

# **ECONOMIC OFFENCES ACT**

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## **Part One LIABILITY AND SANCTIONS FOR ECONOMIC OFFENCES**

### **Chapter I BASIC PROVISIONS**

#### **Article 1**

To protect the legality in the sphere of economic and financial operations, the present Act shall define the general terms and principles governing the imposition of sanctions for economic offences, the sanctions system and the proceedings for establishing the liability of and imposing sanctions on economic offenders.

#### **Article 2**

(1) An economic offence is a socially harmful violation of regulations on economic or financial operations which has caused or may have caused graver consequences and which is defined as an economic offence under the competent authority's relevant regulation.

(2) A violation of regulations on economic or financial operations which, despite having the elements of an economic offence as defined by regulation, represents only marginal social harm due to its small significance and negligibility or its not having any harmful effects shall not be considered an economic offence.

#### **Article 3**

(1) Economic offences shall be defined, within the authority provided for by the Constitution, by laws of the Federation and the republics/autonomous provinces and decrees of their respective executive councils adopted on the basis of the law (hereinafter referred to as "*decrees*").

(2) A regulation defining an economic offence shall lay down the elements of the economic offence and the penalty to be imposed for it.

#### **Article 4**

The provisions of the present Act on liability and sanctions for economic offences shall apply to all economic offences defined by the federal and republican/provincial laws and decrees.

#### **Article 5**

No one shall receive a penalty or another sanction for an act which, before its commission, was not defined as an economic offence under the law or a decree adopted on the basis of the law and for which the type of punishment of the perpetrator of that economic offence was not defined under a given regulation.

## **Chapter II**

### **LIABILITY FOR ECONOMIC OFFENCES**

#### **Article 6**

(1) A legal entity or the responsible person of a legal entity may be liable for an economic offence.

(2) Socio-political communities and their bodies, other government bodies and local communities cannot be liable for an economic offence.

(3) A regulation defining an economic offence may set forth that the responsible person of a body of the socio-political community, another government body or the local community shall be held liable for a specific economic offence.

(4) If a regulation defining an economic offence sets forth that the responsible person of a government body shall be held liable for the economic offence, persons serving in the SFRY armed forces who commit the economic offence in the capacity of the responsible person of an army unit/institution shall be held liable for disciplinary offences under the law governing the service in the SFRY armed forces.

#### **Article 6a**

(1) A foreign legal entity or the responsible person of a foreign legal entity shall be liable for an economic offence if a foreign legal entity has a representative office in the territory of the Socialist Federal Republic of Yugoslavia or if the economic offence was committed with its means of transport, unless otherwise stipulated by the regulation defining the economic offence.

(2) The territory of the Socialist Federal Republic of Yugoslavia shall be defined in keeping with Article 113, paragraph 1 of the Criminal Code of the Socialist Federal Republic of Yugoslavia.

## **Article 7**

A regulation defining an economic offence may stipulate that all legal entities or only some of them may be liable for that particular economic offence.

## **Article 8**

(1) For the purposes of the present Act, the responsible person shall be understood to mean a person entrusted with a specific range of tasks in the sphere of economic or financial operations, in a legal entity/body of the socio-political community, another government body or the local community.

(2) A regulation defining an economic offence may specify the person to be held liable for that particular economic offence.

## **Article 9**

A legal entity shall be liable for an economic offence if the economic offence was committed through the management body's or the responsible person's act or failure to conduct due supervision, or through an act by another person authorised to act on behalf of the legal entity.

## **Article 10**

A legal entity in bankruptcy shall be liable for an economic offence irrespective of whether the economic offence was committed before the institution of or during bankruptcy proceedings but no penalty shall be imposed on it, only the security measures of confiscation of objects and confiscation of proceeds.

## **Article 11**

The responsible person shall be liable for an economic offence if the economic offence was committed through their act or their failure to conduct due supervision even though they acted with premeditation or in negligence in the process, if the regulation defining the economic offence does not stipulate that the economic offence may be committed with premeditation only.

## **Article 12**

The responsible person's liability for an economic offence shall not end due to the termination of their employment with a legal entity or a body of the socio-economic community, another government body or the local community, or due to the institution of bankruptcy proceedings against a legal entity or the impossibility of sanctioning a legal entity because it has ceased to exist.

## **Article 13**

The responsible person shall not be liable for an economic offence if they acted on the authority of another responsible person or the management body or if they did all they

were required to do under the law, other regulation or by-law in order to prevent the perpetration of the economic offence.

#### **Article 14**

The responsible person validly found guilty of a criminal act with the elements of an economic offence shall not be punished for the economic offence.

#### **Article 15**

The liability for an attempted economic offence shall exist if the regulation defining the economic offence expressly sets forth that the attempt is punishable.

#### **Article 16**

The provisions of the Criminal Code of the Socialist Federal Republic of Yugoslavia on extreme necessity (Article 10), mental competence (Article 12), premeditation and negligence (Articles 13 and 14), liability for a graver consequence (Article 15), mistake of fact and mistake of law (Articles 16 and 17), attempt (Articles 19 through 21), complicity (Articles 22 through 25) and the manner, time and scene of perpetration of a criminal act (Articles 30 through 32) shall apply accordingly to economic offences.

### **Chapter III**

## **PENALTIES, SUSPENDED SENTENCE, SECURITY MEASURES AND LEGAL CONSEQUENCES OF CONVICTION**

#### **1. Penalties**

##### **Article 17**

Only a fine may be prescribed for an economic offence.

##### **Article 18**

(1) The minimum fine which may be prescribed for a legal entity is 10,000 dinars, while the maximum fine is 3,000,000 dinars.

(2) Fine levels may be prescribed for a legal entity in proportion to the damage done, the unfulfilled obligation or the value of a commodity or other item which is the subject of an economic offence, in which case the maximum fine may be up to twenty times the amount of the damage done/unfulfilled obligation or the value of a commodity or other item which is the subject of the economic offence.

(3) The minimum fine which may be prescribed for the responsible person is 2,000 dinars, while the maximum fine is 200,000 dinars.

## **Article 19**

If a regulation defining an economic offence does not provide for the minimum and the maximum fine, it shall be set in keeping with Article 18, paragraphs 1 and 3 of the present Act.

## **Article 20**

(1) The court shall mete out a penalty against a legal entity within the limits set for an economic offence, taking into account all circumstances due to which the penalty may be severer or lighter (aggravating and extenuating circumstances) and in particular the gravity of the committed economic offence, the effects which have been caused or may have been caused, the circumstances under which the economic offence was committed and the legal entity's economic capacity.

