

# Good practices related to management of frozen assets

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# Legislative framework

- \* Criminal Code
- \* Criminal Procedure Act
- \* Act on the procedure of confiscating the proceeds of crime acquired by criminal offence and misdemeanour
- \* Act on managing and disposing of property owned by the Republic of Croatia

# Types of confiscated property

- \* **Temporarily confiscated property** – pursuant to the court decision on determining temporary measures of securing the confiscation of property gain acquired by criminal offence
- \* **Permanently confiscated property** – pursuant to the final and binding judgement of the court in a criminal proceeding determining that property benefit was acquired through a specific illegal activity, therefore, in accordance with the Criminal Code provisions, the confiscation of property is ordered for the benefit of the Republic of Croatia

# Management

- The Ministry of State Assets manages both types of confiscated property
- Which regulations will be applied in the management process by the Ministry of State Assets depends on the type of confiscated property, as well as the actions that the Ministry can undertake with respect to that property

# Temporarily confiscated property

Temporary securing measures, pursuant to the Act on the procedure of confiscating the proceeds of crime acquired by criminal offence and misdemeanor:

- Determined by the court pursuant to the justified proposal of the state attorney
- Can be determined before the beginning of criminal proceedings or during the proceedings ,
- If they are determined before the criminal proceeding starts, they can be applied for 2 years maximum, if the indictment is not confirmed in that period
- After the indictment is confirmed, they can be applied in the duration of 60 days after the judgment becomes final and binding,

# Types of temporary measures that include temporary confiscation of property

- \* Legal prohibition of disposing and encumbering immovables/movables and their transfer into the possession of the Ministry
- \* Legal prohibition of disposing and encumbering stock or business shares, registering the prohibition into the public registry, prohibition of using or disposing with the rights on the basis of these shares and entrusting the stock or shares to be managed by the Ministry of State Assets
- \* Confiscating cash/securities and transferring them to the Ministry
- \* Sending an order to the bank to have the money from the account of the accused or other related person transferred onto the account of the Ministry of State Assets

# Records on the temporarily confiscated property

Kept by the Ministry of State Assets according to the types of assets taken over for temporary management.

The following is currently recorded in the registers of temporarily confiscated property:

- In the register of immovable property- 1 real property
- Registers of movable property :
  - 1.200 works of art ( in the value of cca 2.700.000, 00 EUR),
  - 6 cars and 3 motor bikes,
  - 3 vessels,
  - Jewelry and watches
- Registers of cash and securities
  - cca 3.800.000,00 EUR and cca 32.000,00 USD
- Registers of stock and company business shares taken over to be temporarily managed by the Ministry of State Property
  - Business shares in 3 limited liability companies and stock in 1 joint stock company

# Contents of registers

- Data used to identify the confiscated property
- Data on the status and value of property at the moment of confiscation
- Data on the time when the property was taken over and the time when the temporary measure expires
- Data on costs of using and maintaining the confiscated property
- Data on the revenue generated from that property while the temporary measure was applied



# Permanently confiscated property

The final and binding judgement of the court in a criminal proceeding is the basis for the Republic of Croatia to acquire ownership

This property is recorded as the property of the Republic of Croatia in the publicly accessible Register of state property

The Ministry of State Property manages this property in accordance with the provisions of the Act on managing and disposing of property owned by the Republic of Croatia in the same manner as it manages other state property acquired on a different basis, other than through criminal procedure

# Data on permanently confiscated property in the period 2011 - 2016

- cca 3.100.000,00 EUR worth of funds
- 10 real properties, of which 6 were estimated to be worth cca 2.000.000,00 EUR
- 5 personal vehicles
- Precious metals and jewelry worth cca 130.000,00 EUR

# Managing permanently confiscated property

- \* Permanently confiscated property is sold in a public tender, through a public collection of offers and if the decision on sale is rendered, the intention is to ensure the highest possible selling price
- \* Before the decision on sale is rendered, all of the needs of state bodies are taken into consideration and for the purpose of decreasing the State Budget costs, it is analysed whether the state bodies need this type of property
- \* The social component is also taken into consideration so out of 10 permanently confiscated real properties, 5 were given to be managed by the Ministry of Social Welfare for the purpose of ensuring accommodation to the children without parental care after they complete their high school education

