

ANNUAL REPORT 2023

STATE PROSECUTOR

(PAGE 17 OF THE REPORT)

3.8. Seizure and confiscation of criminal assets

In the efficient fight against economic crimes, in particular in the seizure and confiscation of illegally acquired assets within the framework of the prosecutorial system, State Prosecutor has appointed the National Coordinator for Combating Economic Crime (NCEC).

As a result of the multidimensional approach and inter-institutional coordination by the NCEC, during 2023, several results were recorded in the field of seizure and confiscation of criminal assets.

According to data during 2023, assets valued €87,847,342.23 were frozen or seized and €23,594,635.64 of assets were confiscated.

The link of the report in Albanian published in the KPC website:

https://prokuroria-rks.org/uploads/2025/10/8b87cc54-7fab-4661-ac42-6c94fb9881d5_Raporti-vjetor-i-punes-se-Prokurorit-te-Shtetit-2023.pdf

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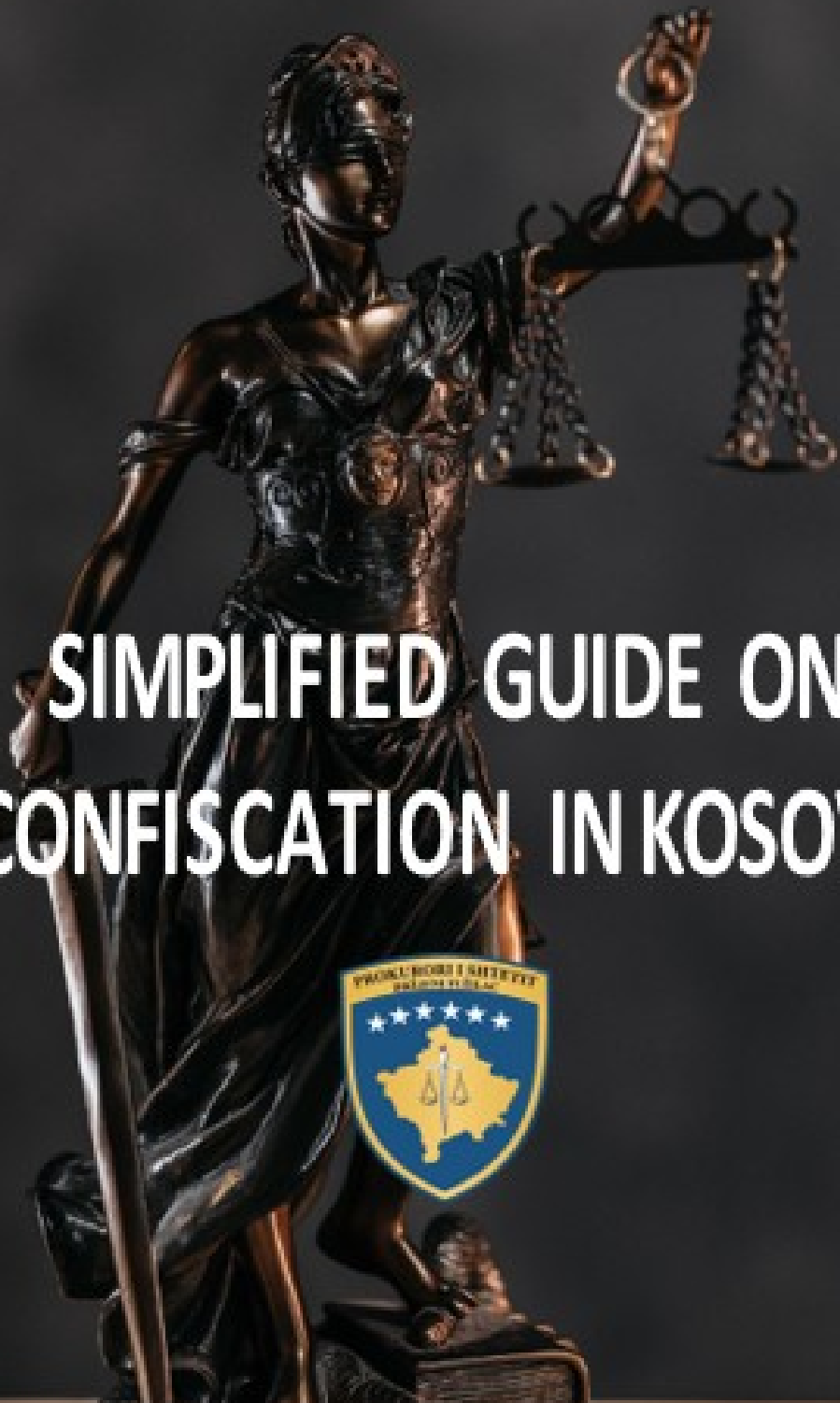
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As a result of the multidimensional approach and inter-institutional coordination by the NCEC, during 2023, several results were recorded in the field of seizure and confiscation of criminal assets.

According to data during 2024, assets valued 48,299,297.86€ were frozen or seized and 2,035,057.60€ of assets were confiscated.

The link of the report in Albanian published in the KPC website:

https://prokuroria-rks.org/uploads/2025/06/682c1c54-9cae-40ab-920e-67bb33fc8512_Raporti-i-Prokurorit-te-Shtetit-per-vitin-2024.pdf



SIMPLIFIED GUIDE ON CONFISCATION IN KOSOVO



A Simplified Guide for Prosecutors and Law Enforcement on Confiscation Provisions in:
CCRK, CPCR, LEPC as well as on financial investigations

The Office of the Chief State Prosecutor



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The Office of the Chief State Prosecutor

CONTENT Introduction	3
 Confiscation in Kosovo.....	 3
 Grounds for confiscation.....	 5
• Application of Criminal Code of the Republic Kosovo (CCRK).....	6
• Application of Criminal Procedure Code of the Republic Kosovo (CPCRK).....	7
• Extended confiscation in Kosovo	13
• FINANCIAL INVESTIGATIONS ON CONFISCATION.....	19
<i>Coordination and planning before the sequestration and determining the menial values of assets</i>	23
Sequestration/Confiscation of vehicles.....	25
• Communication channels of Organization and International Networks.....	26
• Content of national motion for Mutual Legal Assistance addressed abroad.....	27
National applicable law.....	28
Annex 1.....	30
1. International Covenants and Treaties.....	30
2. Bilateral agreement.....	30
Annex 2:	32
Annex 3.....	34

INTRODUCTION

Undoubtedly, the most efficient tool in the fight against criminality is the confiscation of assets. It is very important and necessary to collect data and information about the assets at the earliest stages, which will give the opportunity to clearly determine, based on this information, which of the forms of confiscation of the property will be applicable in a specific case.

This guide was issued considering the document “Ways of confiscation” and adapted to the new legal changes of 2019, both to the LEPC and to the Criminal Code that also entered into force in 2019, but also to the CPCK. Also, international legal cooperation and the main institutions that can provide help in this direction are also incorporated here. The confiscation document is recommended reading for all law enforcement and also contains useful examples of practical scenarios.

The purpose of this guideline is also to serve as guidance to all Basic Prosecution Offices on the need for pre-confiscation planning and assessment that should be done in each case when illegal assets are to be sequestered and confiscated. This guide does not apply to assets subject to automatic confiscation.

Confiscation in Kosovo

The Criminal Code of the Republic of Kosovo (2019) and the Code of Criminal Procedure of the Republic of Kosovo (February 2023), as recent laws, have entered into force in different periods of time and have fundamentally modified the method of sequestration/confiscation.

While the previously annulled CCRK had several articles that governed this area, in the recently enacted CCRK we only have Article 92 that governs the matter in question. So, for law enforcement, it is simpler, easier and more consistent to use legal authorizations in this area. Whereas, with the CPCRK, there are almost radical modifications, but these modifications have been made to avoid the challenges and problems encountered in practice. Thus, while in the previously annulled CCRK, we have had different deadlines for freezing and sequestration (3 and 5 days respectively) and there were also different procedures for freezing and sequestration, now with the recent amendments, it will be much easier application of the articles related to sequestration and confiscation, because we have a single deadline (7 days deadline for EFP) and we have a simple and single preceding for the procedure that must be followed.

KPRK and KPP contain articles with procedural possibilities that were not there before. The general message that is sent is that “CRIME DOES NOT PAY” and that sooner or later, the state through legal mechanisms will confiscate the illegal property benefit.

A major difference is observed in Article 92 of the CCRK, which stipulates that initially attempts are made to confiscate the material benefit acquired from criminal offense and the means used in the commission of the criminal offense. When such a thing happens, then the confiscation procedure is over at this phase, but if for any reason the property and material benefit or instrumentality is no longer at avail to be confiscated, then, Court has the possibility of determining the equivalent value. When even this is not possible, Article 92 has defined an additional possibility that did not exist before, and this is the confiscation of EVERY property of the defendant of equivalent value, and this property can be even if it is the legal property of the defendants (see Article 273.3 of the Criminal Code).