(2) When meting out a penalty against the responsible person, the provisions of Article 41 of the Criminal Code of the Socialist Federal Republic of Yugoslavia shall apply accordingly.

## **Article 21**

When meting out a penalty, the court shall in particular take into account whether a legal entity or the responsible person has any previous convictions for an economic offence or a criminal act related to an economic offence, whether the previous economic offence/criminal act is identical to the new economic offence, as well as the time elapsed since the previous conviction.

## **Article 22**

(1) The court may aggravate a penalty against a legal entity or the responsible person for the economic offence committed to up to twice the maximum penalty set, if the perpetrator is a multiple re-offender.

(2) A legal entity shall be considered a multiple re-offender if it has already been convicted of related economic offences to penalties of over 20,000 dinars at least twice and if the time elapsed since the last validly imposed penalty does not exceed five years.

(3) The responsible person shall be considered a multiple re-offender if they have already been convicted to imprisonment or a fine of over 4,000 dinars at least twice, if the time elapsed since the last prison sentence completed/validly imposed fine does not exceed five years and if the offender is inclined to commit such criminal acts/economic offences.

(4) When deciding whether to aggravate a penalty, the court shall in particular take into account the circumstances under which an economic offence was committed and the gravity of its consequences.

(5) The penalty set in Article 18, paragraph 2 of the present Act cannot be aggravated.

## **Article 23**

(1) The court may mete out a lighter penalty than the minimum penalty set for a specific economic offence (mitigation of penalty) where this is provided for by the present Act or the regulation defining the economic offence or if it establishes that there are particularly extenuating circumstances.

(2) The penalty may be mitigated to the minimum measure set in Article 18, paragraphs 1 and 3 of the present Act.

(3) If a body of self-management workers' control or another body of a legal entity has detected and reported an economic offence or the economic offence has been detected and reported by the legal entity's workers, the court may mitigate or remit the penalty against the legal entity.

## **Article 23a**

(1) A judgement shall set the time period for the payment of a fine which shall not be less than 15 days nor shall exceed three months.

(2) In justified cases, the court may allow the convicted legal entity and the convicted responsible person to pay a fine by instalments, provided that the payment period does not exceed one year.

(3) After the death of the convicted responsible person, a fine shall not be enforced.

## **Article 24**

The fine imposed on a legal entity which ceased to exist following the finality of a judgement/ruling on an economic offence passed in summary proceedings shall be paid by the legal entity taking over the assets belonging to the legal entity which ceased to exist, to the amount equalling the value of the assets.

## **Article 25**

(1) Fines collected from a legal entity or the responsible person belong to a specific socio-political community of the republic/autonomous province in the territory of which the convicted legal entity is based, i.e. in the territory of which a body of the socio-political community, another government body or the local community is based, if the responsible person of that body/community is convicted of an economic offence.

(2) Fines collected for foreign exchange, customs and foreign trade offences shall be placed in the Federation's budget, as well as those collected for other economic offences for which this is stipulated by the federal law.

## **Article 26**

(1) In case of the concurrence of several economic offences, the court shall first assess a penalty for each economic offence committed, imposing an aggregate penalty

representing the sum of individually assessed penalties and not exceeding the double maximum penalty.

(2) The court shall mete out a penalty in keeping with paragraph 1 of this Article also when subsequently holding a trial for an economic offence committed before the previous conviction.

(3) If the court has meted out a penalty for one set of economic offences committed in concurrence under paragraph 1 of this Article and for another set under Article 18, paragraph 2 of the present Act, the aggregate penalty for all these economic offences shall represent the sum of all penalties meted out in this way.

(4) The court shall impose security measures even if it adopts them for one offence committed in concurrence only.

### **Article 26a**

The fine paid by the convicted legal entity/responsible person for a misdemeanour shall be included in the penalty imposed for an economic offence having the elements of that misdemeanour.

## **2. Suspended Sentence**

### **Article 27**

(1) The court may impose a suspended sentence on a legal entity and the responsible person for the economic offence committed.

(2) The court may set a fine of up to 20,000 dinars for a legal entity and of up to 4,000 dinars for the responsible person under a suspended sentence, which shall not be enforced if during the period of time set by the court, which shall not be less than one year nor shall exceed two years (probation period), the convicted party does not commit another economic offence/the responsible person does not commit a criminal act having also the elements of an economic offence.

(3) The provisions of Articles 52 through 57 of the Criminal Code of the Socialist Federal Republic of Yugoslavia shall apply accordingly to the imposition of a suspended sentence, its effects and revoking.

## **3. Security Measures**

### **Article 28**

The following security measures may be imposed for economic offences:

- 1) publication of a judgement,
- 2) confiscation of objects,

- 3) banning a legal entity from conducting a specific economic activity, and
- 4) banning the responsible person from executing specific duties.

### **Article 29**

- (1) The court may impose one or more security measures on the economic offender where the terms governing their imposition are provided for by the present Act.
- (2) Security measures may only be imposed if a penalty has been pronounced on the offender, unless otherwise stipulated by the present Act.
- (3) The security measures of publication of a judgement and confiscation of objects may also be imposed under a suspended sentence.

### **Article 30**

- (1) The court shall impose the security measure of publication of a judgement if it deems it useful to inform the public about the judgement, specifically if the publication of the judgement would help eliminate a threat to people's lives or health or would help protect the security of trade or other interests of the economy.
- (2) Depending on the significance of an economic offence and the need to inform the public about it, the court shall decide whether to publish a judgement in the press, on the radio/television, or via several of the mentioned media, as well as whether to publish the reasoning of the judgement in its entirety or in the form of an excerpt, taking into account in the process that the manner of publication should render it possible to inform about the judgement all those in whose interests it is to publish it.
- (3) A regulation defining an economic offence may set forth that the imposition of the security measure of publication of a judgement be mandatory.

### **Article 31**

- (1) The objects used or intended to be used to commit an economic offence or those resulting from the commission of an economic offence may be confiscated from a legal entity or the responsible person.
- (2) The objects referred to in paragraph 1 of this Article may be confiscated even when not in the possession of a legal entity, the economic offender, i.e. when they are not the responsible person's property, if this is in the interests of the preservation of people's lives and health, the security of trade or other interests of the economy, or for reasons of morale, provided that the third parties' right to indemnification is not infringed upon.
- (3) A regulation defining an economic offence may set forth that the security measure of confiscation of objects be mandatory.