# Results of financial investigations conducted by USKOK in figures

## Value of **frozen assets**:

- \* in 2012: 91.000.000,00 HRK (cca 12,1 mil EUR)
- \* in 2013: 126.411.090,00 HRK (cca 16,8 mil EUR)
- \* in 2014: 112.311.000,00 HRK. (cca 15 mil EUR)
- \* in 2015: 114.100.000,00 HRK (cca 15,2 mil EUR)
- \* in 2016: 90.465.000,00 HRK (cca 12,2 mil EUR)

## Total value of **confiscated property gain**:

- cca **252.000.000,00** HRK (cca 34 mil EUR)

# Example of good practice of managing confiscated property – the *HIPOKRAT* case

- \* The accused person was indicted for the criminal offence of forming a criminal association and for committing several individual criminal offences of bribe-taking
- \* He acquired property gain in the amount of 279,000.00
- \* After the investigation, the accused person admitted he had committed all of the criminal offences he was charged with, as well as the amount of the gain he had acquired; therefore he pleaded guilty, signed a statement and a plea bargain on the type of punishment (2 years in prison) and confiscation of property gain

# Example of good practice of managing confiscated property – the *HIPOKRAT* case

- \* For the purpose of recovering the property gain acquired through criminal offence, pursuant to the plea bargain itself concluded with USKOK, the accused person paid 79.320 EUR and transferred the apartment in the centre of Zagreb worth cca 200.000,00 EUR
- \* The plea bargain was certified by a public notary and at the same time the plea bargain was signed, the key apartments were given whereby the apartment entered into the possession of the Republic of Croatia

# Example of good practice of managing confiscated property – the *HIPOKRAT* case

- \* When the judgement was rendered pursuant to the above described plea bargain and the Republic of Croatia was registered as the real property owner, the Ministry of State Property gave that property to the Ministry of Social Welfare; this apartment is therefore still used for the accommodation of children without parental care, after they complete their secondary education, while they are at university and before they find a job

# Challenges in managing confiscated property – the KOMORA case

- \* The accused person was charged with the criminal offence of forming a criminal association and committing several individual criminal offences of abuse of position and power thereby acquiring property gain in the amount of cca 3,5 million EUR



# Challenges in managing confiscated property – the KOMORA case

- \* In the searches conducted on the day of arrest of a large number of real properties on the territory of the Republic of Croatia that the accused person had used, the following was found:
  - more than 350 paintings,
  - a large number of sculpture,
  - antique manuscripts, maps,
  - weapons,
  - a collection of mounted animals

# Challenges in managing confiscated property – the KOMORA case

## Questions?

- What is the value of discovered works of art and how to determine it?
- How to confiscate, transport and preserve them so that they are not damaged and the Republic of Croatia not held responsible for it?
- What will be the estimated cost of temporary confiscation and possession of the discovered works of art for the expected duration period of criminal proceedings?

# Challenges in managing confiscated property – the KOMORA case

## **Replies:**

- The value of individual works of art and weapons was determined according to the opinions given by the competent cultural institutions and experts and it amounted to cca 1.600.000,00 EUR
- The value of real properties owned by the accused person and the members of his family was more than 6.500.000,00 EUR
- The expert witnesses conducted an analysis and concluded that the assets of that value could not have been acquired by the accused person from legal revenues, therefore it was fit for confiscation as the property acquired as proceeds of crime

# Challenges in managing confiscated property – the KOMORA case

- During the search, the artworks were photographed and then experts from particular fields of art were hired to pack and transport them
- The transportation was done by the vehicles specialized for the transportation of works of art,
- The confiscated objects were placed in the Museum of Archeology, the State Archive and corresponding museums of the city of Zagreb whereby the Ministry of State Property pays for the accommodation, preservation and insurance of these objects throughout the entire court proceedings

# Challenges in managing confiscated property – the KOMORA case

In this case, the indictment was filed and the trial is ongoing at court

The expected duration of the trial is 2 to 5 years, until the final judgment is rendered

Despite high costs of managing the temporarily confiscated property, a very significant amount of generated property gain, as well as the identified disproportion in value of the property of the accused person and his legal revenues, together with a relatively good marketability of the confiscated property if the court declares a convicting judgment, justify keeping the property in possession during the trial for the purpose of its future use for the confiscation of proceeds of crime



**THANK YOU FOR YOUR ATTENTION!**

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