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Seizing the Momentum: Strategic Reforms for More Effective Financial Investigations¹

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Despite progress in aligning national legislation with international standards, Serbia continues to face significant obstacles in building a strong and consistent track record in asset recovery. The author examines the effects of Serbia's previous Financial Investigation Strategy, assessing its impact on the country's capacity to detect, trace, and seize criminal assets. The article offers analysis key achievements and persistent gaps in implementation, with particular focus on inter-agency coordination, legislative consistency, and operational practice.

In light of Serbia's EU accession process, the article explores the obligations stemming from Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Freedom and Security), highlighting the need for full alignment with the recently adopted EU Directive 2024/1260 on asset tracing, freezing, confiscation, and management. Special attention is given to the Directive's emphasis on the alignment of legislative framework, strengthening of policy planning and improvement of track record.

Though desk research, the author identifies critical bottlenecks in the current practice of financial investigations and analyses the underlining causes of low rates of provisional and permanent confiscation of criminal assets. Drawing on EU standards, FATF recommendations, and EU comparator jurisdictions, the paper proposes a set of recommendations aimed at improving legislative alignment, institutional coordination, and proactive financial investigations.

Keywords: financial investigations, asset recovery, track record, EU requirements.

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Introduction

The fight against organised crime and corruption greatly depends on the state's ability not only to detect and prosecute criminal offences, but also to deprive offenders of illicitly acquired assets.² Financial investigations, when strategically used and institutionally supported, are essential tools for tracing, freezing, and confiscating criminal proceeds.³ In Serbia, the strengthening of financial investigations has been an important component of judicial and law enforcement reforms over the last decade. Nevertheless, the country still faces considerable challenges in achieving consistent results in the seizure and confiscation of assets.⁴

Serbia's 2015 Financial Investigation Strategy aimed to address many of these challenges by proposing reforms to the legal framework, enhancing institutional capacities, and fostering inter-agency cooperation.⁵ While some progress has been made, the implementation of the Strategy revealed structural weaknesses, fragmented responsibilities, and a lack of sustained coordination among key actors, such as the police, prosecution, and asset management authorities.

At the same time, Serbia's path towards European Union membership places additional obligation on its institutions. The protection of the EU's financial interests and alignment with the EU *acquis*, particularly under Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security), requires that Serbia modernise its asset recovery framework.⁶ The adoption of Directive (EU) 2024/1260 on asset recovery and confiscation⁷ presents a new opportunity to harmonise Serbia's

² Hryniewicz-Lach, E. Improving Asset Confiscation: In the Quest for Effective and Just Solution. ERA Forum, Vol. 25, 2024, pp. 231–247.

³ Lakićević, Đ. Pojam i krivičnoprocesni značaj finansijskih istraga [Term and Criminal Significance of Financial Investigations]. Bezbednost [Security], Vol. 66, No. 1, 2024, pp. 159–177.

⁴ Commission Staff Working Document, 2024 Rule of Law Report – Country Chapter on the rule of law situation in Serbia, Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. SWD (2024) 831 final, p. 9. Available: https://commission.europa.eu/document/download/862952fa-6e79-44c4-b629-174a441e3d2e_en?filename=62_1_58091_coun_chap_serbia_sb.pdf [last viewed 10.04.2025].

⁵ Available: <https://www.mpravde.gov.rs/sr/vest/8960/strategija-istraga-finansijskog-kriminala-za-period-od-2015-do-2016-godine.php> [last viewed 10.04.2025].

⁶ Western Balkans Competitiveness Outlook 2024: Serbia. Competitiveness and Private Sector Development, OECD, 2024.

⁷ Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation, OJ L, 2024/1260, 2.5.2024.

legal framework with EU standards. In parallel, the Reform Agenda of Republic of Serbia from 2024 explicitly envisages the adoption of amendments to the Law on Seizure of Assets⁸ with the clear objective of aligning it with the EU *acquis*.⁹

In addition to aligning its legal framework with the requirements of Directive (EU) 2024/1260, Serbia is also under an obligation to harmonise its legislation with several international instruments to which it is a signatory. These include binding United Nations and Council of Europe Conventions, as well as internationally recognised standards such as the Financial Action Task Force (FATF) Recommendations adopted by the FATF Plenary in February 2012.¹⁰

This article examines the institutional and legal impact of Serbia's previous strategic efforts in financial investigations and asset recovery. The author explores the implications of the 2024 Directive and outlines key reform steps necessary for full alignment, including the adoption of a new national strategy and amendments to the Law on Seizure of Assets.¹¹ In doing so, the author aims to provide actionable recommendations to improve Serbia's effectiveness in tracing and confiscating criminal assets and contributing to the overall credibility of its justice and rule of law reforms.