## **Article 32**

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## **Article 33**

(1) The proceeds from the sale of confiscated objects belong to a socio-political community in keeping with the relevant regulation of the republic/autonomous province in the territory of which the convicted responsible person is based.

(2) The funds referred to in paragraph 1 of this Article and collected for foreign exchange, customs and foreign trade offences shall be placed in the Federation's budget.

## **Article 34**

(1) The security measure of banning a legal entity from conducting a specific economic activity shall imply the ban on the production of specific products or the ban on the conduct of specific transactions in commodity and service trade and other economic transactions. A judgement imposing that measure shall specify the economic activity the legal entity is banned from conducting.

(2) If a regulation defining an economic offence does not specifically describe the terms governing the imposition of the measure referred to in paragraph 1 of this Article, the measure may be imposed on a legal entity if its continuing to conduct a specific economic activity would pose a threat to the people's lives or health or if it would be detrimental to economic and financial operations or would harm the reputation of the Socialist Federal Republic of Yugoslavia or foreign trade dealings of an organisation of associated labour operating abroad, or if the legal entity has already been punished for the identical or similar economic offence in the past two years.

(3) The measure may be imposed for a period of six months to ten years, starting from the date of the finality of a judgement.

## **Article 35**

(1) Banning the responsible person from executing specific duties shall imply that they shall be banned from executing the duty they were performing at the time of the commission of an economic offence, from holding a management position in the sphere of economic or financial operations and from performing specific tasks or all or only some of the duties related to the management, use, administration or handling of social assets or to their safekeeping.

(2) Unless otherwise stipulated by a regulation defining an economic offence, the court shall impose the measure referred to in paragraph 1 of this Article if the responsible person has abused their office in order to commit the economic offence or if it may be reasonably assumed that their continuing to execute such one duty would be dangerous.

(3) The court may impose the security measure referred to in paragraph 1 of this Article even if the responsible person has been repeatedly convicted of economic offences or related criminal acts.

(4) The measure may be imposed for a period of six months to ten years, starting from the date of the finality of a judgement.

#### **4. Legal Consequences of Conviction**

##### **Article 36**

(1) The law may set forth that the conviction of the responsible person for a specific economic offence to a specific penalty shall imply the legal consequence of their being banned from executing specific duties in organisations of associated labour, other self-management organisations/communities, other legal entities or bodies of socio-political communities and other government bodies.

(2) The law providing for the legal consequence of conviction referred to in paragraph 1 of this Article shall define also the period it shall be valid for, which shall not exceed three years, starting from the date of the finality of a judgement.

(3) No legal consequences of conviction may be imposed under a suspended sentence.

##### **Article 36a**

Upon the expiry of one year of the enforced or prescribed penalty, the court may rule upon the convicted responsible person's petition that the legal consequence of their conviction be terminated if it establishes that the responsible person has earned it with their conduct.

### **Chapter IIIa CONFISCATION OF PROCEEDS FROM THE COMMISSION OF AN ECONOMIC OFFENCE**

##### **Article 36b**

(1) No proceeds obtained from an economic offence may be kept by a legal entity.

(2) The proceeds shall be confiscated under a court decision establishing the commission of an economic offence.

(3) If a legal entity on which the confiscation of proceeds has been imposed ceased to exist following the finality of a judgement, the proceeds shall be confiscated from the legal entity taking over its assets, to the amount equalling the value of these assets.

(4) The provisions of Articles 85 and 86 of the Criminal Code of the Socialist Federal Republic of Yugoslavia shall apply accordingly to the confiscation of proceeds and the protection of the injured party.

(5) If so stipulated by a federal law defining an economic offence, the difference in price may be confiscated instead of the proceeds.

#### **Article 36v**

(1) The confiscated proceeds, obtained from the commission of an economic offence, belong to a socio-political community in keeping with the relevant regulation of the republic/autonomous province in the territory of which the convicted legal entity is based.

(2) The proceeds obtained from the commission of an economic offence in the sphere of foreign trade, foreign exchange and customs operations shall be placed in the Federation's budget.

## **Chapter IV STATUTE OF LIMITATIONS**

#### **Article 37**

(1) The statute of limitations on prosecution shall expire three years after the date of the commission of an economic offence.

(2) As an exception to the provisions of paragraph 1 of this Article, the statute of limitations on prosecution for economic offences committed in the sphere of foreign trade, foreign exchange and customs operations shall expire five years after the date of the commission of an economic offence.

#### **Article 38**

The statute of limitations on the enforcement of a penalty for an economic offence shall expire three years after the date of the finality of a decision imposing the penalty.

#### **Article 39**

(1) The statute of limitations on the enforcement of the security measure of publication of a judgement shall expire upon the expiry of a six-month period and of the security measure of confiscation of objects upon the expiry of three years of the date of the finality of a decision imposing the security measure.

(2) The statute of limitations on the enforcement of the security measures of banning a legal entity from conducting a specific economic activity and of banning the responsible person from executing specific duties shall expire upon the expiry of the period of time for which these measures have been imposed.

#### **Article 40**

The provisions of Articles 96 and 99 of the Criminal Code of the Socialist Federal Republic of Yugoslavia on the statute of limitations on criminal prosecution and the enforcement of penalties and security measures shall apply accordingly to the course

and suspension of the statute of limitations on prosecution and the enforcement of penalties or security measures, as well as to the absolute statute of limitations.

## **Chapter V**

# **EXPUNGEMENT OF CONVICTION AND TERMS OF DISCLOSURE OF DATA FROM CONVICTION RECORDS**

### **Article 41**

(1) Courts of first instance shall keep records of convictions pronounced on legal entities and responsible persons under final judgements (hereinafter referred to as *“the records”*).

(2) The records shall be kept by the court of first instance in the territory of which the head office of the convicted legal entity or of the convicted foreign legal entity’s operating unit or of a body of the socio-political community, other government body or the local community in which the convicted responsible person works, is based.

(3) Regulations on the method of record-keeping shall be adopted by the head of the federal administrative authority in charge of judicial affairs.

### **Article 42**

(1) The conviction of a legal entity and the responsible person to a fine shall be expunged from the records if the convicted legal entity and responsible person do not commit another economic offence within three years of the finality of a judgement imposing the fine, i.e. if the responsible person does not commit a criminal act having the elements of an economic offence.

