

LAW

ON ORGANISATION AND JURISDICTION OF GOVERNMENT AUTHORITIES IN SUPPRESSION OF ORGANISED CRIME, CORRUPTION AND OTHER SEVERE CRIMINAL OFFENCES

Published in

"Official Gazette of the Republic of Serbia", No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004-Separate Law, 45/2005, 61/2005, 72/2009, 72/2011- separate Law and 101/2011 – separate Law

I INTRODUCTORY PROVISIONS

Article 1

This Law governs establishing, organisation, jurisdiction and powers of government bodies and special organisational units of government bodies for detection, criminal prosecution and processing of criminal offences stipulated by this Law.

Article 2

This Law is applied for detection, criminal prosecution and processing of:

- 1) Criminal offences of organised crime;
- 2) Criminal offences against constitutional order and security of the Republic of Serbia (Articles 310 through 312 of the Criminal Code),
- 3) Criminal offences of the abuse against official duty (Articles 359, 366, 367 and 368 of the Criminal Code), when an accused, that is, a person receiving the bribe, is an official or a responsible person holding public office, on the grounds of the election, designation, or appointment by the National Assembly, the Government, High Judicial Council, or the State Prosecutorial Council,
- 4) Criminal offence of the abuse of an official position (Article 359, paragraph 3 of the Criminal Code), when the value of the acquired property gain exceeds the amount of 200,000,000 Dinars,
- 5) Criminal offence of the international terrorism and criminal offence of financing terrorism (Articles 391 and 393 of the Criminal Code),
- 6) Criminal offence of money laundering (Article 231 of the Criminal Code), when the property which is the object of money laundering originates from the criminal offences from the subparagraphs 1), 3), 4) and 5) of this Article,

- 7) Criminal offences against government authorities (Article 322, paragraphs 3 and 4 Article 323, paragraphs 3 and 4 of the Criminal Code) and criminal offences against judiciary (Articles 333 and 335, Article 336, paragraphs 1, 2 and 4, and Articles 336b, 337 and 339 of the Criminal Code), if they are committed in relation to criminal offences in the subparagraphs 1 through 6 of this Article.

Article 3

The organised crime within the meaning of this Law represents committing criminal offences by the organised criminal group or its members.

The organised criminal group referred to in the paragraph 1 of this Article entails a group of three or more persons, which exists for a certain period of time and acts consensually in order to commit one or more criminal offences in respect of which the prescribed sentence is four years of imprisonment or a more severe punishment, in order to directly or indirectly acquire financial or other kind of benefit.

II ORGANISATION AND JURISDICTION OF GOVERNMENT AUTHORITIES IN SUPPRESSION OF ORGANISED CRIME

1. Prosecutor's Office for Organised Crime

Article 4

The Prosecutor's Office for organised crime shall have jurisdiction to proceed in criminal offences referred to in the Article 2 of this Law.

Unless otherwise stipulated by this Law, the provisions of the Law on Public Prosecution shall apply to the Prosecutor's Office for Organised Crime.

Article 5

The Prosecutor's Office for Organised Crime is administrated by the Prosecutor for Organised Crime (hereinafter: Prosecutor).

In respect of recommending the candidates for the Prosecutor, or selecting the Deputy Prosecutor, the candidates possessing required expertise and experience in the domain of fighting organised crime and corruption shall have precedence.

Articles 6 and 7

(Deleted)

Article 8

The State Public Prosecutor may, upon a motion of the Prosecutor, designate a Deputy Public Prosecutor to the Prosecutor's Office for Organised Crime, with his written consent.

The designation referred to in the paragraph 1 of this Article shall not exceed four years term and may be extended by the decision of the State Public Prosecutor, upon a motion of the Public Prosecutor, with a written consent of the designated Deputy Public Prosecutor.

Article 9

If required by reason of conducting the criminal proceedings, the Prosecutor may request the competent government body or organisation to assign a person employed at such body or organisation to the Prosecutor's Office for Organised Crime.

The official in charge of such body or organisation shall, without delay, render a decision in respect of the Prosecutor's request referred to in paragraph 1 of this Article.

Assignment from the paragraph 1 of this Article shall be effected with the consent of the employee and shall not exceed one year term.