The inclusion of the replacement value concept in both the CCRK and CPCRK is meant to fully enforce the provision in Article 92.2 of the CCRK. Article 92, paragraph 2, of the CCRK aims to make sure that if a defendant gains from a criminal offense but the exact benefit isn’t available yet, the Court can seize more of the defendant’s assets (originally obtained legally) up to the value of the expected benefit. This article is designed to uphold the principle that a defendant shouldn’t profit from their criminal actions.

Article 97, paragraph 1, of the previously annulled 2013 CCRK was rarely applied by Prosecutors or Courts. This allowed defendants to pay the replacement value instead of having it confiscated. Even the previously annulled CCRK didn’t have rules to hold onto such extra property. This has been fixed now with amendments to Article 92 of the CCRK and the supplements to recent provisions as incorporated in the recent CCRK updates.

As such, the newly established provisions facilitate circumstances wherein the act of confiscation becomes unattainable from either the defendant’s assets or those held by a third party who has assumed possession of the transferred asset. In such a scenario, these parties are compelled to remit a monetary equivalent corresponding to the value of the asset subjected to the confiscatory action. The court is concurrently empowered to decree the confiscation of said asset. Furthermore, Article 97.1 of the anterior 2013 CCRK pertains exclusively to the defendant, without extending its purview to encompass third parties who have undertaken the stewardship of the transferred asset, which now lies beyond the ambit of confiscatory remedies.

This situation has been corrected both under Article 92 of the CCRK and the provisions of the recently enacted CPCRK.

Recent amendments have also been integrated into Article 19 of the CPCRK, situated within the Definitions section. Notably, the language employed across Article 19.1.34 to 19.1.41 exhibits a uniform and coherent character resonating throughout the entirety of the CPCRK, extending its influence even to the LEPC. This harmonization greatly helps law enforcement personnel follow procedures more easily and understand them better. It also resolves any potential confusion about how to apply different provisions, whether in Article 19 or in the definitions. The language used in these amendments makes it much clearer for law enforcement to interpret and grasp these provisions effectively and clearly.

However, there is an exception outlined in Article 279 of the CPCRK, known as the Information Disclosure Order, which distinguishes itself from Article 18 of the LEPC. The potential reaction of the prosecution or courts remains uncertain if an individual decline to comply with the stipulations of this specific article. Adding to the complexity, modifications to Article 279 of the CPC were introduced by the Assembly of Kosovo at the last moment, and the rationale behind this change, as well as the methodology employed, remains obscure.

Clarifications pertaining to the sale or transfer of assets during the initial phase of asset sequestration hold significant significance. Historically, a hesitance has been observed in proceeding with the sale of such assets, ultimately resulting in adverse effects on the country's fiscal balance. This is particularly true given that the passage of several years tends to devalue the assets in question. Within this Guide, an affirmative impetus is extended to prosecutors, urging them to:

- Strengthen collaboration with AAPSK (Agency for Administration and Protection of Sequestered and Confiscated Assets) to enhance engagement in Pre-sequestration Planning, thus elevating the prospects of a prosperous asset sequestration endeavor.
- Frequently apply the provisions within the CPCRK that grant permission and foster early-stage sale of assets that are susceptible to depreciation.
- Exercise caution to prevent the recurrence of past predicaments and delineate a clear distinction between the appropriateness of selling assets as property benefit versus those cited in the indictment as evidence. It is crucial to recognize that assets listed as evidence are not eligible nor should they be proposed for sale.
- Formulate more robust justifications for these proposals, aimed at augmenting the probability of court approval for such petitions.

Grounds for confiscation

Prosecutors **must** account for three distinct grounds of confiscation. Firstly, the instruments or tools employed in the commission or preparation of the criminal offense; secondly, the identification of any prohibited items like weapons or contraband; thirdly, the determination of any discernible criminal gains. In all instances, adherence to the processes of **identification, sequestration, and subsequent confiscation** is imperative.

Enacted in early 2019 (**Law No. 06/L-087**), the 2018 Extended Powers for Asset Confiscation Law governs the confiscation of instrumentalities (means) and ill-gotten material benefits arising from criminal activities. This law introduces novel provisions designed to streamline the asset sequestration and confiscation procedures.

The Law on Extended Powers for Confiscation of Assets empowers prosecutors to apply for asset confiscation even in scenarios where the defendant has passed away, has absconded, is beyond the jurisdiction's reach, is absent from the Republic of Kosovo, suffers from mental incapacity, or possesses unexplained wealth that contradicts legitimate sources of income.

The Agency for the Administration of Sequestered and Confiscated Assets, established under **Law 03/L-141**, bears the responsibility of managing assets that have been sequestered or are subject to temporary confiscation. These assets, upon a successful conviction, may become eligible for permanent confiscation. It's essential to note that the agency's jurisdiction pertains exclusively to assets within “legal circulation”. Notably, the prosecution is tasked with ensuring that assets handed over to the agency are accompanied by a court-issued order for temporary confiscation, detention, or sequestration, issued by a Pre-trial judge.

Additionally, the 2010 Law on the Prevention of Money Laundering and the Financing of Terrorism (**Law 03/L-196**) holds significance in this context. The criminal offense of money laundering is foreseen under Article 32(2), encompassing actions such as conversion, transfer, profiting from, or utilizing the proceeds of a crime. Even the mere possession of such illicitly acquired property suffices to establish a criminal offense. As a result, prosecutors must duly account for third parties who might hold assets stemming from criminal activity and subject to confiscation. In such cases, consideration should be given to referring the matter to the SPRK (Special Prosecution of the Republic of Kosovo) for investigation. A defendant may also be prosecuted for laundering the proceeds of crime (Article 32(4)).

I. Application of Criminal Code of the Republic of Kosovo (CCRK)
CHAPTER VII – CONFISCATION OF THE INSTRUMENTALITY AND
MATERIAL BENEFIT FROM CRIMINAL OFFENSES

1.1 Confiscation of means and material benefits of criminal offences - Article 92

1. Property or a mean that has been acquired by a criminal offence shall be confiscated, according to the provisions of the Criminal Procedure Code of the Republic of Kosovo.

EXAMPLE: Two defendants are accused of the criminal offense of Robbery under Article 317 of the CCRK, in which case they have robbed the sum of €50,000 in cash and when committing the criminal offense, they used a Mercedes car to go to and to leave from the scene quickly. In the meantime, the Court renders a sentencing judgment, which becomes final.

- In addition to rendering a conviction verdict, the prosecutor needs to request the confiscation of 50,000 euros in cash and the Mercedes car mentioned in the indictment. This is the first thing the prosecutor requests. If both the money and the car are found and taken away, then the confiscation process, as outlined in Article 92, is met.

However, if only a small amount of money is found and the Mercedes car is not available, the prosecutor moves to the second step. Here, the prosecutor asks the court to collect the amount of money (let's say 20,000 euros) also orders the defendant to pay the remaining amount (30,000 euros) and to pay the value of the car. If the defendant pays this total amount for both the money and the car, then the confiscation process can stop at the second step.

But if the second is not met for some reason – for example, if the full amount cannot be collected – then the prosecutor moves to the third step. In this step, the prosecutor asks the court to take any other assets the defendant has until they pay back the full value of 50,000 euros and the value of the car. This is how the whole process of confiscation works.

1.2. Breakdown of the confiscation procedure as outlined in the CCRK:

- Step 1: Alongside the penalty for the committed criminal offense, the amount gained from the offense is confiscated. For example, in your scenario, this would include the 50,000 euros and the Mercedes car.
- Step 2: If the outcome of the first step isn't enough to cover the full amount, the court may order the payment of an equivalent sum.
- Step 3: If the previous steps aren't sufficient to cover the entire value of the ill-gained benefits and items involved, the court shall proceed to confiscate other properties. Confiscation of any other property until the full value of the property benefit and instrumentalities is met. The term “other property” also means the possibility of confiscation of legal property that is not proposed in the indictment. This also includes third-party property as defined in Article 273 of the KPPRK.
- Step 4: If the steps described in Article 92 are still insufficient, the CPC (Criminal Procedure Code) introduces a fourth step outlined in Articles 266, 267, and 275. This step involves the possibility of confiscating additional assets that the defendant might acquire even after a significant period of time following the criminal activity, for instance, if the defendant (secures a job, purchases new assets, or somehow accumulates wealth over time, these new assets could also be subject to confiscation).

II. Application of the Code of Criminal Procedure of the Republic of Kosovo (KPPRK)

Articles 259, 260, and 261 encompass general provisions for identifying assets eligible for confiscation.

There are two distinct procedures:

- Temporary Restraining Order Procedure
- Final Restraining Order Procedure

These articles stipulate that the proceedings related to detention must be documented in writing, unless the court directs otherwise.