(2) Previous convictions of a legal entity and the responsible person repeatedly convicted of economic offences shall be expunged if they do not commit another economic offence within three years of the finality of a judgement imposing the last penalty, i.e. if the responsible person does not commit a criminal act having the elements of an economic offence.

(3) If, in addition to a penalty, a security measure has been imposed on a legal entity and the responsible person, the conviction shall not be expunged before the enforcement of that measure.

(4) A suspended sentence against the responsible person or a legal entity shall be expunged from the records one year after the date of the expiry of the probation period, unless it is revoked during that period.

(5) The conviction providing for a decision to remit a sentence shall be expunged from the records if the convicted party does not commit another economic offence within a year of the finality of the court decision.

### **Article 43**

(1) Upon the expiry of one year of the enforced or prescribed penalty, the court may decide upon the convicted responsible person's petition to terminate the security measure of banning them from executing a specific duty, if it finds that the convicted responsible person has earned this with their conduct.

(2) If the security measure referred to in paragraph 1 of this Article has been imposed for a period exceeding five years, the measure may be terminated two years after the date of the enforcement or prescription of the penalty.

### **Article 44**

(1) Data from the records on convicted legal entities may be disclosed only if there are justified grounds for it.

(2) Data from the records on convicted responsible persons may only be disclosed to the court, the Public Prosecutor's Office, law enforcement officials and inspection authorities in relation to criminal or economic offence proceedings conducted against a person previously convicted of an economic offence, as well as to the authorities in charge of the enforcement of sanctions for economic offences and the competent authorities involved in the proceedings for the expungement of conviction.

(3) At a reasoned request of a government body, an organisation of associated labour or other self-management organisation and community, data from the records on a convicted responsible person may be disclosed if specific legal consequences of conviction or security measures are still in force, or if there are justified interests for it, based on the law.

(4) If a conviction for an economic offence has been expunged, data on that conviction shall not be disclosed to anyone except the court, the Public Prosecutor's Office, law enforcement officials and inspection authorities in relation to the economic offence proceedings conducted against the person whose conviction has been expunged.

(5) No one shall have the right to request citizens to submit evidence of their being or not being convicted of economic offences.

(6) At their request, data may be disclosed to citizens on their being or not being convicted of economic offences only if they need these data to exercise their rights abroad.

## **Chapter VI**

# **APPLICABILITY OF REGULATIONS ON ECONOMIC OFFENCES**

### **Article 45**

(1) The economic offender shall be subject to the regulations which were in force at the time of the commission of an economic offence.

(2) If following the commission of an economic offence the regulations were amended once or several times, the regulation more lenient to the offender shall apply.

### **Article 46**

A regulation on economic offences shall apply to domestic legal entities and responsible persons of these legal entities irrespective of whether an economic offence was committed in the territory of the Socialist Federal Republic of Yugoslavia or outside it.

### **Article 47**

A regulation on an economic offence shall apply to a foreign legal entity and the responsible person of that legal entity if the economic offence was committed in the territory of the Socialist Federal Republic of Yugoslavia.

### **Article 48**

(1) The regulation on an economic offence of the republic/autonomous province in the territory of which the economic offence was committed shall apply to the economic offender irrespective of where the offender will stand trial for that economic offence.

(2) If an economic offence was perpetrated in the territory of several republics or autonomous provinces and the economic offender is being tried in one of the republics or the autonomous provinces, the regulation of the republic/autonomous province where the offender stands trial shall apply.

(3) If an economic offence was committed in the territory of several republics or autonomous provinces and the economic offender is being tried outside the territory of these republics or autonomous provinces, the regulation of the republic/autonomous province more lenient to the offender shall apply and, if their regulations are equally strict, the regulation of the republic/autonomous province in the territory of which the perpetration of an economic offence started shall apply.

(4) The territory of a republic/an autonomous province shall be defined in keeping with Article 113, paragraph 2 of the Criminal Code of the Socialist Federal Republic of Yugoslavia.

## **Part Two PROCEEDINGS**

### **Chapter VII GENERAL PROVISIONS**

#### **Article 49**

Only the competent court in the proceedings instituted and completed in accordance with the present Act may impose a fine, a suspended sentence and security measures for the economic offence committed.

#### **Article 50**

(1) Economic offence proceedings shall be instituted before the court by the Public Prosecutor.

(2) If the Public Prosecutor does not institute economic offence proceedings, i.e. if he/she decides not to prosecute, the injured party may instigate/continue the economic offence proceedings, provided that they have submitted a motion for indemnification.

#### **Article 51**

(1) If an economic offence was committed by a legal entity and the responsible person, joint proceedings shall be instituted.

(2) Proceedings may be initiated and completed only against a legal entity or only against the responsible person if there are legal grounds to prosecute just one of them, or if the proceedings are being conducted against the responsible person for a criminal act having the elements of an economic offence.

#### **Article 52**

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#### **Article 53**

(1) A legal entity shall have a representative acting on its behalf in the proceedings.

(2) A legal entity and the responsible person may each have their own defence counsel or may have a joint defence counsel.

#### **Article 54**

The proceedings against the responsible person shall be discontinued if they die or develop a permanent mental illness during the proceedings.

## **Article 55**

- (1) A judge who conducted investigative actions shall not be recused from performing his/her judicial duty in the same matter during the main hearing/in summary proceedings (Articles 135 through 139).
- (2) A lay judge shall not perform his/her judicial duty where the grounds defined for the recusal of lay judges in criminal proceedings exist.
- (3) A lay judge shall not perform his/her judicial duty if he/she is permanently or temporarily employed with the legal entity against which proceedings are conducted or which has sustained damage due an economic offence, i.e. with the legal entity against whose responsible person the proceedings are being conducted.
- (4) As soon as he/she finds out that there are grounds for his/her recusal pursuant to paragraph 3 of this Article, a lay judge shall stop working on the case and shall inform about it the president of the court, who shall appoint his/her replacement.
- (5) The parties may file a motion for recusal on the grounds provided for by paragraph 3 of this Article before the start of the main hearing and, if they find out about the grounds for recusal afterwards, they shall file the motion immediately on finding it out.