2. Special service for suppression of organised crime

Article 10

A Service for suppression of organised crime is hereby established as the part of the Ministry of Interior (hereinafter: the Service) to perform police duties in respect of criminal offences referred to in the Article 2 of this Law.

The Service shall act upon motion of the Prosecutor, pursuant to the law.

The Minister responsible for internal affairs shall appoint and dismiss the commanding officer of the Service, upon the opinion of the Prosecutor, and shall adopt an act specifying activities of the Service, pursuant to this Law.

The minister responsible for internal affairs may decide to deploy an organisational unit of the Ministry of Interior the "Gendarmerie", in prevention and detection of the criminal act of terrorism.

Article 11

All government bodies and services, at the request of the Prosecutor or Service, shall:

- 1) without delay enable employment of any technical mean at their disposal;
- 2) ensure timely response of each of their members and employees, including superiors and officers of the relevant bodies or organisations, to render information or for the purposes of being questioned or heard in the capacity of a suspect or a witness;
- 3) without delay hand over to the Service or the Prosecutor every communication or other evidence in their possession, or otherwise deliver information that may assist in detection of criminal offences referred to in paragraph 2 of this Law.

If Police in the preliminary criminal proceedings come to conclusion that the criminal offence, referred to in the Article 2 of this Law, is in the process of preparation or has been committed, or if police undertake an official action in respect to prevention or detection of these criminal

offences, police shall be required to duly inform the Service or the Prosecutor on such activities, without delay.

Prosecutor may request from the police to undertake particular measures or activities within the determined time limit and to immediate information pertaining to such activities.

The Prosecutor shall inform the Minister responsible for internal affairs and the Government on the failure to act, or untimely response of the police.

3. Special departments of competent courts

Article 12

The High Court in Belgrade shall have jurisdiction of the first instance court for the territory of the Republic of Serbia in respect of criminal cases referred to in the Article 2 of this Law.

The Appellate Court in Belgrade shall have jurisdiction of the second instance court in respect of criminal cases referred to in Article 2 of this Law.

The Supreme Court of Cassation shall adjudicate the conflicts of jurisdiction between regular courts in respect of criminal cases referred to in Article 2 of this Law.

The provision of the paragraph 3 of this Article shall also apply in respect of conflicts of jurisdiction between the Special department of the High Court in Belgrade for processing criminal cases referred to in the Article 2 of this Law and other departments and chambers of this Court.

Article 13

A Special department for processing criminal cases referred to in the Article 2 of this Law (hereinafter: Special department of the High Court) is hereby established within the Belgrade High Court.

The President of the Special department of the High Court shall administrate the work of the Special department of the High Court.

The President of the Special department of the High Court is appointed by the President of the Belgrade High Court from among the judges assigned to the Special department of the High Court for a four-year term. The President of the Special department of the High Court is required to have at least a ten-year professional experience in the domain of criminal law.

The President of the Belgrade High Court appoints judges to the Special department of the High Court for a term of six years, with their written consents. A judge of the Special department of the High Court is required to have at least eight years of professional experience in the domain of criminal law.

Exceptionally from the provisions of the Law on Judges, the High Judicial Council may designate a judge from another court to work in the Special department of the High Court, for a term of six years, with his written consent. The designated judge shall meet the requirements referred to in the paragraph 4 of this Article.

On the assignment or designation to the Special department of the High Court, judges possessing required expertise in the domain of fighting against organised crime and corruption shall have precedence.

The President of the Belgrade High Court shall specify in more detail the work of the Special department of the High Court.

Article 14

A Special department shall be established within the Appellate Court in Belgrade for processing criminal cases referred to in the Article 2 of this Law (Hereinafter: the Special department of the Appellate Court).

The President of the Special department of the Appellate Court shall govern the work of the Special department of the Appellate Court.

The President of the Special department of the Appellate Court is appointed by the President of the Belgrade Appellate Court from among the judges assigned to the Special department of the Appellate Court for a four-year term. The President of the Special department of the Appellate Court is required to have at least 12 years of professional experience in the domain of criminal law.

The President of the Belgrade Appellate Court appoints judges to the Special department of the Appellate Court for a term of six years, from among judges of that court or judges of other courts seconded to that court, with their written consent. A judge of the Special department of the Appellate Court is required to have at least 10 years of professional experience in the domain of criminal law.