⁸ The Law on Confiscation of Assets Derived from a Criminal Offence (Law on Seizure of Assets), Official Gazette of Republic of Serbia, No. 32/2013, 94/2016, 35/2019.

⁹ Reform and Growth Facility for the Western Balkans – Reform Agenda of the Republic of Serbia. Available: https://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/adopted_reform_agenda_narrative_-_republic_of_serbia.pdf [last viewed 03.04.2025].

¹⁰ The United Nations Convention against Transitional Organized Crime (UNTOC) contains several important provisions relevant to financial investigations and asset confiscation. Article 12 requires States Parties to adopt measures that enable the confiscation of the proceeds of crime and property used in the commission of offence. Article 13 sets out procedures and obligations for international cooperation in confiscation proceedings, while Article 14 addresses the disposal of confiscated property and encourages its use for restitution to victims or return to the requesting State. Similarly, the UN Convention against Corruption (UNCAC), which Serbia has ratified, sets comprehensive standards for asset seizure and recovery. Article 31 requires States to adopt measures necessary to enable the confiscation of the proceeds of corruption-related offences, as well as property used or intended for use in such offences. Articles 53, 54, and 55 establish mechanisms for international cooperation in asset recovery, including the recognition and enforcement of foreign confiscation orders. Article 57 further provides rules for the return and disposal of confiscated assets, with an emphasis on facilitating international restitution and compensation. More on alignment with UNCAC, see: Civil Society Report on the implementation of Chapter II and Chapter V (Asset Recovery) of the UNCAC in Serbia, Transparency International Serbia, 2023. Available: <https://uncaccoalition.org/wp-content/uploads/Final-draft-Parallel-Report-Chapters-II-V-Transparency-Serbia-July-2023.pdf> [last viewed 10.04.2025].

Among the Council of Europe instruments. The 190 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention – EST 141) lays down a framework for mutual legal assistance in matter related to tracing and confiscating proceeds from crime. Furthermore, the 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention – EST 198), which expands the scope of cooperation to cover terrorism financing.

In addition to treaty obligations, Serbia is expected to align its legal framework with the FATF Recommendations, particularly Recommendations 4 and 38. These recommendations emphasize the importance of enabling confiscation of criminal proceeds without a conviction, ensuring efficient procedures for the identification and tracing of criminal assets, and fostering international cooperation for asset recovery. They also require the establishment of appropriate mechanism for managing and returning confiscated assets and protecting financial systems from abuse.

¹¹ Sakellaraki, A. EU Asset Recovery and Confiscation Regime – *Quo Vadis?* A First Assessment of the Commission's Proposal to Further Harmonise the EU Asset Recovery and Confiscation Laws. A Step in the Right Direction? *New Journal of European Criminal Law*, Vol. 13, No. 4, 2022, pp. 478–501.

1. Results of Serbia's 2015 financial investigation strategy

Serbia's 2015 Financial Investigation Strategy marked an important step in strengthening the country's institutional and legal response to financial crime, focused on enhancing operation effectiveness of financial investigations.

The Strategy was adopted for a two-year period (2015–2016) and was designed to reinforce Serbia's commitment to tackling organised crime and corruption. The Strategy identified three goals: enhancing the effectiveness of the judiciary and public prosecution, improving inter-agency cooperation among competent institutions and introducing forensic accounting capacities. In addition to these three goals, a cross-cutting objective of the Strategy was the capacity building of all relevant institutions involved in the detection, investigation, and prosecution of financial crimes. This included targeting training, institutional reform, and modernization of operational practice.

Among the most significant outcomes of the Strategy was the adoption of the Law on the Organization and Competence of State Bodies in Suppression of Organised Crime, Terrorism and Corruption¹², which created a specialised institutional framework for corruption-related cases. This law centralised competencies and introduced specialised departments within the police, prosecution and judiciary to ensure greater efficiency, coordination, and expertise. The Law established a formal basis for inter-agency cooperation, enabling formation of joint teams comprising representatives from the prosecution, police, tax administration, customs, and other relevant institutions, all coordinated under the leadership of the public prosecutor.¹³ It also introduced a formal role of liaison officers within relevant institutions to ensure continuous and direct between the institutions involved in investigations. Furthermore, the Law introduced the possibility of systematically engaging financial forensic expert.¹⁴