## **Article 56**

Unless otherwise stipulated by the provisions of the present Act, the following provisions of the Criminal Procedure Act shall apply to economic offence proceedings: provisions on the basic rules (Articles 4 through 16 and Article 21), on the joinder and severance of proceedings (Articles 32 and 33), on the transfer of territorial jurisdiction (Article 35, paragraph 1), on the consequences of non-jurisdiction (Articles 36 and 37), on recusal (Articles 39 through 44), on the Public Prosecutor (Articles 47 through 51), on the injured party (Articles 59 through 66), on the defence counsel (Articles 67 through 69, Articles 73 and 75), on briefs and records (Articles 76 through 89), on time periods (Articles 90 through 94), on the costs of criminal proceedings (Articles 95 through 101), on claims for indemnification (Articles 103 through 114), on rendering and pronouncing decisions (Articles 115 through 119), on the service of documents and examination of files (Articles 120 through 131), on the meaning of legal terms and other provisions (Articles 143 and 146), on the summons and bringing in the defendant (Articles 183 and 184), on search (Articles 206 through 210), on the temporary confiscation of objects (Articles 212 through 215), on the examination of the defendant (Articles 218 through 224), on hearing witnesses (Articles 225 through 237), on on-site investigation (Articles 238 through 240), on expert analysis (Articles 241 through 251, Articles 258 and 260), on preparations for the main hearing (Article 279 and Articles 281 through 286), on the main hearing (Articles 287 through 296, Articles 298, 303, 304 and 306, Articles 308 through 337 and 339 through 344), on the judgement (Articles 345 through 350, Article 352 and Articles 354 through 358), on ordinary legal remedies (Articles 361 through 371, 376 through 390 and 394 through 399), on the reopening of proceedings (Articles 400 through 409 and Article 411), on the motion for the protection of legality (Articles 419 through 424), on the proceedings for the enforcement of security measures (Articles 500, 501, 503 and 504), and the proceedings for issuing warrants and notices (Article 550).



## **Article 57**

For the purposes of the present Act:

- the injured party shall be understood to mean a person whose personal or property rights have been infringed upon by an economic offence;
- the prosecutor shall be understood to mean the Public Prosecutor and the subsidiary prosecutor;
- the party shall be understood to mean the prosecutor, the accused legal entity and the accused responsible person;
- the term "defendant" is used as the general term for the accused legal entity and the accused responsible person;
- the provisions of the present Act pertaining to inspection authorities shall apply also to the Public Bookkeeping Office.

# **Chapter VIII JURISDICTION OF COURTS**

## **1. Subject Matter Jurisdiction and Composition of Courts**

### **Article 58**

Courts in republics and autonomous provinces shall try cases of economic offences within the limits of their subject matter jurisdiction prescribed by the republican/provincial law.

### **Article 59**

(1) Courts of first instance shall try cases in chambers comprising a judge acting as the president of the chamber and two lay judges.

(2) In a court of first instance, economic offences for which a fine prescribed for a legal entity does not exceed 100,000 dinars shall be tried by a single judge.

(3) Investigative actions shall be conducted by a first-instance court judge assigned for the purpose (assigned judge).

(4) Courts of first instance shall sit in chambers of three judges when deciding on appeals against the assigned judge's rulings and other rulings where this is provided for by the present Act, as well as when rendering decisions outside the main hearing and putting forward motions in cases provided for by the law.

## **Article 60**

(1) Courts of second instance shall try cases in chambers of two judges, one of whom shall be the president of the chamber and the other a lay judge.

(2) In cases not referred to in paragraph 1 of this Article, courts of second instance shall render decisions in chambers of three judges.

## **Article 61**

The Federal Court shall be in charge of the following:

- 1) rendering decisions on motions for the protection of legality in cases provided for by the present Act;
- 2) ruling on the conflict of jurisdiction between courts located in the territory of different republics;
- 3) rendering decisions on the transfer of territorial jurisdiction in cases provided for by the present Act;
- 4) fulfilling other tasks provided for by the federal law.

## **Article 62**

Courts shall render decisions on motions for the protection of legality in chambers of five members, of whom three members, the president of the chamber included, shall be the judges of a given court, while the remaining two members shall be lay judges.

## **Article 63**

In chambers of three judges, the Federal Court shall render decisions on the determination and transfer of territorial jurisdiction (Articles 72 and 73) and shall rule on the conflict of jurisdiction (Article 74).

## **Article 64**

The president of the court, the president of the chamber and single judges shall render decisions on cases provided for by the present Act.

## **2. Territorial Jurisdiction**

## **Article 65**

(1) The court in the territory of which the accused legal entity has its head office shall have territorial jurisdiction. In case of doubt, the head office shall be understood to mean the place where the management of the legal entity is based.

(2) If the accused legal entity includes an organisation/unit which is not part of its head office and does not hold the status of legal entity and an economic offence, provided for by the federal law, is committed by the responsible person of that organisation/unit, the court in the territory of which that organisation/unit is located shall also have jurisdiction, in addition to the court referred to in paragraph 1 of this Article.

### **Article 66**

If the accused responsible person of the legal entity/organisation/unit referred to in Article 65, paragraph 2 of the present Act, commits in the territory of the republic/autonomous province where the head office of the legal entity/organisation/unit is not located an economic offence provided for by the relevant regulation of that republic/autonomous province and not provided for by the relevant regulation of the republic/autonomous province where the head office of the legal entity/organisation/unit is located, the court in the territory of which the economic offence was perpetrated shall have jurisdiction.

### **Article 67**

Territorial jurisdiction shall be determined in keeping with the provisions of Articles 65 and 66 of the present Act also where only the accused responsible person of a legal entity is on trial.

### **Article 68**

If proceedings are conducted against the responsible person of a body of the socio-political community or another government body or the local community, territorial jurisdiction shall lie with the court in the territory of which that government body/local community is based (Article 65), i.e. the court in the territory of which an economic offence was committed (Article 66).

### **Article 69**

If a foreign legal entity or the responsible person of that legal entity is on trial for an economic offence, territorial jurisdiction shall lie with the court in the territory of which the representative office of that legal entity is located in Yugoslavia, i.e. the court in the territory of which an economic offence was committed by some means of transport.

### **Article 70**

If the responsible person of a foreign legal entity commits in the area where the legal entity's representative office is not located an economic offence provided for by the relevant regulation of the republic/autonomous province to which that area belongs and not provided for by the relevant regulation of the republic/autonomous province where its representative office is located, the court in the area where the economic offence was committed shall have territorial jurisdiction.

## **Article 71**

(1) Once the main hearing has been scheduled, no court may be declared *ex officio* to have territorial jurisdiction.

