5. Where the execution of the request received from a competent authority of a foreign State in compliance with international treaties of the Republic of Armenia or this Law contradicts the public order of the Republic of Armenia or is otherwise impossible, the relevant authority of a foreign State shall be notified regarding the impossibility of executing the request and the reasons thereof.

### **Article 30. Returning and distribution of property of illicit origin**

1. Matters relating to returning the confiscated property to the applicant state and distribution of the property shall be regulated by the international treaties ratified by the Republic of Armenia, including separate agreements concluded with the interested States or through mutual agreement acquired by the competent authority through diplomacy.

### **Article 31. Procedure for sending the request**

1. The request for receiving information on the property located in the territory of a foreign State, imposing an attachment thereon, application of securing measures of the property or evidence, or the confiscation of the property, as well as the attached documents shall be sent to the competent authority of a foreign state by the Prosecutor General's Office of the Republic of Armenia.

### **Article 32. International cooperation during the examination of a case by the court**

1. The matters of legal assistance following initiation of the civil case based on the claim by the competent authority shall be regulated as prescribed by the Civil Procedure Code of the Republic of Armenia.

## **CHAPTER 6**

### **OTHER PROVISIONS**

### **Article 33. Summarizing the results of applying the Law**

1. The competent authority shall publish an annual report on the initiated confiscation proceedings and the results thereof, observing the obligation to ensure the confidentiality of the data prescribed by this Law and other legal acts.

### **Article 34. Transitional provisions**

1. This Law shall enter into force from the tenth day following the day of its official promulgation, except for the cases prescribed by this Article.

2. Articles 4-33 of this Law shall enter into force from the day of appointment of at least three prosecutors of the first composition of the responsible subdivision of the Prosecutor General's Office of the Republic of Armenia.

3. The obligation to forward the materials prescribed by Part 1 of Article 4 of this Law to the competent authority shall arise, where the ground prescribed by Article 5 of this Law exists under the case in the pre-trial or court proceedings when Article 4 of this Law enters into force or has emerged upon entry into force of Article 4 of this Law.

4. The period of the start of investigation prescribed by Part 2 of Article 4 of this Law shall enter into force six months after the day of appointment of at least three prosecutors of the first composition of the responsible subdivision of the Prosecutor General's Office of the Republic of Armenia. A one-month period shall be in effect for the verification of the existence of grounds for initiating an investigation prior to that.

5. The decisions of the Government prescribed by Part 3 of Article 16 and Part 6 of Article 25 of this Law shall be rendered within a two-month period upon entry into force of the relevant articles of this Law.

**President of the Republic  
A. Sargsyan**

11 May 2020  
Yerevan  
HO-240-N