Another notable success of the 2015 Strategy was the introduction of joint task forces and the appointment of liaison officers within all relevant institutions involved in financial investigations. The joint task forces allowed for a more integrated and multidisciplinary approach bringing together representatives from the police, prosecution, tax administration, customs, and other competent bodies. However, only limited number of task forces were actually established over time, which significantly reduced the intended impact of this strategic measure.¹⁵ The designation of liaison officers within key institutions created clear lines of contact and responsibility,

¹² The Law on the Organisation and Competence of State Bodies in Suppression of Organised Crime, Terrorism and Corruption, Official Gazette of Republic of Serbia, No. 94/2016, 87/2018 – another law and 10/2023. See: Škulić, M. Organizacija i nadležnost državnih organa čija je funkcija suzbijanje koruptivnih krivičnih dela [Organization and jurisdiction of state bodies whose function is to suppress corrupt criminal acts]. In: *Finansijski kriminalitet [Financial Crime]*, Kostić, J., Stevanović, A. (eds.). Belgrade: Institute of Comparative Law and Institute of Criminological and Sociological Research in cooperation with the Judicial Academy, 2018, pp. 11–41.

¹³ Vuković, I. Oduzimanje imovine proistekle iz krivičnog dela – Evropski okvir i srpsko zakonodavstvo [Seizure of asset derived from criminal offence – European framework and Serbian legislation]. *Crimen*, Vol. 7, No. 1, 2016, pp. 3–32.

¹⁴ Krstić, G. Specialisation of State Authorities in Combating Organised Crime, Terrorism and Corruption with Special Impact in Relationship between Prosecutors Office and Police. *Nauka, bezbednost, policija*, Vol. 22. No. 3, 2017, pp. 67–88.

¹⁵ The number of joint task forces established remains limited: one was formed in 2023, one in 2022, two in 2021, and three in 2020. 2023 Annual Report of Supreme Public Prosecutor Office of Republic of Serbia, p. 65. Available: http://www.vrhovnojt.gov.rs/docs/SKM_95824041013280.pdf [last viewed 10.04.2025].

ensuring that requests for information or cooperation were handled more efficiently. Liaison officers were formally appointed, however, practitioners have consistently point out that the mechanism was not fully functional or effective in practice.¹⁶

While the Strategy provided a valuable initial roadmap, its limited two-year duration and the absence of a subsequent long-term policy framework, have left gaps in implementation continuity and strategic follow-up.

The main shortcoming of the Strategy was its lack of comprehensive approach to financial investigations, since it failed to include critical components related to the seizure, management and confiscation of criminal assets. By omitting these elements, the Strategy missed an opportunity to fully integrate asset recovery cycle into Serbia's broader financial crime response. Furthermore, while the Strategy outlined general goals and priority areas, it lacked an accompanying action plan. Without a detailed action plan, including clear timelines, responsible institutions, measurable indicators, and financial resources, the Strategy could not ensure accountability or effective monitoring of progress. In addition, Serbian authorities have never conducted a formal impact assessment of the implementation of the 2015 Strategy. This represents a significant gap in the policy cycle, as such an assessment would have provided critical insights in the effectiveness, efficiency, and limitations of the measures undertaken during the Strategy's two-year implementation period. The absence of an impact assessment also undermines transparency and accountability, as it leaves stakeholders without a clear understanding of the Strategy's outcomes.

2. EU accession process and obligation in the area of asset seizure

As a part of its EU accession process, Serbia is required to progressively align its legal and institutional frameworks with the EU *acquis*. In the field of asset seizure and confiscation, this alignment is primarily governed by Chapter 23 – Judiciary and Fundamental Rights and Chapter 24 – Justice, Freedom and Security, both of which emphasize the importance of effective tools for combat organised crime, corruption and financial crime.

A key element of this process is compliance with Directive (EU) 2024/1260 on asset recovery and confiscation, which sets minimum standards for tracing, freezing, managing, and confiscating criminal assets across the EU. Although Serbia is not yet a Member State, it is expected to align its legislation with this Directive, in line with its obligations under the Stabilisation and Association Agreement (SAA) and the National Programme for the Adoption of the *Acquis* (NPPA) for period 2024–2027.¹⁷ Serbia must harmonise its national legislation with the Directive (EU) 2024/1260, particularly in areas such as the expansion of the non-conviction-based confiscation mechanisms, clear rules on asset management and enhanced inter-agency cooperation. In addition, it is expected that Serbia participates in cross-border cooperation with EU Member States, particularly through mutual legal assistance frameworks and enhance data sharing. Directive envisages obligation for Member States to adopt a new Strategy on Asset Seizure and Management. The lack of

¹⁶ Stojanović, Z., Miloradović, O., Radisavljević, M., Trešnjev, A. Priručnik za suzbijanje privrednog kriminaliteta i korupcije [Manual for suppression of economic crime and corruption]. OEBS, Belgrade, 2017.