(2) The plea of lack of territorial jurisdiction may be put in before the start of the main hearing at the latest.

## **Article 72**

If it is not possible to determine which court has territorial jurisdiction under the provisions of the present Act, the Federal Court shall designate a court with subject matter jurisdiction before which proceedings shall be conducted.

## **Article 73**

(1) The Federal Court may designate another court with subject matter jurisdiction located in the territory of another republic, if it is evident that this will facilitate proceedings.

(2) The Federal Court may pass a ruling on the designation of another court with subject matter jurisdiction upon the proposal of the assigned judge, a single judge, the president of the chamber or the Federal Public Prosecutor, if proceedings are conducted at the Public Prosecutor's request.

## **Article 74**

(1) The conflict of jurisdiction between courts shall be ruled on by the court immediately superior to the courts involved.

(2) The Federal Court shall rule on the conflict of jurisdiction between courts in the territory of different republics.

(3) Before ruling on the conflict of jurisdiction, the Federal Court shall solicit the opinion of the Federal Public Prosecutor, if proceedings are conducted at the Public Prosecutor's request.

(4) No appeal may be lodged against a ruling on the conflict of jurisdiction.

(5) Until the settlement of the conflict of jurisdiction between courts, each of them shall take actions in proceedings which could be jeopardised by delay.

## **Chapter IX**

# **PUBLIC PROSECUTOR**

### **Article 75**

(1) Public Prosecutors in republics and autonomous provinces shall proceed before appropriate courts in keeping with the republican/provincial law.

(2) The Federal Public Prosecutor shall be authorised to proceed before the Federal Court.

### **Article 76**

(1) If the trial is to be held by the court having territorial jurisdiction in the area where the accused legal entity has its head office (Article 65) and there are several Public Prosecutor's Offices in the area, the Public Prosecutor responsible for the area where the accused legal entity/organisation/unit referred to in Article 65, paragraph 2 of the present Act has its head office shall be in charge of all actions in preparatory proceedings. This Public Prosecutor may also lay the indictment and represent the prosecution, if the Public Prosecutor whose head office is situated in the locality where the court in charge of the trial is based has not instigated prosecution action.

(2) If the trial is to be held by the court having territorial jurisdiction in the area where an economic offence was committed (Article 66) and there are several Public Prosecutor's Offices in the area, the Public Prosecutor responsible for the area where the economic offence was committed shall be in charge of all actions in preparatory proceedings. This Public Prosecutor may also lay the indictment and represent the prosecution, if the Public Prosecutor whose head office is situated in the locality where the court in charge of the trial is based has not instigated prosecution action.

(3) The provisions of paragraphs 1 and 2 of this Article shall apply also where proceedings are conducted only against the accused responsible person (Articles 67 and 68).

(4) The provisions of paragraphs 1 through 3 of this Article shall apply accordingly also where the proceedings are conducted against a foreign legal entity/the responsible person of that legal entity (Articles 69 and 70).

## **Chapter X**

# **REPRESENTATIVE OF A LEGAL ENTITY**

### **Article 77**

In economic offence proceedings, the representative of a legal entity shall be authorised to take all actions the defendant may take in criminal proceedings.

## **Article 78**

(1) The representative of the accused legal entity is a person authorised to represent that legal entity under the law, the relevant government body's legal act or the statute/other self-management legislation of the legal entity.

(2) The workers' council/relevant management body of a legal entity may appoint another person from the ranks of its members or another employee of that legal entity or the work community in charge of general administrative services to act as the representative.

(3) The representative of the accused legal entity referred to in paragraph 2 of this Article must have a written authorisation by the body which has appointed him/her representative.

(4) Only one person may represent the accused legal entity.

## **Article 79**

The representative of the accused foreign legal entity is the person running the representative office of that legal entity in Yugoslavia, unless another person is appointed representative of the foreign legal entity.

## **Article 80**

(1) No person summoned as a witness in the same matter may act as the representative of the accused legal entity.

(2) The responsible person against whom the proceedings are conducted for the same economic offence and who claims to have acted on the authority of another responsible person or the management body of a legal entity (Article 13) cannot act as the representative of the accused legal entity, either.

(3) One person may act as the representative of several accused legal entities only if this does not run counter to the interests of their defence.

(4) In cases referred to in paragraphs 1 through 3 of this Article, the court before which proceedings are conducted has to notify the accused legal entity/representative office of the accused foreign legal entity in Yugoslavia in order to appoint another representative.

(5) The court before which proceedings are conducted shall always warn the accused legal entity/representative office of the accused foreign legal entity in Yugoslavia, if its representative is at the same time the responsible person against whom economic offence proceedings are conducted in the same matter.

## **Article 81**

(1) All summonses, statements and other documents shall be served to a legal entity/the representative office of the accused foreign legal entity, even when they are addressed to the representative of the accused legal entity.

(2) If the representative of the accused legal entity has to be summoned and the court conducting proceedings does not know who the representative is, it shall request that the accused legal entity/representative office of the accused foreign legal entity in Yugoslavia appoint its representative.

## **Article 82**

If the accused legal entity/representative office of the accused foreign legal entity fails to appoint its representative at the bidding of the court conducting proceedings (Article 80, paragraph 3 and Article 81, paragraph 2), the legal entity shall be punished with a fine of up to 10,000 dinars under that court's ruling. If the representative is not appointed despite the fine, the legal entity shall be punished with a fine of up to 20,000 dinars each time it fails to comply with the court's order.

## **Article 83**

If the duly summoned representative of the accused legal entity fails to appear without good reason, the court conducting proceedings may order that he/she be brought in by force.

## **Article 84**

(1) The costs incurred by the representative of the accused legal entity shall be included in the costs of proceedings. These costs cannot be paid in advance from the court's funds.

(2) The representative of the accused legal entity shall himself/herself cover the costs of proceedings which he/she has incurred through his/her fault.

# **Chapter XI**

## **PRELIMINARY PROCEEDINGS**

### **1. Offence Report**

## **Article 85**

(1) All government bodies, organisations of associated labour, other self-management organisations and communities shall report economic offences they have been informed about or they have learned about in some other way.

(2) Government bodies, organisations of associated labour and other self-management organisations and communities shall provide all the information about the economic

offence and the offender in their offence report, indicating evidence known to them, and shall take steps to preserve identity papers, business records, other documents and traces of the economic offence, as well as the objects on which or by means of which the economic offence was committed and other evidence.

(3) The competent authorities shall also take into consideration offence reports filed by citizens.

