



MANAGEMENT OF SEIZED PROPERTY REGIONAL CONFERENCE

(Tirana, 14-15.3.2007)

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THE PROBLEM:

**FINANCIAL INVESTIGATION AND
TEMPORARY CONFISCATION**

**WHAT ABOUT THE RESULTS – THE
PROPERTY?**

COURT CUSTODY?

CRIMINAL OFFENCE

PROFIT



FINANCIAL (and criminal) INVESTIGATION
TEMPORARY CONFISCATION/FREEZING

CONFISCATION



BUDGET ???



= THE CRIME DOESN'T PAY !

ELEMENTS of parallel FINANCIAL INVESTIGATION

1. Identification of criminal offence/
criminal
2. Tracing the illegal benefit (sum, form?)
3. Determine the property that can be confiscated
(PoC or equal value property, persons)
access to **data**: customs, tax, land register, banks...
4. Proposal for **temporary confiscation**:
issue of court freezing /seizing order

FINAL CONFISCATION –
CRIME DOESN'T PAY

THE PROBLEM – some questions:

What happens to the car, parked in front of police station for time (years?) of criminal procedure?

What to do with stocks (value is falling)?

To close or to manage the company (what about the workers)

Who pays the costs of managing?

What about the property claim of acquitted suspect?

Can seized property be used during the temporary confiscation?

Who gets the confiscated property/money – the budget? Law enforcement?

INTERNATIONAL STANDARDS

MANAGEMENT OF FROZEN OR SEIZED PROPERTY

2005 Convention (CoE Warsaw) determines the obligation for States to ensure a proper management of frozen property

- to preserve the value of the property by prohibition of disposal, by storing, safe keeping, selling or managing frozen property

Measure depends on the nature of the property (money, shares, goods, vehicles, movables, company, immovable property etc.).

- assets sharing (agreement...)

CARPO REGIONAL STRATEGY

THE NEED TO SOLVE THE PROBLEM OF MANAGING SEIZED/CONFISCATED OBJECTS

!no regulation/no institution - no practice/no need

CREATION OF SPECIALISED AGENCY FOR MANAGEMENT

- Albania (law – but the bylaw is missing),
Serbia (draft law)

- PRACTICE ???

REGULATION IN SLOVENIA

- CRIMINAL PROCEDURE CODE (art. 506a)
- GOVERNMENT DECISION ON
MANAGEMENT OF SEIZED OBJECTS
(OJ 22/2002, 8/2007)
- NO specialised agency

REGULATION IN SLOVENIA - CPC

The court orders the seizure/temporary confiscation of proceeds of crime (incl. legal property equal value) - **quick proceedings and priority procedure** (502 c)

The use of execution law (methods of temporary confiscation, limitations, proving the danger, retribution of damages) (502d)

506a: The court is obliged to proceed **particularly quickly and to operate as a good manager.**

When the storage is connected with disproportional costs or the decreasing value, the court may order to **sell, destroy or to donate** for public benefit (**preceding opinion of the owner**)

Stored items are **managed by**: responsible state authorities, organisations with public mandate, executors and financial organisations.

506a/4 The **procedure** for the management is determined by bylaw: Government decision OJ 22/2002, 8/2007

Institutions:

- Court
- **Authorised executors** (private bodies - public service, Minister's decision on conditions to gain the license)

The court may order actions or give instructions to the authorised executor on handling of stored objects

- Ministry of interior (weapons, explosives, drugs) (supervision of court)
- Ministry of defence (larger number of weapons)
- Customs (customs goods)
- special account of MF at central bank or account of directorate for public finances

- **Supervision:**

The commission for supervision (judge, police, prosecutor)

- **Costs of management and storage:**

Paid in advance by the court

MoI - until delivery to the prosecution or court (usually with criminal report) !

Management: storage/selling/destroying/donation

- **Money** (not the species) –
special account at Directorate for public finances or MF at central bank of Slovenia (interests and liquidity)
- **Immovable** (Protect the rights of third persons, maintenance and protection of value)
- **Stocks** (security and profitability - market)
- **Selling**: decreasing value, disproportional costs
- **Donation**: object out of free market, high costs of selling, - to the state bodies or humanitarian organisations (decision of the commission).
- Objects of historical/cultural value - opinion of MforCulture and MFinance

Practice

- searching for the money / bank accounts
 - easy to handle
- prohibition of disposal of immovable
- prohibition of disposal/seizure of movables
(cars)

Council of Europe
European Commission



Conseil de l'Europe
Commission européenne

CARPOLICE

DRAFTING THE LAW ON MANAGEMENT OF SEIZED PROPERTY

TOPICS FOR DISCUSSION

- special law / amendments
- the scope of the law

institution (new specialised / existing)

- under which authority / supervision
- relations to other authorities (court, prosecution, police)

tasks/powers/responsibilities

- management / investigation-seizure
- seized evidence / temporary confiscated property (proceeds)
- disposal after final confiscation

methods of storage / selling / destroying / use

Use of funds

- Budget / law enforcement / victims fund / damages / costs

● **Records / reporting / supervision /**

● **Relation to owner** (owner's opinion, proposals)

● **Costs of storage**

GROUPS:

Albania (Kosovo)

Serbia (CG, BIH)

Belgium (CRO, Mak)

Presentation of results (paper)