¹⁷ National Programme for the Adoption of the *Acquis* for period 2024–2027. Available: https://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/npaa/npaa_2024-2027.pdf [last viewed 03.04.2025].

a comprehensive and updated strategy has been noted as a weakness in previous European Commission Progress reports.

One of the most critical aspects of Serbia's EU accession process is the establishment of a credible track record in the effective seizure and confiscation of assets acquired through criminal activities. The European Union Common Position on Chapter 23¹⁸ sets out a number of interim benchmarks that Serbia must meet. One of the interim benchmarks pertain to the strengthening of repressive measures against corruption, specifically to establish a track record of effective and efficient investigations, prosecutions, convictions, and asset confiscations in corruption cases.¹⁹ The European Commission has repeatedly emphasised in its Annual Reports on Serbia that while legislative frameworks are being improved, the practical application remains limited.²⁰ Low volumes of confiscated assets and insufficient use of financial investigations reflect a lack of proactivity and coordination among institutions.

In order to illustrate and further assess this concern, the analysis relies on a comparison of statistical data provided by the Supreme Public Prosecutor's Office of Serbia²¹ and comparison with available data from Croatia. Croatia was selected for comparison as it shares a similar legal heritage, regional context, and was the last country to join the EU, making it a relevant benchmark. The methodology applied combines a review of official prosecutorial data. This comparison highlights notable difference in the volume of confiscated assets, the structure and transparency of financial investigations, thereby providing a clearer picture of where Serbia stands in meeting its EU requirements.

Croatia reports significantly higher asset confiscation results in terms of monetary value and number of persons involved. While Croatia reported 742 persons from whom property was permanently confiscated in 2023,²² Serbia reported only 13 persons as subject to permanent confiscation in the same year. The number of orders for the prohibition of disposal of property was 588, issued against 1516 persons in Serbia, in comparison to 53 prohibitions in Croatia. In addition, Croatia's reporting is more comprehensive and disaggregated, with clear monetary amounts. In Serbia, the absence of consolidated financial figures on the value of seized/confiscated assets presents a limitation for performance assessment.

During 2023 public prosecutor's offices across the Republic of Serbia initiated a total of 272 financial investigations, compared to 316 in 2022. These investigations targeted 432 individuals, which marks a significant decrease from 584 individuals in 2022. This downward trend in the initiation of financial investigations is concerning,

¹⁸ European Union Common Position, Chapter 23: Judiciary and fundamental rights. AD 20/16, Brussels, 8 July 2016.

¹⁹ Kolaković-Bojović, M., Turanjanin, V., Tilovksa-Kechegi, E. EU New Strategic Policies Towards the Western Balkans: Hope for the Future of Endless Postponement. In: Conference Proceedings, Towards a Better Future: The Rule of Law, Democracy and Polycentric Development. St. Kliment Ohridski University, Bitola, 2018, pp. 125–135.

²⁰ EU Commission, Staff Working Document, Serbia 2024 Report accompanying the document Communication from the Commission to the European Parliament, Council, the European Economic and Social Committee and the Committee of the Regions, Communication on EU Enlargement Policy, Brussels, 30.10.2024 SWD(2024) 695 final. Available: https://enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf [last viewed 03.04.2025].

²¹ 2023 Annual Report of Supreme Public Prosecutor Office of Republic of Serbia, p. 125. Available: http://www.vrhovnojt.gov.rs/docs/SKM_95824041013280.pdf [last viewed 03.04.2025].

²² 2023 Annual Report of State Prosecutor Office of Croatia, p. 54. Available: https://dorh.hr/sites/default/files/dokumenti/2024-04/DORH_Izvjese_za_2023.pdf [last viewed 03.04.2025].

particularly when viewed alongside the relatively small number of permanent confiscation decisions (only 13 in 2023).

This discrepancy between the number of investigations and the actual confiscations suggests inefficiencies in the process and highlights the need for a deeper analysis of the functioning of financial investigations in Serbia.