The temporary restraining order is issued by the State Prosecutor in accordance with Article 260 and is valid for a duration of 7 days. Within this 7-day timeframe, the prosecutor is obliged to file a motion for the final restraining order, as per Article 261.

Unlike the previous version of the CPCRK, the updated CPCRK foresees an extended period for the prosecutor. Specifically, the temporary restraining order remains in effect until the court renders a decision on the approval or denial of the motion for the final restraining order.

Article 260 details the authority responsible for issuing the temporary restraining order, outlines the content requirements for the temporary restraining order, and specifies the procedural steps that the prosecutor and other institutions must undertake during this time frame.

Article 261 outlines the specific content requirements that an motion for a final restraining order should incorporate.

It is of utmost importance for prosecutors to adhere to Article 261.3 of the CPC or **exert reasonable efforts** to apprise the defendant or any party with vested interest about the motion for a final restraining order. In previous instances, the non-application of this article has resulted in successful complaints by defendants, solely on this basis.

2.1. Article 262 Interim measures designed to secure specified property.

Article 262 outlines temporary measures to secure a specified property and it is imperative for prosecutors to not only enact the provisions delineated in this article but also to strategize and implement proactive planning prior to any sequestration. This is especially crucial when dealing with items that require coordination with AAPSK for logistical arrangements, such as heavy equipment transportation. Likewise, when handling low-value, older vehicles, strategic planning becomes even more essential.

Prosecutors should exercise meticulousness when submitting motions for the sale of assets that are prone to rapid depreciation. Moreover, it is imperative to avoid requesting the sale of assets that are earmarked as evidence in the case.

A distinct emphasis should be placed on the confiscation of used phones. In such instances, a prevailing standpoint should be adopted, stipulating that these phones are to be destroyed upon the culmination of the criminal procedure, corresponding to the final verdict. This careful approach ensures comprehensive compliance with legal procedures and requirements.

2.2. Article 263 - Defendant and Third-Party Rights before Issuing of Final Restraint Order

Article 263 guarantees that both the defendant and any third party have the ability to contest the prosecutor's motion for a final restraining order. This article outlines what needs to be included in the defendant's or third party's objection.

2.3. Article 264 - Issuing of Final Restraint Order

Article 264 outlines the court's procedure for issuing the final restraining order. It specifies that the court's decision must be rendered within 30 days from the date of the submission of an motion. Further details about the final restraining order can be found in Article 265.

2.4. Article 266 – Temporary Restraint Order for Additional Specified Property

Article 266 outlines the temporary restraining order issued by a Court following the submission of an motion by a prosecutor.

2.5. Article 268 - Grounds for Appeal of the Issuance or Denial of Final Restraint Order

Article 266 outlines the provisions governing a temporary restraining order issued by a court subsequent to the submission of an motion by a prosecutor.

The eventual appeal filed by parties shall not stay the execution of the order.

2.6. Article 269 Confiscation

A prerequisite for obtaining a confiscation order is the conviction of the defendants for the criminal offenses they are charged with. As per this provision and in accordance with the example provided earlier, the court first finds the defendant guilty of the criminal offense of Robbery and determines that the defendants have gained a financial benefit of 50,000 euros, which is then confiscated through the court's decision.

However, in cases where the entire value of 50,000 euros cannot be confiscated due to specific circumstances, let's say only 20,000 euros is recoverable and confiscated. This implies that the remaining amount of 30,000 euros cannot be obtained. In such instances, the court initiates a process to ascertain the monetary value that corresponds to the outstanding sum. In this scenario, the determined value would be 30,000 euros.

Should the defendants be unable to remit the sum of 30,000 euros, the court proceeds to confiscate alternative property as a substitute for the outstanding value.

Moreover, when the material benefit in question takes the form of an asset like a painting, and its value experiences fluctuations between the time of determination and the moment of confiscation, the higher value among the two shall be identified as the prevailing value. This provision ensures that the greatest value, whether increased or decreased, is considered.

- **Article 270 Confiscation of instrumentality**

Article 270 pertains to the order for the confiscation of an asset that was utilized during the commission of a criminal offense. In the example mentioned, this would apply to the Mercedes car that played a role in facilitating the criminal act. For further elaboration and clarity within the context of the indictment's reasoning, the prosecutor should refer to Article 19, paragraph 1, sub-paragraph 1.38.

When the asset used in the offense belongs to a third party, the prosecutor can request and the court can order the confiscation of that property only if it was acquired through “tainted assets” as outlined in Article 19, paragraph 1, sub-paragraph 1.40.

Unlike the previous Criminal Procedure Code (CPCRK), the language in Article 19, paragraph 1, sub-paragraph 1.38 of the current framework is more comprehensive. In seeking confiscation, the prosecutor must substantiate whether the asset in question was utilized in the actual commission of the criminal offense, how it contributed to the offense, and the specific role it played. The article asserts that it is sufficient for the asset to have assisted in any element of the criminal offense, even if its role was solely for transportation to the site where any aspect of the offense was committed, or if it was only used to exit the scene.

Furthermore, this article establishes a criterion for confiscation that encompasses scenarios where the property in question merely facilitated any action supporting the criminal offense.

2.8. Article 273 - Substitution of Property Value

In the scenario described above, if the court determines that the defendants obtained a financial benefit of 50,000 euros from the robbery and transferred 30,000 euros to another individual—this latter amount being unconfiscatable—the court retains the authority to confiscate alternative property up to the monetary equivalent of the property benefit, which, in this instance, is the sum of 30,000 euros. Notably, this property need not be detailed in the indictment.

For the application of Article 273, Paragraph 1, the prosecutor is mandated to present evidence of additional assets belonging to either the defendant or the third party.

To prevent the confiscation of such property, the defendant or third party can opt to settle by paying the sum equivalent to the replacement value. In the example, this would equate to the 30,000 euros.

No specific time frame is stipulated for the identification and confiscation of such property.

2.9. Article 274 - Confiscation Procedure during Judicial Review

Article 274 outlines that the prosecutor, the defendant, or the third party all possess the opportunity to submit arguments, present evidence, cross-examine witnesses, file supplementary evidence, and engage expert testimony regarding the identified property.

This article sets forth a more rigorous standard for the court during confiscation proceedings, mandating a separate treatment for each distinct item of specified property within the court's judgment.

2.10. Article 275 - Confiscation of Additional Assets after Final Judgment

Article 275 stipulates that subsequent to the court's conviction of the defendant for a criminal offense and the determination that the defendants obtained material benefit or made a tainted gift, if these gains, wholly or partially, could not be confiscated due to various reasons, the court retains the authority to confiscate supplementary property even after the judgment becomes final.

In the context of the provided example, the court would initially need to declare the defendant guilty of the criminal offense (Robbery), establish the defendants' financial gain of 50,000 euros (involving the transferred Mercedes car), and acknowledge the recovery of only 20,000 euros while 30,000 euros remained unconfiscated. Therefore, even years after the final judgment, the 30,000 euros could be confiscated from subsequently identified additional assets. For instance, if in the interim it is found that the defendants purchased a 100,000-euro apartment or a 40,000-euro new car, the prosecutor could request the court to confiscate such assets. The sale of the apartment would contribute 30,000 euros to the state budget (or as per the example, the bank), while the remaining sum, unless extended confiscation applies, would be returned to the defendant.

2.11. Article 276 - Property Automatically Subject to Confiscation

This article establishes that an asset may be subject to confiscation by the competent judge at any stage of the procedure if it meets either of the following criteria:

- It poses inherent danger; or
- It is unlawful.

In instances aligning with these criteria, property is confiscated irrespective of the defendant's guilt or innocence or whether the prosecutor has taken any actions.

2.12. Article 277 - Reasoned Order for Property Confiscation

Article 277 mandates that the judgment itself contains a detailed order for the confiscation of each item. For further specifics, prosecutors and judges are encouraged to consult the Supreme Court's Guide, number 62/20, dated 02.03.2020.

2.13. Article 278 - Confiscation Investigation

This provision is novel, absent in prior codes, and permits the investigation for confiscation at various stages: during the criminal investigation, post-indictment, before main trial, during the main trial, and after the main trial.

It is important to differentiate the confiscation investigation from a criminal investigation. The former is a distinct investigation, separate from the constraints of time limits applicable to criminal investigations and other procedural aspects tied to defendants and the criminal offense.

It's crucial to note that the investigation for confiscation under Article 278 should not be confused with the investigation for confiscation defined in Article 17 of the LEPC. In the context of Article 278 of the CPC, a guilty verdict (robbery) must be rendered, the financial gain must be established (50,000 euros), and the inability to fully confiscate must be determined (20,000 euros collected, while 30,000 euros remain unrecovered).

2.14. Article 279-Order for disclosure of information

Article 279 provides the prosecutor with a new investigative tool to identify the assets that may be included in the request for confiscation. The introduction of such an article was necessary since the provisions of the former CPC were inadequate. In order to ensure that the asset confiscation motion includes as many opportunities as possible to identify the defendant's assets, the disclosure order expands the scope of investigative powers currently available to the prosecutor. The order for disclosure of information must be issued by the court at the request of the prosecutor. This warrant can be attached to any person the prosecutor believes has relevant information related to the confiscation investigation.