### **Article 86**

(1) An economic offence report shall be submitted to the competent Public Prosecutor in writing or orally.

(2) When filing an offence report orally, the person filing the report shall be warned about the consequences of a false report. The oral report shall be entered in the record and, if the report was filed by phone, an official note shall be made.

(3) If an economic offence report was submitted to a court, an inspection authority or a Public Prosecutor lacking jurisdiction, they shall receive the report and forward it to the competent Public Prosecutor forthwith.

### **Article 87**

(1) If inspection authorities find out in connection with an offence report or while discharging their duty that an economic offence was committed, they shall take the necessary steps to discover the economic offender, to preserve the traces of the economic offence and the objects which could be used as evidence, and to collect all the information which could be useful to the successful conduct of economic offence proceedings.

(2) To this end, inspection authorities may request a government body, an organisation of associated labour or other self-management organisation/community in which an economic offence was discovered, as well as individuals to provide them with relevant information but they shall not interrogate any person in the capacity of the defendant, witness or expert witness.

(3) When collecting information, inspection authorities may take appropriate administrative measures and exercise other inspection powers vested in them by virtue of the legislation in force.

(4) Based on the information gathered, inspection authorities shall draw up an economic offence report or, if they submitted the report to the competent Public Prosecutor earlier, they shall draft a separate report to complement the offence report.

### **Article 88**

(1) If an investigative action, which it would not be possible to carry out successfully later on, is to be taken, inspection authorities may themselves temporarily confiscate objects, search business premises and conduct an on-site investigation.



(2) If an inspection authority takes specific investigative actions, they may be conducted only by its inspectors/the authorised personnel of the Public Bookkeeping Office. Investigative actions shall be conducted in keeping with the regulations applying to the investigative actions taken by courts. Records of the investigative actions taken shall be submitted to the Public Prosecutor, with an explanation of why it was necessary to take them.

## **Article 89**

(1) The Public Prosecutor shall dismiss an offence report if it indicates that the reported offence does not constitute an economic offence, that the statute of limitations on prosecution has expired or that there are other legal grounds ruling out prosecution.

(2) The Public Prosecutor shall notify the person filing an offence report referred to in Article 85, paragraph 2 of the present Act and the injured party referred to in Article 50, paragraph 2 of the present Act of the grounds for its dismissal, within eight days of rendering a ruling to this effect.

(3) The person filing an offence report may make a plea against a ruling to dismiss the offence report with a Public Prosecutor of higher instance.

(4) If a Public Prosecutor of higher instance believes that there were no grounds to dismiss the offence report, he/she may institute economic offence proceedings himself/herself within three months of the dismissal of the report.

(5) If a Public Prosecutor of higher instance fails to institute economic offence proceedings provided for by the federal law, enforced by federal bodies, within the time period referred to in paragraph 4 of this Article, the Federal Public Prosecutor may instigate the proceedings within the next three-month time period.

## **Article 90**

(1) If the Public Prosecutor believes that there are insufficient grounds in an offence report for him/her to decide whether to institute economic offence proceedings or not or if all the Public Prosecutor has learned is that an economic offence was committed, he/she may request that the relevant inspection authority gather all the necessary information and take other steps to discover the economic offender and provide evidence. The Public Prosecutor may at all times request the inspection authority to notify him/her of the steps taken.

(2) The Public Prosecutor may request government bodies and organisations of associated labour and other organisations and communities to provide him/her with the necessary data and information and, to this end, may also summon the person who has filed the economic offence report.

(3) The Public Prosecutor and other government bodies, organisations and communities shall act with caution when collecting information/sharing data, taking good care not to harm the reputation of the accused legal entity, i.e. the honour and reputation of the accused responsible person.

## **2. Investigative Actions**

### **Article 91**

(1) If the Public Prosecutor believes that there are insufficient grounds in an offence report or in the collected information and data (Article 90) to lay the indictment, he/she shall propose that the competent court take specific investigative actions. If the assigned judge (Article 59, paragraph 3) agrees with this proposal, he/she shall take the investigative actions and then submit all the files to the Public Prosecutor.

(2) Investigative actions shall be launched immediately and completed as quickly as possible.

(3) The assigned judge may request that some investigative actions be taken by a judge of another court of first instance, should this be in the interests of facilitating proceedings.

(4) If the assigned judge does not agree with the Public Prosecutor's proposal to take investigative actions, he/she shall request that a chamber of three judges of the same court decide on the matter.

(5) Once the Public Prosecutor receives the files/notification from the court of first instance, he/she shall either lay the indictment or shall render a ruling on the dismissal of an economic offence report.

### **Article 92**

(1) As a rule, the parties may be present during all investigative actions taken by the assigned judge/inspection authority (Article 88).

(2) The prosecutor and the defence counsel may be present during the hearing of the representative of the accused legal entity and the interrogation of the accused responsible person.

(3) The prosecutor, the injured party, the representative of the accused legal entity, the accused responsible person and the defence counsel may attend the on-site investigation and the hearing of an expert witness.

(4) The hearing of a witness may be attended by the prosecutor, the representative of the accused legal entity, the accused responsible person and the defence counsel, if the witness is not likely to appear at the main hearing or if the judge deems it appropriate, or if one of the parties requests to attend the hearing. The injured party may attend the hearing of the witness only if the witness is not likely to appear at the main hearing.

(5) The assigned judge/inspection authority taking an investigative action shall duly notify the prosecutor, the injured party, the defendant and the defence counsel of the time and place of conducting the investigative action they may attend, unless there is a danger of delay. If the accused legal entity or the accused responsible person has the

defence counsel, as a rule, the judge shall notify only the defence counsel thereof, instead of the defendant.

(6) If the person notified of an investigative action is not present, the action may be carried out even in their absence.

(7) To clarify some technical or other expert issues raised in connection with the evidence gathered or during the examination of the accused responsible person or the representative of the accused legal entity or while taking other investigative actions, the assigned judge may summon an expert who will provide him/her with the necessary explanations of these issues. If the parties are present, they may request that the expert provide more detailed explanations. Where necessary, the assigned judge may ask the relevant professional institution to provide explanations.

### **Article 93**

To clarify matters, the persons attending investigative actions may suggest that the assigned judge put forth specific questions to the representative of the accused legal entity and the accused responsible person, a witness or an expert witness and, with the judge's permission, they may even ask questions directly. These persons may request that their comments on the conduct of some investigative actions be entered in the record and may suggest that specific evidence be presented.