The legal system of the Republic of Serbia, through various legislative provisions, establishes a dual framework for conducting financial investigations. These are parallel financial investigations and financial investigations under the Law on Seizure of Assets.²³ Parallel financial investigations are conducted simultaneously with criminal proceedings and focus on both the commission of the criminal offence and the financial benefit derived from it.²⁴ One segment of the investigation aims to establish the facts of the offence (identifying the perpetrator, method, and motive), while the other segment focuses on tracing, identifying, and documenting property acquired through or as a result of the criminal activity. This includes tracking where the property is located, how it was acquired, and who currently holds ownership. The purpose of parallel financial investigation is to follow the illicit financial flows and to enable the effective freezing and eventual confiscation of the proceeds of crime. Financial investigations under the Law on Seizure of Assets are initiated with the specific aim of identifying and seizing unlawfully acquired assets, even when they are not directly traceable to specific criminal act. In such cases, proceedings are initiated against individuals suspected of committing certain offences listed under the Law on Seizure of Assets. The key criterion is the existence of a clear and significant disparity between the suspect's lawful income and their total assets over a defined period. Unlike parallel investigations, the focus here is on indirect connections between the suspect's assets and the criminal conduct, often relying on indicators of unexplained wealth.

The dual-track approach ensures that Serbia's financial investigation system is aligned with international standards, aiming both to remove the financial incentive for committing crimes and to recover illicit assets for the benefit of the public interest.²⁵

However, in practice, financial investigations often face a number of challenges: insufficient inter-institutional coordination, delays in gathering data from various agencies, and a lack of specialized training among those conducting the investigations.²⁶ In addition, the Law on Seizure of Assets has to be aligned with EU *acquis* to enable increase in the number of effective asset seizure.

3. Alignment of Serbian legislation with Directive (EU) 2024/1260 on Asset Recovery and Confiscation

In addition to the Law on Seizure of Assets, the Criminal Code and the Criminal Procedural Code also contain provisions relevant to the seizure and confiscation of

²³ Article 3, para. 1 of the Law on Seizure of Assets.

²⁴ Guide for Conducting of Financial Investigations. Belgrade, 2024. Available: <https://pars.rs/public/Dokumenti/Publikacije/1733/Prirucnik-za-sprovodjenje-finansijskog-istrazivanja.pdf> [last viewed 03.04.2025].

²⁵ Lukić, T. Oduzimanje imovine stečene krivičnim delima – značaj finansijske istrage [Confiscation of proceeds from Crime]. Zbornik radova Pravnog fakulteta u Novom Sadu [Collected Papers of the Faculty of Law in Novi Sad], No. 2, 2009, pp. 381–411.

²⁶ Ligeti, K., Simonato, M. (eds.). Chasing Criminal Money: Challenges and Perspectives on Asset Recovery in the EU. Hart Publishing, 2017.

assets, thus forming a broader legal framework for the addressing the proceeds of crime.²⁷

The Criminal Code²⁸ of Serbia regulates confiscation of assets obtained through criminal activity as one of the ancillary consequences of committing a criminal offence. According to Article 91 of the Criminal Code, property gained by committing a criminal offence shall be confiscated from the perpetrator, and, if such property has been transferred to third parties, it may also be confiscated from them if they knew or should have known of its illegal origin. The law defines both mandatory and discretionary confiscation, depending on the type of offence and the specific circumstances of the case.

Articles 537–543 of the Criminal Procedure Code²⁹ of the Republic of Serbia specifically regulates procedure for the seizure of property benefits gained from criminal offences, ensuring compliance with principle of legality, proportionality, and due process.

The Law on Seizure of Assets was adopted in 2013 with aim to allow extended confiscation, specifically for the temporary or permanent confiscation of assets not directly linked to the criminal offence for which a person was charged. In such proceedings, the burden of proof shifts to the defendant,³⁰ who must demonstrate the legal origin of the property.³¹ This legal construction was justified by the exclusive application of the law to the most serious criminal offences, a position later confirmed by the European Court of Human Rights in the case *Ulemek v. Serbia*.³²

²⁷ Radisavljevic, M., Kabravalva, A., Debeljacki, M. (eds.). Oduzimanje imovine proistekle iz krivičnog dela / Priručnik za primenu u praksi [Seizure of asset derived from criminal offence – Manual for application in practice]. Supreme Court of Serbia, OEBS, Belgrade, 2019. Available: <https://www.vrh.sud.rs/sites/default/files/attachments/Oduzimanje-imovine-proistekle-iz-krivnog-dela-prirucnik-za-primenu-u-praksi.pdf> [last viewed 08.04.2025].

²⁸ Criminal Code. Official Gazette of Republic of Serbia, No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019, and 94/2024.

²⁹ Criminal Procedure Code. Official Gazette of Republic of Serbia, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021, 62/2021.