III. Extended confiscation on Kosovo

1. Application of the Law on extended powers on confiscation of assets

The LEPC can be applied only after the prosecutor secures a conviction against a defendant for the criminal offenses provided for in Article 2 of the LEPC.

EXAMPLE: Two defendants are accused of the criminal offense of Robbery under Article 317 of the CCRK, in which case they have robbed the sum of €50,000 in cash and when committing the criminal offense, they used a Mercedes car to go to and to leave from the scene quickly. In the meantime, the Court renders a sentencing judgment, which becomes final.

2. After receiving the conviction for one of the criminal offenses as in Article 2 of the LEPC, the prosecutor must make sure to investigate for the confiscation going up to within 10 years before the day when the investigative phase for a criminal offense was initiated defined in Article 2 of the LEPC.

EXAMPLE: The criminal offense of robbery is part of the criminal offenses against property and at the same time, according to article 2.1.13 and 2.1.16 of the LEPC, the conditions are met for the prosecutor to file an motion on extended confiscation. Therefore, if the investigations have started against the two defendants as above dated 22.10.2020, the prosecutor can and should investigate whether the defendants have created wealth since 21.10.2010 onwards. So, the property created by the two defendants from 21.10.2010 onwards may be subject to the motion for extended confiscation.

3. The confiscation investigation can be done in parallel during the criminal investigation phase, after the indictment is filed, before the main trial, during the main trial, after the conclusion of the main trial and within the time limit defined in Article 4 of the LEPC, and that the time falls within the period of 5 years after the judgment becomes final.

EXAMPLE: if the verdict is final from 22.12.2020, the prosecutor can investigate the confiscation until 21.12.2025. So, as you can see, the term of 30 days in the old LEPC has been changed because it was too short a term, while now it is a term of 5 years, which is a reasonable and sufficient term. However, this does not mean that the prosecutor should comfortably wait for the deadline in question, but should actually try to have the confiscation investigation done as soon as possible.

4. The prosecutor's burden of proof, after the conviction, will have to do with: presenting all assets that are the subject of asset verification, clearly identifying all assets, providing evidence that each piece of the property is the property of the defendant.

EXAMPLE: hypothetically during the confiscation investigation, the prosecution discovers that the two defendants have created wealth, including: in 2011 they bought property - an apartment in Montenegro, in 2014 they bought a hotel in Albania, in 2019 they bought an apartment in Serbia and in 2018 and 2019 they bought apartments and land in Pristina and Peja.

In this situation, the prosecutor must present in his or her motion the asset verification, clearly identifying the assets as above, e.g. the apartment in Pristina is located in the neighborhood "Luan Haradinaj", dormitory I, entrance II, apartment no. 14 and that the assets in question are the property of the defendants.

5. After the moment according to point 4 of this Instruction, the burden of proof shifts to the defendant and he must prove that his property was acquired by him/her from sufficient legitimate resources that he/she had at the time when he/she acquired the property such, if the property in question is property transferred by a bona fide buyer or if the property sought for confiscation is not the property of the defendant.

EXAMPLE: From the moment as in point 4, the burden is on the defendant to prove the criteria as in point 5, the main thing is for him and not the prosecution to prove that the assets created were made with his/her legitimate sources. So, the DEFENDANT must prove that the apartments, as in the example, in Montenegro, Albania, Serbia and Kosovo were purchased with legitimate sources (e.g. there was a legitimate business with a high turnover).

6. It is mandatory that the items used in the performance of any action in the direction of the criminal offense, material benefit or tainted gift or the more precise definitions according to Article 19.1.39 of the CPC must be confiscated.

7. Procedures for confiscation for crime/proceeds are dealt with in the following section, however prosecutors must file an early ruling on any instrument that may also be an ill-gotten proceed. The Agency for the Administration of sequestered and Confiscated Assets was established to administer, manage and eventually liquidate the proceeds of crime, when ordered by the court. The agency does not manage prohibited or smuggled items (the agency can only manage assets that are “in legal circulation”) but the law provides that the prosecutor can ask the agency to manage the property to preserve it for confiscation at the end of the proceedings.

EXAMPLE: If the subject of the request for confiscation are especially cars, telephones or any other asset which quickly loses value, the prosecutor must take care to best represent the public interest according to article 49.1.1 and 268 and 269 of the CPC and request the sale of said assets.

8. In addition to the restraint orders according to articles 8 and 9 of the LEPC, the prosecutor must remember and act in case the LEPC identifies additional assets. Therefore, this Instruction reiterates that the investigation for confiscation SECTION 14, applies at all times, as described above, and once 15, 17 identify the additional assets of the defendant, apply articles 9 and 11 of the LEPC. Therefore, it is the obligation of the investigation and prosecution to conduct proactive investigations at all times in order to identify additional assets that could not be identified earlier.

EXAMPLE: Even after initiating asset verification requests under LEPC Article 4 for defendants' assets in Montenegro, Albania, Serbia, and Kosovo, the prosecutor can still begin a novel motion if they identify additional assets of the defendants, this time invoking **LEPC** article, for instance, in Turkey and Switzerland.

18 without facing procedural barriers, the prosecutor can initiate a novel motion for asset verification from the start. This new motion concerns the assets identified in Turkey and Switzerland, and these assets must have originated from October 21, 2010 onwards.

9. If, during the confiscation investigation, the prosecutor encounters a situation where individuals who are normally exempt from testifying in criminal proceedings could provide evidence, it's important to note that this exemption doesn't apply to the confiscation investigation. As a result, the prosecutor is authorized and obligated to request from these individuals to answer questions immediately or as scheduled, hand over specified information, and provide documents as outlined in the notice. **However, any information obtained from these individuals cannot be used against that person in criminal proceedings.**

EXAMPLE: A person who, according to Article 127 of the CPC, is exempt from testifying in criminal proceedings, is NOT exempt from testifying in the confiscation investigation. He is forced to testify and even if he does not testify, he can be prosecuted and punished for committing a criminal offense according to Article 18 of the LKCA. However, it should be kept in mind that any information or material provided by such a person will NOT be admissible in any criminal proceedings against that person (Article 18.9 of the LEPC).

- Application of the Law on Extended Powers on Confiscation after a defendant's death:

10. The prosecutor must persist in their actions even if they have initiated a confiscation request and the defendant dies or escapes.

EXAMPLE: In a case when a sentencing judgment has been issued against two individuals under **LEPC** for Robbery, and one of convicts or both die or escape, this doesn't constitute a procedural obstacle. This is because the value of the property involved exceeds €10,000 and aligns with the interest of justice to continue the procedures. Thus, even if the defendants pass away or become untraceable, the confiscation procedure proceeds in accordance with Article 19 of the **LEPC**, even if the prosecutor has not yet filed the indictment for the Robbery against the two defendants. In this scenario, the prosecutor is obligated to draft the indictment within a 180-day timeframe, as stipulated in Article 19.7 of the **LEPC**.

3.3 Confiscation of material benefit or the instrumentalities used to commit a criminal offense

11. The prosecutor is required to continue pursuing the confiscation request, regardless of circumstances such as the defendant's death, escape, and unavailability, absence from Kosovo, or mental disorder or disability. None of these factors provide legal grounds for the prosecutor to halt the confiscation process. On the contrary, the **LEPC** establishes a legal framework for the procedure to persist, even in the absence of an indictment. In such situations, the prosecutor has a 180-day window to submit the relevant indictment, provided that the value of the property subject

to extended confiscation exceeds €10,000 and the imperative of justice prevails or to continue with confiscation.

EXAMPLE: in a case like Robbery herein, the defendants have spent €50,00 and this amount is unattainable for confiscation, and the Mercedes car used in the offense is no longer accessible for confiscation.

Article 20 of the LEPC still permits the continuation of the confiscation process to be resumed with criminal trial against defendants. There are NO procedural obstructions to resume with the confiscation procedure under LEPC, it is based on the property's value exceeding €10,000 and aligning with the interests of justice.

It's essential to differentiate between Article 19 and Article 20 of the LEPC. Article 19 applies when extended confiscation of assets unrelated to the criminal offense is sought, such as properties in different regions. Conversely, Article 20 of the LEPC pertains to situations where the confiscation of assets directly linked to a criminal offense, like a vehicle or property benefit, is pursued.

EXAMPLE: if two individuals commit a bank robbery, making off with €50,000 and utilizing a Mercedes car, Article 20 permits the continuation of the confiscation process, even when the defendant cannot be prosecuted due to specified reasons, even without an indictment. In such cases, given that the property's value exceeds €10,000 according to Article 20.4 of the LEPC, the prosecutor is mandated to apply for the continuation of the procedure, specifically concerning the confiscation of the €50,000 as material benefit and the car used in the commission of the criminal act.