Exceptionally from the provisions of the Law on Judges, the High Judicial Council may designate a judge from another court to work in the Special department of the Appellate Court for a six-year term, with his written consent. The designated judge shall meet the requirements referred to in the paragraph 4 of this Article.

On assignment or designation to the Special department of the Appellate Court, judges possessing required expertise and the experience in the domain of fighting organised crime and corruption shall have precedence.

The President of the Belgrade Appellate Court shall specify in more detail the work of the Special department of the Appellate Court.

4. Special detention unit

Article 15

A special detention unit shall be established in the Belgrade district prison for remand determined in criminal proceedings in respect of criminal offences referred to in Article 2 of this Law (hereinafter: Special detention unit).

The Minister responsible for judicial affairs shall specify in more detail the organisation, work and treatment of detainees in the Special Detention Unit, pursuant to the Criminal procedure Code and the Law on Enforcement of Penal Sanctions.

**IIa SPECIAL POWERS OF COMPETENT GOVERNMENT
AUTHORITIES IN CRIMINAL PROCEEDINGS FOR CRIMINAL
OFFENCES OF ORGANISED CRIME**

Article 15a*
(Revoked)

Article 15b*
(Revoked)

Articles 15c - 15e
(Deleted)

Articles 15f and 15g
(Deleted)

Article 15h*
(Revoked)

Article 15i*
(Revoked)

Article 15j*
(Revoked)

Article 15k*
(Revoked)

Article 15l*
(Revoked)

Article 15m*
(Revoked)

Article 15n*
(Revoked)

Article 15o*
(Revoked)

III INFORMATION ON PROPERTY STATUS

Article 16

Persons holding office or engaged in conduct of tasks and duties in government authorities and special organisational units pursuant to this Law, are required, prior to taking office or a duty, to submit in writing to the Anti-Corruption Agency full and accurate data on his or her property status including property status of a spouse, lineal blood relatives and lateral blood relatives to the third degree and relatives-in-law to the second degree.

The Anti-Corruption Agency shall conduct, pursuant to a special law, the data registering and examinations referred to in the paragraph 1 of this Article.

Measures of security control of persons referred to in the paragraph 1 of this Article shall conduct the Ministry of Internal Affairs, Security-Information Agency and Military-Security Agency. Measures of security control may be conducted without knowledge of such persons prior to taking a duty or an office, in the course of their term in an office or performance of duties, as well as in the course of one-year period upon termination of office, or performance of duties.

The Government act shall regulate the means of conducting the measures of security control referred to in the paragraph 3 of this Article, as well as the registration of collected data.

The data referred to in paragraphs 1 and 3 of this Article shall be officially classified.

IV MAINTENANCE OF OFFICIALLY CLASSIFIED INFORMATION

Article 17

All persons engaged in performing tasks and duties within the purview of government authorities pertaining to suppression of criminal offences referred to in the Article 2 of this Law, shall duly treat all information and data they have acquired in the course of performance of these duties as officially classified information.

The Prosecutor, the President of the Special department of the High Court, the President of the Special department of the Appellate Court and an officer in charge of the Service shall specify in more detail the maintenance of officially classified information in respect of organisational units they administrate.

V SALARIES AND OTHER EMPLOYMENT RIGHTS

Article 18

Persons engaged in conduct of tasks and duties in government authorities and special organisational units pursuant to this Law, are entitled to salaries that shall not exceed double amount of the salary that would be entitled to persons employed at corresponding relevant tasks and duties in Prosecutor's Office for organised crime, Belgrade High court, Belgrade Appellate court, Ministry of Internal affairs and Belgrade district Prison.

The Government shall determine salaries referred to in paragraph 1 of this Article.

Article 19

Judges assigned to the Special department of the High court and the Special department of the Appellate court, the Prosecutor and his or her deputies are entitled to accelerated pension scheme whereby 12 months of work in special departments of courts, including the Prosecutor's Office for Organised Crime, shall be calculated as 16 months of pension insurance.