³⁰ Ignjatović, Đ., Škulić, M. Organizovani kriminalitet [Organised crime]. 2012. Pravni fakultet Beograd [Law Faculty Belgrade]. More on extended confiscation in: Thunberg Schunke, M. Extended Confiscation in Criminal Law. National, European and International Perspectives. Intersentia, Cambridge, 2017.

³¹ Kostić J., Rašić, M., Komlen Nikolić, L., Paunović, B. Oduzimanje imovine proistekle iz krivičnog dela – Izazovi i preporuke za unapređenje postupka [Seizure of asset derived from criminal offence – Challenges and recommendations for improvement of procedure]. Judicial Academy, Belgrade, 2022.

³² European Court of Human Rights, Case *Ulemek v. Serbia*, Application No. 41680/13, decision of 2 February 2021.

In case *Ulemek v. Serbia*, the European Court of Human Rights noted that the forfeiture order under Article 2 of Serbia's 2008 Law was issued only following a conviction for serious crimes, such as organized crime. Thus, they were tied to a criminal offence of significant gravity. Serbian courts consistently held that asset forfeiture was not a penalty under Article 34 para. 2 of the Constitution or Article 7, para. 1 of the European Convention on Human Rights, viewing it instead as a consequence of unlawful enrichment, not additional punishment. The forfeiture mechanism was established under a special law, not the Criminal Code, and served restorative rather than punitive aims, in line with international obligations such as the Council of Europe Convention on money laundering and confiscation of criminal proceeds. Finally, while the measure was severe, this alone did not render it penal under Article 7 of the Convention.

The Court also confirmed the legitimacy of the Law's objective. The forfeiture was part of a broader legislative effort to combat organized crime by depriving individual of illicit gains and preventing those assets from being used in future criminal activity. Since the applicant's complaint focused solely on the restorative nature of the measure, and no evidence suggested that forfeiture was disproportionate to its legitimate aim, the Court rejected the complaint under Article 1 of the Protocol No. 1.

Key legal definitions are essential to understanding the Law implementation. “Proceeds of crime” refers to property that is clearly disproportionate to the owner’s lawful income. The term “owner” includes not only the person against whom proceedings are conducted but also a bequeathers, a deceased person against whom proceedings were not initiated or were terminated, but who is found to have participated in a crime through proceedings against others. The definition also extends to legal successors, meaning heirs of convicted persons, cooperative witnesses, or bequeathers.

Under Article 3, any property, whether located in Serbia or abroad, may be subject to confiscation. The Law also provides for non-conviction-based confiscation. Article 23 allows temporary seizure of assets if there is reasonable suspicion that the property originates from a criminal offence, even in the absence of a conviction. In such case, the Public Prosecutor may request seizure or issue a freezing order if there is a risk the property may be disposed of before the court decides. Article 44 further stipulates that permanent confiscation must be requested within six months from the date of a final conviction for an offence listed in Article 2.

To ensure full alignment with the Directive and international standards, several amendments are needed to strengthen the Law on Seizure of Assets. One of the essential revisions should be the extension of the scope of the Law to include environmental crimes. This would bring Serbian legislation in line with the Directive, which explicitly recognises environmental crimes as a predicate offence that can result in the seizure and confiscation of assets.³³ Given the increasing international attention to environmental protection, and the significant financial gains of the associated with environmental crime, its inclusion in the Law is both timely and necessary.

Furthermore, the terminology and definitions currently employed in the Law require modernisation. The term “property” should be broadened to ensure consistency with the standards set out by the FATF and Council of Europe’s Warsaw Convention. In particular, the legal framework should clearly cover digital assets, including cryptocurrencies and other forms of virtual property that are increasingly used to conceal or transfer criminal proceeds.³⁴ This requires explicit recognition in the Law and corresponding provisions of the identification, freezing, management, and eventual confiscation of such assets.

The definition of “proceeds from crime” must also be expended to include any property that is disproportionate to the lawful income of the suspect. This approach supports a value-based confiscation system, which is critical for tackling criminal proceeds that may be disguised or have changed form. Equally, the definition of the “third parties” who may be holding or controlling such assets should be widened in line with the Directive.³⁵ Moreover, the definition of the “owner” must be

³³ Preamble Point (9) “... The scope of this Directive should further include environmental crime, which are a core business for organised criminal groups and often are connected to money laundering or concern waste and residues produced in the context of drug production and trafficking...”