On the other hand, Article 19 pertains to situations where defendants have been charged and convicted, including scenarios like the aforementioned Robbery case. After a conviction for a criminal offense, such as Robbery as outlined in Chapter XXVI of the Kosovo Criminal Code, the criteria specified in Article 2.1.13 of the Kosovo Penal Code, along with Article 2.1.16, are duly met. Subsequently, the prosecutor is authorized to initiate an investigation for confiscation. If the conditions articulated in Article 4 of the LEPC are substantiated, as explained in sections 4 and 5 of this Guide, and additional assets are **NOT** related to the criminal offense, such as assets located in Montenegro, Albania, or Kosovo, are discovered, the prosecutor is obliged to apply for the confiscation of these assets. In such instances, the burden of proof shifts to defendants where they have to substantiate lawful acquisition of the identified property.

1.2. Under the Law on Extended Powers for Confiscation (**LEPC**) Article, confiscation of assets transferred to a third party by an individual who is or becomes a defendant or a convicted person is permitted, provided that the recipient was not acting in good faith as a bona fide purchaser. In such situations, prosecutors have the authority to apply a referral of the third party to the Money Laundering Investigation Unit (PSRK) for investigation related to money laundering.

12. Prosecutors and investigators have several tools at their disposal to identify assets eligible for confiscation, including:

- a. FIU;
- b. Information obtained from the Anti-Corruption Agency.
- c. Examination of accounting records and computers sequestered during raids.
- d. Utilization of property registers (cadastral data).
- e. Access to registers of bank accounts.
- f. Pre-arrest surveillance that may reveal vehicles or properties.
- g. Statements made during interviews with individuals.
- h. Collaboration in international investigations through the CARIN network.

Prosecutors should exercise caution to avoid overwhelming the Financial Intelligence Unit (FIU) and other relevant agencies with an excessive number of information requests.

14. Prosecutors have the authority to designate an expert to perform a financial analysis in accordance with Criminal Procedure Code Article 137. This analysis aims to track and identify movements of material benefits. The appointed expert is required to compile a summary of the assets, detailing their acquisition, and provide the court with information indicating that an asset is eligible for confiscation. The expert may be a law enforcement officer in accordance with Criminal Procedure Code Article 148.

IV. FINANCIAL INVESTIGATIONS ON CONFISCATION

4.1. Asset Identification

To identify assets potentially subject to confiscation, a comprehensive financial investigation is essential. During this process, prosecutors and investigators must collaborate to:

- identify assets that could be eligible for confiscation.
- establish the legal basis justifying confiscation.
- coordinate with the asset administration agency (AASCA).
- ascertain ownership of the assets.
- determine the net value of the assets.
- investigate potential interests held by third parties.

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- identify possible victims.
 - investigate potential interests held by third parties.
 - ensure that the criminal charges outlined in the indictment provide a sufficient foundation for confiscation.
 - employ criminal orders for sequestration to preserve the assets prior to the indictment (sequestration).

In urgent cases related to money laundering, terrorism, and associated criminal offenses, prosecutors can file an motion for the tracing of transactions and immediate temporary freezing of assets within 48 hours from the issuance of the order for temporary freezing of assets. If this occurs during holidays, the Financial Intelligence Unit (FIU) can extend the deadline by an additional 24 hours. Freezing transactions within the framework of international cooperation necessitates approval from the counterpart.

It is important to note that these requests are informal and are solely for intelligence purposes, not intended as evidence before a court. Consequently, judicial procedures must be followed to ensure the admissibility of such evidence.

Financial investigations hold significant importance because:

- They address the root causes of illegal activities and disrupt, dismantle, and weaken criminal organizations.
- They enable the presentation of stronger cases against offenders.
- They identify assets eligible for sequestration and confiscation before they can be concealed.
- They establish records pertaining to the acquisition, possession, and ownership of assets.

4.2 Procedure of financial investigations

Acquiring financial investigation process involves the following steps:

- Getting and assessing information from government and law enforcement databases.
- Getting and assessing information from online and social media accounts.
- Getting and assessing information from publicly available sources.
- Issuing prosecutor or court orders to financial institutions and other entities and evaluating the received information.
- Identifying and evaluating potential assets for confiscation.
- Engaging in consultations with the Financial Intelligence Unit (FIU) when financial data or assets are located abroad.
- Utilizing the communication channels of the Ministry of Justice (MOJ) to request mutual legal assistance (MLA) in countries where assets may be situated, when deemed necessary.
- Returning assets in accordance with existing bilateral agreements or ad-hoc agreements.

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- Conducting financial interviews.
 - Organizing and managing information related to the case.

4.3. Financial interview questions

Financial interview questions including but not limited to the following:

- Do you have any social media accounts? On which platforms?
- What assets do you own (e.g. car, land, house, boat, business, jewelry, artwork, cryptocurrency etc...)? - What is their value? - Where are they? - In whose name are the assets (i.e., corporations, nominees)?
- What properties have you sold in the last 10 years? - How much money did you get?
- What significant assets have you purchased in the last 10 years?
- Who owns your house/apartment building? - How much is the rent/mortgage payment?
- Where are your bank accounts? – What deposits have you made in your accounts? – Do you have any foreign bank accounts?
- What expenses do you have?
- What debts/loans do you have? - Who do you owe? - How much of this debt do you pay every month?
- Do you keep financial records? - Who keeps those notes? - Where are they kept?
- What is the largest amount of cash you have ever had in your possession (not in a bank account) (i.e., kept in a safe, at a friend's house, tucked under your pillow)? - What was the reason that you have so much money? When was this? - Who knew about this? - What did you do with them?
- What sources of income do you have?
- Have you received money from: disability, social welfare, loans, insurance deals, sale of assets, child support, gambling, rental income, inheritance or monetary gifts?
- How much money did you receive? - Who did you get them from? - What did you do with that money?
- How much is the income from your employment?
- Where do you work? o How long have you been working there? o What is the name of your boss?
- How much do you pay per week? o How are you paid? o How do you spend your income? o When was the last time you submitted a tax refund request? o Who prepared it (name and address)? o How much income did you report?

4.4 Coordination of the confiscation among prosecutors and investigators

Make asset confiscation a routine aspect of every criminal case, especially those involving victims, it is imperative to conduct early and effective financial investigations. The

prosecutor and investigator must collaborate closely to ensure that all necessary investigative actions are taken to maximize asset forfeiture.

The investigative team, both before and after indictment, should work together to complete the financial investigation, establish communication with victims, calculate and substantiate loss and restitution amounts, identify assets, track proceeds of criminal activities, initiate asset confiscation, and ensure that the proceeds from confiscated assets are allocated to victims as compensation.

Expectations should be set that investigators, with prosecutor support, will conduct the requisite investigations to optimize asset forfeiture.

4.5. The Purpose of Asset Confiscation Investigations

- Identification of the criminal offense and its perpetrators.
- Identification of crime victims and the extent of their losses.
- Identification of assets eligible for confiscation or as potential replacements.
- Fast actions to preserve assets for confiscation, including issuing sequestration or restriction orders.

4.6. Steps to be undertaken by a prosecutor to maximize asset confiscation during the criminal investigation

- **Use victim damages statements and invoices secured** by the victim to identify victims' losses. **Using public records** to identify targeted assets and trace the proceeds of the crime under investigation and assets. **Use of public records** to identify targeted assets and trace proceeds from the investigated criminal activity.
- **Use of legal proceedings, warrants, subpoenas**, and other legal means to identify victims, ascertain victims' losses, locate the target's assets, and trace proceeds from the criminal offense under investigation.
- Tracing criminal proceeds and assets helps maximize asset confiscation by (1) enabling proactive sequestration or restriction of proceeds to prevent their disappearance and (2) safeguarding traced proceeds from third-party claims.
- Prosecutors can use channels for mutual legal assistance in criminal cases and contact the Department for International Legal Cooperation in the Ministry of Justice to request freezing or sequestration of assets situated abroad. This is typically a swift process. Usually, point of contacts with the Ministry of Justice is the Department for International Legal Cooperation - MJ.