VI FUNDS AND FACILITIES FOR WORK

Article 20

The ministry responsible for judicial affairs shall provide adequate premises and all technical prerequisites necessary for efficient and secure work of the Prosecutor's Office for Organised Crime, the Special department of the High Court, Special department of the Appellate Court and Special detention unit.

Article 21

Funds for the work of the Prosecutor's Office for Organised Crime, the Special department of the High Court, and the Special department of the Appellate Court, Service and Special detention unit are provided in the budget of the Republic of Serbia.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 22

Criminal proceedings for criminal offences referred to in Article 2 of this Law, in which the indictment has become effective prior to the day this Law comes into force, shall be concluded before the courts having subject matter and territorial jurisdiction prior to coming into force of this Law.

Article 23

This Law shall enter into force on the eighth day upon its publication in the "Official Gazette of the Republic of Serbia", whilst provisions of Article 12, paragraph 2 and Article 14 of this Law shall apply as of January 1, 2010.

Until January 1, 2010 provisions of the Law on Courts shall apply for adjudication on second instance proceedings in criminal cases referred to in Article 2 of this Law.

Separate Article of the Law on amendments of the Law on organisation and jurisdiction of Government authorities in suppression of organised crime

(Official Gazette of RS, No. 27/2003)

Article 2

This Law shall enter into force on the subsequent date upon its publication in the "Official Gazette of the Republic of Serbia" and shall apply from February 28, 2003.

Separate Article of the Law on amendments and supplements of the Law on organisation and jurisdiction of Government authorities in suppression of organised crime

(Official Gazette of RS, No. 39/2003)

Article 4

Criminal proceedings for criminal offences referred to in Articles 1 and 2 of this Law in which the indictment has become effective prior to the date this Law comes into force, shall be concluded before the courts having jurisdiction and in accordance with statutory proceedings applied prior to coming into force of this Law.

Article 5

The National Assembly shall review provisions of Articles 15c, 15d and 15e within time limit of 90 days from the entry into force of this Law.

Article 6

This Law shall enter into force on the day subsequent to its publication in the "Official Gazette of the Republic of Serbia".

Separate Article of the Law on amendments of the Law on organisation and jurisdiction of Government authorities in suppression of organised crime

(Official Gazette of RS, No. 45/2005)

Article 4

This Law shall enter into force on the eighth day upon its publication in the "Official Gazette of the Republic of Serbia".

Separate Article of the Law on amendments of the law on organisation and jurisdiction of Government authorities in suppression of organised crime

(Official Gazette of RS, No. 61/2005)

Article 2

This Law shall enter into force on the day of its publication in the “Official Gazette of the Republic of Serbia”.

Separate Article of the Law on the amendments and supplements of the Law on organisation and jurisdiction of Government authorities in suppression of Organised Crime

(Official Gazette of RS, No. 72/2009)

Article 32

On the occasion of the first selection of the Deputy Prosecutor or recommendation of candidates for the Prosecutor, the candidates who possess special expertise and experience in the domain of the organised crime and corruption shall have precedence.

Article 33

Criminal proceedings for criminal offences referred to in the Article 3 of this Law, in respect of which a ruling for conducting the investigation was rendered, or the indictment has become effective prior to the day this Law enters into force, shall be concluded before the courts having subject matter and territorial jurisdiction prior to entering into force of this Law.

Article 34

The Law shall enter into force on the eighth day after its publication in the “Official Gazette of the Republic of Serbia”, with the exceptions of the provisions referred to in Articles 5 through 7, Article 8 in the part that pertains to deleting of the Article 6, paragraph 1 of the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime (“Official Gazette of the RS”, No. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05 and 61/05), Articles 9 through 16, Articles 18 and 19, Article 21, paragraph 1, Article 22, Article 25, Article 26, paragraph 2, Article 27, paragraph 1 and Articles 28 through 30 of this Law which enter into force on January 1, 2010.

* Provisions of article 15i of the Law have seized to be applicable as of 15 January 2012 on the basis of Criminal Procedure Code (Official Gazette of RS, no 72/2011)

* Provisions of articles 15a and articles 15h-15o of the Law have seized to be applicable as of 15 January 2012 on the basis of the Law on amendments and supplements of the Criminal Procedure Code (Official Gazette of RS, no 72/2011 and 101/2011)