³⁴ *Važić, N.* Pravni stavovi krivičnog odeljenja Vrhovnog kasacionog suda o spornim pravnim pitanjima u praktičnoj primeni Zakona o oduzimanju imovine proistekle iz krivičnog dela – zauzeti na sednici Krivičnog odeljenja 03.02.2020. godine [Legal positions of the criminal department of the Supreme Court of Cassation on disputed legal issues in the practical application of the Law on confiscation of property deriving from a criminal offense – taken at the session of the Criminal Department on 03.02.2020]. *Bilten*, No. 2, Supreme Court of Cassation, 2021, pp. 11–18.

³⁵ Preamble, point (28): “... The rule on third party confiscation should extend to both natural and legal persons, without prejudice to the right of third parties to be heard, including the right to claim ownership of the property concerned.”

aligned to include not only those who formally hold title to the property, but also individuals who exercise effective control or benefits from the assets.

In addition, The Law should be amended to stronger incorporate the mechanism of non-conviction-based confiscations, allowing court to order the confiscation of the property even in the absence of a criminal conviction, when the unlawful origin of assets is established.³⁶ This is especially important in cases where the suspect has absconded, is deceased, or cannot be prosecuted for procedural reasons.

In light of the growing complexity of managing digital and intangible assets, the Law should introduce provisions to ensure their effective tracing, freezing, and management. This would require coordination with existing legislation governing digital assets.

4. Need for a new national strategy on financial investigation, asset seizure and recovery

As Serbia moves forward with aligning its legal and institutional frameworks with Directive (EU) 2024/1260, it is essential that future policy planning in the area of financial investigations and asset recovery be grounded in comprehensive ex post evaluation and should adopt a holistic approach, integrating financial investigations with asset training, seizure, confiscation and management.

The obligation to adopt a new strategic document addressing financial investigations arises from multiple national planning instruments. The Action Plan for Chapter 23³⁷ specifically requires the preparation of a strategic document in the field of combating financial crime. This document is to be based on an analysis of the alignment of Serbia's regulatory framework with the FATF (Financial Action Task Force) recommendations, particularly with regard to the conduct of parallel financial and criminal investigations. A similar requirement is outlined in the Action Plan for the implementation of the Anti-Corruption Strategy for period 2024–2025.³⁸ Furthermore, the Action Plan for Chapter 24³⁹ refers to this planning document as the Financial Crime Strategy. The adoption of the strategy is envisaged by the end of 2025.

Although the obligation to adopt a new strategic document on financial investigations is clearly articulated in several national planning instruments, may key questions regarding the design, scope, and implementation remain unresolved.

One of the primary open questions concerns the scope of the new strategy. It is not yet clearly defined whether the document will be limited strictly to financial investigations, or whether it will take a broader approach. According to the Ministry of Justice, the upcoming strategy will also cover key areas related to asset recovery, including the seizure and management of property derived from criminal offences. This confirms the intention for the document to take a comprehensive and integrated approach to financial crime, aligning Serbia's policy planning with requirements

³⁶ Article 15 of the Directive. See: *Matt, H.* Criminal law principles should be applied in all asset recovery cases throughout the EU. *New Journal of European Criminal Law*, Vol. 15, No. 4, 2024, pp. 373–374.

³⁷ Revised Action Plan for Chapter 23, July 2020. Available: <https://www.mpravde.gov.rs/files/Revidirani%20AP23%202207.pdf> [last viewed 03.04.2025].

³⁸ Official Gazette of Republic of Serbia, No. 63/2024. Available: <https://www.srbija.gov.rs/dokument/45678/strategije-programi-planovi-.php> [last viewed 03.04.2025].

³⁹ Revised Action Plan for Chapter 24, July 2020. Available: <http://www.mup.gov.rs/wps/wcm/connect/a7fbd693-caec-4f3e-b471-187a2be8bcf0/lat-Akcioni+plan+za+P24+-+revidirana+verzija+23+07+2020.pdf?MOD=AJPERES&CVID=ng1k6t5> [last viewed 03.04.2025].

from Directive (EU) 2024/1260. A more expansive scope could allow the strategy to serve as a unified framework for coordinating Serbia's obligations under multiple international instruments, but it also requires greater institutional coordination.

Another issue is duration of the strategy. The previous strategy from 2015 was adopted for a two-year period, which proved insufficient for the comprehensive implementation of its objectives and led to the lack of follow-up measures. A future strategy should ideally span a medium to long-term period to ensure measurable institutional and legal progress.

Additionally, there is a critical question of whether the strategy will be accompanied by an action plan with clearly defined activities, timeline, responsible institutions, and resources allocation. Without an accompanying action plan, the strategic objectives risk remaining aspirational rather than operational. The action plan must include costing estimates to facilitate budgetary planning and secure donor or government funding for capacity building, technical upgrades, and cross-sectoral coordination mechanisms.