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- **The prosecutors and investigators should engage in pre-sequestration planning** to determine which of the target's assets are worth pursuing. You should:
 - Obtain ownership/title records for the targeted person's real estate to determine (a) whether they are the owners; and (b) the target person's net worth.
 - Determine the target person's net worth of vehicles and other potentially assets subject to confiscation that may be encumbered.
 - Determine the business/corporate structure and payments and benefits to determine fraudulent transactions made for the benefit of third parties, such as friends and family members.
 - Know who your defendant and know his/her the family. Defendants often transfer ownership to family members using their names. Investigators should conduct asset searches using the defendant's nicknames and known names of family members.
 - **Review the evidence and discuss whether any property is subject to confiscation as a means of committing the crime (instrumentality).**
 - Determine whether movable or immovable property was used to facilitate the crime?
 - If so, it should be analyzed
 - whether there is a “substantial connection with the offence” such that but for the facilitating asset/property the offense would not have been committed or would not have been committed as easily.
 - Look at the value of the property against the harm caused by the offense to determine whether sequestration/confiscation of the property would be proportionate.”
 - **Determine the most efficient and suitable method for asset confiscation or restriction before a conviction is secured.**
 - Ensure prompt preparation and submission of freezing, sequestration, or restriction orders when warranted.
 - Collaborate with the prosecutor and, if necessary, (a confiscation coordinator if he or she is at avail and deemed to) to compile an motion that establishes a reasonable probability or reasonable doubt that the targeted individual has committed a crime justifying confiscation. This motion should also demonstrate the connection between the crime and the property in question.
 - Coordinate the execution of sequestration or restriction orders to prevent the target from disposing of assets upon being informed of the investigation, safeguarding the integrity of the process.
 - The investigator should compile a comprehensive report identifying each victim of the crime and their losses, assets traceable to the crime, and other assets of the defendant that may be taken as replacement assets.
 - If the defendant agrees to plead guilty, ask him to agree to the disclosure of assets and to agree not to dispose of the assets pending final confiscation. The defendant must also agree to surrender all major assets.

4.7 Steps the Prosecutor Can Take to Help the Investigator

In assisting investigators with asset confiscation cases, the state prosecutor can take several important steps:

- **Early Strategy Meeting**: Schedule an early meeting with the investigator (and confiscation coordinator, if available and necessary) to discuss the asset confiscation strategy for the case.
- **Legal Guidance**: Advise the investigator on confiscation laws and discuss the necessary steps to obtain evidence that will support effective confiscation or restraint requests and orders.
- **Coordination with Authorities** with the AASCA personnel: Coordinate and communicate with relevant authorities on pre-sequestration planning issues. This can include preparations for asset storage or maintenance post-sequestration or the need to sell assets that may lose value over time.

Coordination and planning before sequestration and determining the minimum value of assets

This part will serve as guidance for all basic prosecution offices on the need for pre-sequestration planning and assessment that should be done in each case where illegal assets are to be sequestered and confiscated. This guidance does not apply to items subject to automatic confiscation.

Pre-Foreclosure Planning

- What type of assets should be sequestered?
- When should it be sequestered?
- Most importantly, should it be sequestered at all?

The time required for planning can vary, from a short period to several days or even weeks, depending on the information needed to prepare for foreclosure. Ideally, prosecutors should determine, early in the investigation and before sequestration, whether it's worthwhile to seize and confiscate an asset. Key considerations include:

- The current condition of the property and its current appraised value.
- The estimated value after final confiscation and sale.
- Any associated storage or maintenance costs.
- When evaluating whether a particular asset should be confiscated, the prosecutor must differentiate between different scenarios:
- **Evidence**: In this scenario, the property is confiscated and can be destroyed or sold at the conclusion of legal proceedings.

- **Tools to commits criminal offense/Instrumentality/:** If the asset was used to facilitate a criminal offense, the principle of proportionality applies. The rights of third parties must always be considered.
- **Proceeds of Crime: Material benefiting** from a criminal offense is sequestered, considering its value and the rights of third parties.
- **Tainted Gift:** confiscation occurs if the conditions under the law are met.

The prosecutor in charge of the case coordinates with the law enforcement agency that conducted the investigation and the Agency for the Administration of Sequestered and Confiscated Assets (AASCA). This coordination should include meetings between case investigators and AASCA or other relevant agencies involved in asset sequestration. In addition to determining the estimated value, pre-foreclosure planning involves taking actions to obtain information about ownership or title. For example, conducting a title search for real estate, requesting the vehicle's registration document for vehicles, and considering any known mortgages when determining the property's value.

*If the assessment reveals that sequestration of the assets would burden the government, the prosecutor should consider not sequestering or confiscating it. **However, confiscation may still be considered in cases where assets have minimal value, especially if there are special aggravating circumstances or if sequestration or confiscation is in the interest of justice. To determine the net worth of assets, prosecutors should:***

- Coordinate with AAPSK regarding the value of each asset.
- Research if there are any mortgages, especially for real estate.
- Beware of Assets That Pose Challenges:
- International assets.
- Boats.
- Perishable animals or items.
- Chemical and pharmaceutical substances.
- Intellectual property.
- Valuable art and antiques.
- Contaminated properties.
- Functional businesses.

Sequestration/Confiscation of vehicles

In order for a vehicle to be confiscated, the prosecutor must try to obtain information on the current condition of the vehicle. The existence of multiple vehicles subject to confiscation at the same time, when such vehicles are in very poor mechanical condition, should not serve as a reason to proceed with confiscation, if the estimated value for storage, maintenance and other expenses administrative is expected to exceed the value of the vehicles. An exception to this rule is when the vehicles have been modified or adapted to be used for illegal activities such as: smuggling of foreigners or narcotics, or facilitating other illegal activities.

Car rental

The general rule is that rental cars should not be sequestered pursued for confiscation. This is because the defendant is not the owner of the vehicle. The defendant merely temporarily possesses it during the commission of the crime. In most cases, the true owner (the rental car company) has no knowledge that the car will be used to commit a crime. The prosecutor must ensure that the third-party interest provisions of the CPC are respected and in principle the rental car company would win the case as the **innocent owner** in the confiscation proceedings and the car would be returned to him.

There are exceptions such as when the owner of the car rental company knows or should have known, based on clear facts and evidence, that the car would be used to commit a crime. This will require further investigation. For example, there may be situations where the owner of the rental car company is close friends with the defendant and knew that the defendant had committed criminal offenses of that nature (such as smuggling or transporting drugs) using the rental cars. If there are indications of possible involvement of rental car companies in illegal activities, efforts should be made to expand the investigation to include these companies as well.

If prosecutors notice that the same rental car companies are occasionally used for such illegal activities, but there is no clear information that the companies are involved in these activities, an additional effort may be made to contact the rental car companies in that area to advise them that the prosecution has noticed an increase in this activity and that extra care should be taken by car rental companies when renting cars.

V. Communication Channels of International Organizations and Networks

For the purpose of identifying assets in other jurisdictions, data is collected through national contact points of international channels for the exchange of information:

5.1. Global Operational Network of Anti-Corruption Law Enforcement Bodies

The Globe Network provides a platform for peer-to-peer information sharing and informal collaboration to better identify, investigate and prosecute cross-border corruption and recover stolen assets.

Kosovo is currently not represented in this network, but questions of interest to the prosecutor can be addressed to the Globe secretariat.

Regarding this network, each prosecutor individually and without the need of a contact point, can directly address the network in question via email such as globenetwork@un.org

The information provided through this network is considered informal and to be valid in criminal proceedings, the procedure must be forwarded through the Ministry of Justice in a formal way.

5.2. Asset Recovery Office

The Asset Recovery Office (ARO) is the central national contact point that facilitates the EU-wide tracing of assets linked to a criminal offence. ARO's main goal is to develop and facilitate techniques for identifying and tracing assets, leading to increased seizures.

Kosovo has not yet established the ZRA except for an office within the Kosovo Police which is not yet fully operational.

5.3. European Union Agency for Cooperation in Criminal Justice

Eurojust, the European Union Agency for Criminal Justice Cooperation (EUROJUST) facilitates the asset recovery process by providing legal and practical support to judicial authorities throughout the various stages of asset recovery, helping practitioners to resolve cases and answer questions, such as and facilitating effective cooperation and communication between the states involved.

Prosecutors have the opportunity to address EUROJUST through two points of contact which are liaisons and are within:

- MJ – Department for international legal cooperation in criminal matters; and
- Special Prosecution Office of the Republic of Kosovo.

5.4. CAMDEN Inter-Institutional Asset Recovery Network

The CAMDEN Interagency Asset Recovery Network (CARIN) is an informal interagency network of law enforcement personnel specializing in tracking, freezing, seizing and confiscating financial assets used in connection with and for criminal activity.

Kosovo is represented at the level of the observer member by the National Coordinator for the fight against economic crime, while the Kosovo Police is represented by the Directorate for the investigation of economic crimes and corruption - the sector for financial investigations.

5.5. Secure Information Exchange Network Application

Secure Network Application [HYPERLINK "https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena"](https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena) [HYPERLINK "https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena"](https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena)for Information Exchange [HYPERLINK "https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena"](https://www.europol.europa.eu/operations-services-and-innovation/services-support/information-exchange/secure-information-exchange-network-application-siena) (SIENA) is a communication tool for the mutual communication of EUROPOL offices with EU member states and third parties involved in EUROPOL communication traffic. The SIENA communication tool aims to enable the central information management system for case handling, cross-comparisons and structured data exchange.

Prosecutors can be addressed to SIENA through ILECU - Kosovo Police - General Directorate.

5.6. Stolen Asset Recovery Initiative

The Stolen Assets Recovery Initiative (STAR) is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime (UNODC). It publishes a public database on Asset Recovery Watch that tracks the efforts of prosecuting authorities around the world to pursue assets stemming from corruption. The purpose of the 'StAR Asset Recovery Watch initiative is to collect and systematize information about completed and ongoing efforts to recover the benefits of corruption that have an international dimension.

Regarding this network, each prosecutor individually and without the need for a contact point, can directly address the network in question via email such as starinitiative@worldbank.org

The information provided through this network is considered informal and to be valid in criminal proceedings, the procedure must be forwarded through the Ministry of Justice in a formal way.

5.7. INTERPOL Global Network of Contact Points for Asset Recovery

The Global Platform of Contact Points (GFPN) [HYPERLINK "https://www.interpol.int/en/Crimes/Corruption/Anti-corruption-and-asset-recovery"](https://www.interpol.int/en/Crimes/Corruption/Anti-corruption-and-asset-recovery) facilitates countries' efforts to recover assets that may be hidden in foreign jurisdictions. Prosecutors can submit such requests through the ILECU within the Kosovo Police General Directorate.

5.8. EGMONT Group:

The Egmont Group is an organization that provides a platform for Financial Intelligence Units (FIUs) to securely share expertise and financial intelligence in the fight against money laundering, terrorist financing, and related crimes. Some key points from this section include:

FIU-K is a member of the Egmont Group with full rights.

Communication within the Egmont Group is carried out through a secure web platform.

Prosecutors who want to receive information from this network should go through FIU-K.
The data received from the Egmont Group should be used exclusively for intelligence purposes.

5.9. Content of a domestic Request for Mutual Legal Assistance addressed to a foreign state:

This section outlines the important information that should be included in a written request for Mutual Legal Assistance to another state. When one country requests legal assistance from another in a criminal matter, the request should include the following details:

- The name of the body conducting the criminal procedure for which assistance is needed.
- A description of the facts of the case, including the time and place of the criminal offense and any damage caused.
- References to relevant legal provisions, such as laws regarding the offense and potential penalties.
- Identification of the individuals involved in the criminal procedure.
- A clear description of the actions needed and how they relate to the case.
- If applicable, information on time limits and justifications for urgency.
- Details about the location and description of places or items to be inspected or examined. Information on any special procedures required and the reasons for them.
- The location and description of the place or item to be inspected or examined;
- The location and description of the place to be searched and the evidence of the items to be sequestered or confiscated;
- Evidence of a special procedure that is required to be applied during the execution of the motion and the relevant reasons for it;
- Awareness of the need for confidentiality; and
- Any other information that may facilitate the execution of the request.

National applicable law

- Criminal Code;
- The Criminal Procedure Code of the Penal procedure;
- Law on extended powers of confiscation of property;
- Law on international legal cooperation in criminal matters, with supplements and amendments to Law No. 08/L-026 on the amendment and completion of Law No. 04/L213;
- Law on AASCA
- Other relevant laws (Laws on asset declaration, tax laws, AML/TFL, Customs and Excise Code, etc.).

Annexes are an integral part of this document which can be amended and supplemented from time to time as needed.

Annex 1:

1. Conventions and International Treaties

- Convention Against Corruption HYPERLINK
https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf,
UN 2003 [Article 31 deals with freezing, seizure and confiscation; Articles 44-50 consider international cooperation; Articles 54 and 55 consider international cooperation for confiscation; Article 57 examines the return of income from corruption]

- Convention against Illicit Trafficking in Narcotic Drugs and Substances [HYPERLINK https://www.unodc.org/pdf/convention_1988_en.pdf](https://www.unodc.org/pdf/convention_1988_en.pdf) [HYPERLINK https://www.unodc.org/pdf/convention_1988_en.pdf](https://www.unodc.org/pdf/convention_1988_en.pdf) Psychotropic [HYPERLINK https://www.unodc.org/pdf/convention_1988_en.pdf](https://www.unodc.org/pdf/convention_1988_en.pdf) UN 1988 [Article 5 deals with confiscation of proceeds from illicit drug-related activities or property and measures for the determination, detection and provisional confiscation of proceeds, property and financial means, including access to banking data; Article 7 sets out the rules for international cooperation in the recognition and enforcement of confiscation orders]
- Convention on Cleansing, Search, Seizure and Confiscation of Proceeds of Crime [HYPERLINK https://rm.coe.int/168007bd23](https://rm.coe.int/168007bd23) [HYPERLINK https://rm.coe.int/168007bd23](https://rm.coe.int/168007bd23) EC 1990 [Convention examines the criminalization of money laundering, as well as regulates the permanent confiscation of property arising from crime, as well as the Principles of international cooperation;
- Convention on the Laundering, Investigation, Seizure and Confiscation of Proceeds of Crime and the Financing of Terrorism [HYPERLINK https://rm.coe.int/168008371f](https://rm.coe.int/168008371f) [HYPERLINK https://rm.coe.int/168008371f](https://rm.coe.int/168008371f) , EC 2005 [international agreement which, for the first time, covers the prevention and control of money laundering (as well as the financing of terrorism); Article 5 examines blocking, seizure and confiscation; Article 15 examines international cooperation; Articles 17-19 consider access to financial information; Section 4 deals with confiscation;
- Convention against Transnational Organized Crime [HYPERLINK https://www.unodc.org/documents/middleeastandnorthafrica/organized-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/organized-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf) UN 2000 - Articles 12-14 deal with confiscation, international cooperation and disposal of confiscated assets ;
- Criminal Law Convention on Corruption [HYPERLINK https://www.coe.int/en/web/impact-convention-human-rights/criminal-law-convention-on-corruption](https://www.coe.int/en/web/impact-convention-human-rights/criminal-law-convention-on-corruption), EC 1999 - Article 23 examines the gathering of evidence and confiscation of assets, Chapter IV takes into account international cooperation;
- European Convention on Mutual Assistance in Criminal Matters [HYPERLINK https://rm.coe.int/16800656ce](https://rm.coe.int/16800656ce) [HYPERLINK https://rm.coe.int/16800656ce](https://rm.coe.int/16800656ce) (1959), with two additional protocols (1962).

2. Bilateral agreements

- Agreement on Mutual Legal Assistance in Criminal Matters between the Republic of Kosovo and the Republic of Albania;
- Agreement on Extradition between the Republic of Kosovo and the Republic of Albania;
- Treaty on Mutual Legal Assistance in Criminal Matters between the Republic of Kosovo and the Republic of Italy;
- Extradition Treaty between the Republic of Kosovo and the Republic of Italy;
- Agreement on Mutual Legal Assistance in Criminal Matters between the Republic of Kosovo and the Republic of Hungary;
- Extradition Agreement between the Republic of Kosovo and the Republic of Hungary;
- Agreement on Mutual Legal Assistance in Criminal Matters between the Republic of Kosovo and the Republic of Turkey;
- The Extradition Agreement between the Republic of Kosovo and the Republic of Turkey;
- Agreement on Mutual Legal Assistance in Criminal Matters between the Republic of Kosovo and the Republic of Macedonia;
- The Extradition Agreement between the Republic of Kosovo and the Republic of Macedonia;
- Agreement on Mutual Legal Assistance in criminal matters between the Republic of Kosovo and the Republic of Croatia;
- Agreement on Judicial Cooperation in criminal matters between the Republic of Kosovo and the Federal Republic of Germany;
- Treaty on Extradition between the Republic of Kosovo and the United States of America.

Annex 2:

SEQUESTRATION CHECKLIST To assist the prosecutor of the case in harmonizing the practice and fair reporting about the seizure/confiscation	Case no.:	
Task	Completed	Date
Planning before sequestration - Before filing the indictment		
Real estate (providing ownership/possession documents)		
Note:		
Identification of assets for seizure/confiscation in the criminal case In case of sequestration of assets in complex cases, give to the confiscation Coordinator a detailed list (description of the asset, serial number, chassis number (if it is a vehicle, etc.)		
Note:		
Write type of asset (is it evidence, instrumentality, material benefit or tainted asset)		
Note:		
Motion for restrictive order (In more complex cases when you are also dealing with sequestration/confiscation, consult with the Coordinator, as needed)		
Note:		
Indictment – include all known assets in the indictment and provide justification for their inclusion (In more complex cases where you are also dealing with seizure/confiscation, consult with the Coordinator as needed)		
Note:		
The date of the court session/examination where the seizure/confiscation is also considered _____ (for more complex cases, notify the Confiscation Coordinator as well)		
Note:		
Plea/Plea Agreement – List all assets to be confiscated in the Agreement in more complex cases also get the Coordinator's consent before finalizing the Agreement. After reaching the Agreement provide a copy to the Coordinator.		
Note:		
Sanctioning: Don't forget to mention in your closing speech		

the position of the prosecution regarding Confiscation and the reasoning for it.		
Note:		
After the judge’s decision, review all items related to the confiscation to ensure that the confiscation issue is included in the appeal as needed.		
Note:		