A key consideration is whether the new strategy will address and incorporate the recommendations made by MONEYVAL, the FATF and UNCAC.⁴⁰ Serbia has undergone multiple evaluations under these frameworks, all of which have highlighted deficiencies in the areas of financial investigations, asset recovery, and inter-agency cooperation. Addressing these recommendations through a single, comprehensive strategy would enhance Serbia's compliance with international standards and strengthen its credibility.

5. Recommendations for improvement

It can be concluded that Serbia has made steps toward strengthening its financial investigation and asset recovery framework. However, the failure to comprehensively address the full asset recovery cycle in the strategic documents, weakening its impact. Despite notable legal reforms, including the adoption of the Law on Seizure of Assets, Serbia's track record in confiscating criminal assets remains limited. Statistical data from 2023 indicate a drop in the number of initiated financial investigations and low number of permanently confiscated assets.

To meet EU accession requirement to establish track record in seizure of assets, a number of recommendations emerge. Serbia must adopt a new and comprehensive national strategy on financial investigations and assets recovery. This strategy should be based on a thorough assessment of the previous strategy's implementation, include clear objectives, measurable indicators, and a detailed action plan, define institutional responsibilities and required financial resources for implementation of the strategy.

Legislative amendments are also necessary, particularly to the Law on Seizure of Assets. The Law should be aligned with EU and international standards by expanding its scope to include environmental crimes and digital assets, broadening definitions of proceeds of crime, owners, and third parties, and incorporating mechanism for non-conviction-based confiscation and confiscation from third parties. Amendments should also establish procedures for effective tracing, freezing, and management of digital assets.

⁴⁰ More on UNCAC asset recovery requirements in: *Borlini, L., Rose, C.* The Normative Development of Laws on Asset Preservation and Confiscation: An Examination of Emerging Best Practices. *International Journal of Constitutional Law*, Vol. 22, No. 2, 2024, pp. 514–537.

Additionally, institutional coordination must be significantly improved. Financial investigations should be systematically launched alongside criminal investigations for serious offences, supported by clear protocols, and facilitated by improved communication and data exchange between police, prosecution, tax administration, and assets management bodies. Building institutional capacity, particularly in digital forensics and financial intelligence, is essential. Furthermore, the Law should recognise the right of a requesting state and the obligation of domestic authorities to give primary consideration to the return of confiscated property or the provision of compensation to injured persons from third countries. Such a provision would demonstrate Serbia's commitment to the principles of restorative justice, ensure better cross-border victim compensation and contribute to greater international cooperation in asset recovery efforts.

Finally, Serbia should invest in developing a transparent and consolidated statistical system that enables monitoring of financial investigations, seizures, and confiscations. Comprehensive and accessible data would strengthen accountability, inform policymaking, and demonstrate Serbia's commitment to aligning with EU standards. Enhanced international cooperation particularly with EU Member States, and agencies, should also be pursued through improved legal instruments and institutional partnerships. Together, these steps will significantly improve Serbia's ability to recover criminal assets and contribute to the overall credibility of its justice and rule of law reforms.

Summary

While Serbia's 2015 Financial Investigation Strategy was a notable step toward strengthening institutional and legal capacities in the area of financial investigations, its limited scope, lack of an action plan, and absence of impact evaluation hindered its long-term effectiveness. The failure to address asset seizure and management as integral parts of financial investigations reflects a piecemeal rather than a strategic approach. To overcome this challenge Serbian authorities should urgently adopt a new strategy on financial investigations, asset seizure, and recovery that should include a detailed action plan, clear performance indicators, defined responsibilities, and a realistic implementation timeline.

Serbia's obligations under the EU accession process, international treaties (UNTOC, UNCAC, Council of Europe Conventions), and FATF standards require it to modernise and comprehensively reform its legal and institutional framework. Despite improvements in Serbia's legislative framework, such as the Law on Seizure of Assets and creation of special bodies, there is still a lack of alignment with Directive (EU) 2024/1260, particularly in areas such as non-conviction-based confiscation, inclusion of environmental crime, digital assets, and management mechanisms for seized assets.

Statistical data show a significant discrepancy between the number of financial investigations and the number of permanent confiscations. Compared to Croatia, which has a comparable legal heritage and regional context, Serbia's results remain limited. This confirms the European Commission's concern over the track record of confiscation, lack of proactivity and coordination among institutions. The practice of launching financial investigations must become standard for all serious criminal offences. Clear guidelines and standard operating procedures should be developed to ensure timely initiation, data sharing, and operational coordination among law enforcement institutions.

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