Annex 3:

In cases where law enforcers have any uncertainty about how to address a request and to whom to address, the list below will help you find the appropriate people who can help them with your request:

- Gazmend Çitaku – MJ – DILC;
- Ilirjana Çollaku - SPRK - the representative of Kosovo for EUROJUST. - Sevdije Morina – OCSF;
- Basic Prosecution Office Pristina: Armend Hamiti - SCD; and Blerim Igrishta – GD.
- Basic Prosecution Office Prizren – Arijana Shajkovci;
- Basic Prosecution Office Peja – Ersan Qavolli;
- Basic Prosecution Office Mitrovica – Nijazi Rexha;
- Basic Prosecution Office Ferizaj – Shukri Jashari; - Basic Prosecution Office Gjakova – Enis Gashi;
- Basic Prosecution Office Gjiilan - Agron Uka.
- CARIN row, representatives of Kosovo: o Shqipdon Fazliu from OCSF; and Fatmir Karaliti from the Kosovo Police.
- Besnik Sallahu – Kosovo Police, Kosovo representative for EUROPOL; - ILECU - Kosovo Police - Arben Paçarizi, with its police attache:
- USA - Lulzim Krasniqi;
- Austria – Bekim Halilaj;
- Germany – Driton Vrajolli;
- France – Ardita Fetahu; o Belgium – Jeton Krasniqi;
- Turkey – Blerim Dayaku; and
- Switzerland – Drita Gashi.
- Network of Seizure and Confiscation Coordinators:
- Shqipdon Fazliu – the national coordinator for combating economic crime at the country level;
- Coordinating prosecutors in the Prosecution Office:
- Special Prosecution Office – Milot Krasniqi;
- Prishtina Basic Prosecution Office:
- Union Zeqaj - DKR; AND
- Bekim Kodraliu – DP.
- Basic Prosecution Office Prizren – Petrit Kryeziu;
- Basic Prosecution Office Pejë - Ersan Qavolli;
- Basic Prosecution Office Ferizaj – Sebahate Sinani;
- Basic Prosecution Office Gjiilan - Isuf Sadiku;
- Basic Prosecution Office Gjakovë – Qazim Xharra; and
- Basic Prosecution Office Mitrovica – Valon Kurtaj – member of the network of coordinators from the KJC side.

ANNEX A: MODEL FOR THE REQUEST FOR THE RELEASE OF FUNDS

Annexes:

Summary of checks performed by relevant authorities on the steps for which funding is requested, including weaknesses identified and any corrective actions taken.

Fiche to be used for each step:

The step under review	5.3.1.2. An increase in the overall value of seizures, freezing and confiscations of the proceeds of crime is demonstrated.																				
Baseline	Value of seized/frozen assets: €40,938,157.1 average values for the years 2021-2022-2023 Value of confiscated assets: €8,345,740.05 average values for the years 2021-2022-2023																				
Deadline of the step	[June 2026]																				
Actual results	The value of assets seized/frozen and confiscated in the reporting period (2023, 2024 and 2025) is as follows: <table><tr><th>Year</th><th>Value of assets seized/frozen</th><th>Value of assets confiscated</th></tr><tr><td>2023¹</td><td>87,847,342.23 €</td><td>23,594,635.64 €</td></tr><tr><td>2024²</td><td>48,299,297.86 €</td><td>2,035,057.60 €</td></tr><tr><td>2025³</td><td>64,039,998.19 €</td><td>548,296.94 €</td></tr><tr><td>Average (2023-2025)</td><td>66,728,879.43 €</td><td>8,725,996.73 €</td></tr><tr><td>Baseline</td><td>€40,938,157.1</td><td>€8,345,740.05</td></tr></table>			Year	Value of assets seized/frozen	Value of assets confiscated	2023 ¹	87,847,342.23 €	23,594,635.64 €	2024 ²	48,299,297.86 €	2,035,057.60 €	2025 ³	64,039,998.19 €	548,296.94 €	Average (2023-2025)	66,728,879.43 €	8,725,996.73 €	Baseline	€40,938,157.1	€8,345,740.05
Year	Value of assets seized/frozen	Value of assets confiscated																			
2023 ¹	87,847,342.23 €	23,594,635.64 €																			
2024 ²	48,299,297.86 €	2,035,057.60 €																			
2025 ³	64,039,998.19 €	548,296.94 €																			
Average (2023-2025)	66,728,879.43 €	8,725,996.73 €																			
Baseline	€40,938,157.1	€8,345,740.05																			

¹ Annual Report 2023 of State Prosecutor, page 17 (https://prokuroria-rks.org/uploads/2025/10/8b87cc54-7fab-4661-ac42-6c94fb9881d5_Raporti-vjetor-i-punes-se-Prokurorit-te-Shtetit-2023.pdf)

² Annual Report 2024 of State Prosecutor, page 17 (https://prokuroria-rks.org/uploads/2025/06/682c1c54-9cae-40ab-920e-67bb33fc8512_Raporti-i-Prokurorit-te-Shtetit-per-vitin-2024.pdf)

³ Annual Report 2025 of State Prosecutor, page 16, (https://prokuroria-rks.org/uploads/2026/06/c1ca92bb-7b2d-477d-99ba-b551067e26af_RAPORTI%20VJETOR%20I%20PROKURORIT%20TE%20SHTETIT%202025-FINAL.pdf)

	<table><tr><td>(2021-2023)</td><td></td><td></td></tr></table> As it can be seen from the table above, the average value of assets seized/frozen for the years 2023, 2024 and 2025 is 66,728,879.43 €. Compared to the baseline (average values for the years 2021-2022-2023) which is €40,938,157.1, an increase in this value of over €25 million has been demonstrated. In addition, the the average value of assets confiscated for the years 2023, 2024 and 2025 is 8,725,996.73 €. Compared to the baseline (average of values for the years 2021-2022-2023) which is €8,345,740.05, an increase of over €380,000 has been demonstrated. Furthermore, regarding the achievements in the field of asset seizure and confiscation, in 2023, the Chief State Prosecutor issued the Simplified Guide to Confiscation in Kosovo. This Guide includes clarification of the implementation of confiscation provisions in the CCRK, CPCK, LEPC and financial investigations. The Guide also contains clarifications on pre-seizure planning, the sale of assets at the earliest possible stage of sequestration, communication channels with international organizations and networks and even questions for the financial interview.⁴ In 2024, National Coordinator for Economic Crime organized visits to the Agency for the Management of Seized or Confiscated Assets (AMSCA) together with .KJC and KPC members, officials of the AMSCA, OSCE and the US Embassy, as supporters of the process. The purpose of the visits was to raise awareness of the aggravated situation in the AMSCA warehouse with the accumulation of so many unsold vehicles and the damage that is done to them over time. The visits were productive because the participants personally saw the situation and created a real picture of the true situation.⁵	(2021-2023)		
(2021-2023)				
Evidence provided	1. Annual Report 2023 of the State prosecutor (<i>in the report attached as evidence only page 17 is translated in English for the purpose of this reporting whereas the link of the full report officially published in the website (in Albanian) is provided in the footnote 1 as well as in Evidence 1</i>) 2. Annual Report 2024 of the State prosecutor (<i>in the report attached as evidence only page 17 is translated in English for the purpose of this reporting whereas the link of the full report officially published in the website (in Albanian) is provided in the footnote 2 as well as in</i>			

⁴ Chief State Prosecutor's Simplified guideline for confiscation

⁵ The link of the press release for the visit <https://prokuroria-rks.org/artikulli/3527>

	<i>Evidence 2)</i> 3. Annual Report 2025 of the State prosecutor (page 16) 4. Chief State Prosecutor's Simplified guideline for confiscation 5. The link of the press release for the visit https://prokuroria-rks.org/artikulli/3527
Checks performed in the verification of the step and related findings	During verification of the step, all evidence has been collected and reviewed (justifying the achievement of the reform). The evidence has been listed down in the checklist on the conducted verification, and all documents supporting the verification have been properly stored (in order to ensure audit trail). The following checks were conducted: • All necessary documentation, as specified in Annex 1 of RA (which are also attached to this report); • Compliance with the descriptive part of the reform step from the Commission Implementing Decision; • The attached documentation can unequivocally confirm the fulfilment of the reform step; • The attached documentation can unequivocally confirm the period in which the reform step has been fulfilled. No related findings have been identified
Compliance with general principles and DNSH principle	The implementation of the steps does not contravene the general principles outlined in Article 4 and 11(4) of Regulation (EU) 2024/1449 and Article 3 of the Facility Agreement. The implementation of the steps does not contravene the 'Do No Significant Harm' principle (DNSH).
Double funding	Contributions from third parties were not reported in support of the achievement of this step.
Clear conclusion on the achievement of the step	Based on the reporting and documents attached, the reform step is achieved (fully implemented).