### **Article 94**

(1) If the representative of the accused legal entity is being heard, his/her identity and authorisation to represent the legal entity shall be established first.

(2) The accused responsible person shall be asked about their first name and surname, the name of one of their parents, their place of birth, age, educational background, profession and the position they held in the legal entity at the time of the commission of an economic offence, their domicile, whether, when and why they have been convicted, whether proceedings for a criminal act or another economic offence are being conducted against them, as well as about their property and family status.

### **Article 95**

If the judge needs the assistance of law enforcement officials or another government body to complete specific investigative actions successfully, they shall provide that assistance at his/her request.

### **Article 96**

If it is in the interests of proceedings or of keeping a secret, during an investigative action the assigned judge shall order the persons whom he/she is hearing or who are present while another investigative action is being taken to keep secret certain facts or the data they learn on the occasion and shall caution them that they shall be held criminally liable for disclosing the secret. That order shall be entered in the record of the investigative action, alongside with the signature of the person cautioned.

## **Article 97**

(1) The assigned judge/inspection authority taking an investigative action may punish with a fine of up to 1,000 dinars any person who during the investigative action and despite being cautioned disrupts order. If the attendance of such a person is not necessary, they may be removed from the scene of the investigative action.

(2) The accused responsible person cannot be punished with a fine.

(3) If the Public Prosecutor or his/her deputy disrupts order, the judge shall notify the competent Public Prosecutor thereof.

## **Article 98**

(1) The objects which under the present Act or a regulation on an economic offence have to be confiscated or which may be used as evidence in economic offence proceedings, shall be seized temporarily and handed over to the court for safekeeping or their safekeeping shall be secured in some other way.

(2) Whoever is in possession of the objects referred to in paragraph 1 of this Article shall hand them over at the request of the assigned judge or the authorised inspection authority. When confiscating the objects, the place where they have been found and their description shall be noted and, where necessary, the identity of objects shall be ensured in some other way. A receipt shall be issued for the confiscated objects.

(3) The assigned judge or the inspection authority may punish with a fine of up to 2,000 new dinars any person refusing to hand over an object. If the imposed fine yields no result, a fine of up to 4,000 new dinars may be imposed on the person in question each time they refuse to hand over the object.

(4) The authorised inspection authority may confiscate the objects referred to in paragraph 1 of this Article when acting in keeping with Articles 87 and 88 of the present Act or when executing the court's order.

## **Article 98a**

The competent court shall decide in chambers (Article 59, paragraph 4) on the appeal against a ruling on the fine referred to in Article 97, paragraph 1 and Article 98, paragraph 3 of the present Act.

## **Article 99**

(1) The prosecutor, the representative of the accused legal entity and the accused responsible person may lodge a complaint with the president of the court in case of delay or other irregularities in investigative actions.

(2) The president of the court shall investigate the statements made in the complaint and, if the complainant has requested so, shall notify him/her of the action taken.

### **3. Indictment and Preliminary Examination of the Indictment**

#### **Article 100**

- (1) Upon the completion of investigative actions, further proceedings may be conducted only on the basis of the prosecutor's indictment.
- (2) The Public Prosecutor may also lay the indictment on the basis of an offence report.
- (3) The indictment shall be submitted in as many copies as needed for the court, the accused legal entity and the accused responsible person.

#### **Article 101**

- (1) The indictment shall contain the following: company name/name of the accused legal entity, its head office as well as the first name and surname of its representative if he/she is known and the name of one his/her parents. In the case of the accused responsible person, the indictment shall contain their first name and surname and their personal data (Article 94, paragraph 2).
- (2) The indictment shall also contain a brief description of the economic offence, it shall indicate the court before which the main hearing will be held and the evidence to be presented at the main hearing and include a motion to convict the accused legal entity/accused responsible person in accordance with the law. Where necessary, the indictment shall also include the grounds indicating that the charge is well-founded.

#### **Article 102**

Once the court receives the indictment, the president of the chamber/a single judge shall first check whether the court has jurisdiction, whether specific investigative actions should be taken or those taken complemented, and whether there are grounds to dismiss the indictment.

#### **Article 103**

If the president of the chamber/a single judge establishes that another court of first instance is in charge of the trial, he/she shall refer the case to that court upon the finality of a ruling on non-jurisdiction.

#### **Article 104**

- (1) If during the examination of the indictment the president of the chamber/a single judge establishes that specific investigative actions should be taken or those taken complemented in order to clarify matters, he/she shall take these actions himself/herself.
- (2) The provisions of Articles 92, 93, 97 and 98 of the present Act shall apply accordingly also where specific investigative actions are to be taken by the president of the chamber/a single judge.

(3) The president of the chamber/a single judge shall notify the prosecutor of the investigative action taken if he/she was not present on the occasion.

### **Article 105**

(1) The president of the chamber/a single judge shall dismiss the indictment under a ruling to this effect if he/she finds that the act the defendant is charged with is not an economic offence, that the statute of limitations on prosecution has expired or that there are other legal grounds ruling out prosecution. If investigative actions have already been taken, the president of the chamber/a single judge shall dismiss the indictment if he/she finds that there is not sufficient evidence generating reasonable suspicion that the offender has committed the economic offence he/she is charged with.

(2) A ruling to dismiss the indictment with a brief reasoning shall be submitted to the prosecutor, the accused legal entity and the accused responsible person.

### **Article 106**

(1) If after the preliminary examination of the indictment the president of the chamber does not find that it should be proceeded in keeping with Articles 103, 104 or 105 of the present Act, he/she shall schedule the main hearing forthwith.

(2) In cases referred to in paragraph 1 of this Article, a single judge shall schedule the main hearing forthwith or shall render a ruling on the economic offence in summary proceedings.

### **Article 107**

(1) The president of the chamber/a single judge shall discontinue the proceedings against the accused responsible person under a ruling to this effect:

- 1) if the accused responsible person is beyond reach of government bodies;
- 2) if the accused responsible person has developed a temporary mental illness or a temporary mental disorder.

(2) Prior to the discontinuation of the proceedings, all available evidence of an economic offence shall be collected.

(3) Once the obstacles leading to the discontinuation have been eliminated, the proceedings against the accused responsible person shall resume.

## **CHAPTER XII**

### **MAIN HEARING AND JUDGEMENT**

#### **Article 108**

(1) The president of the chamber/a single judge shall summon to the main hearing the representative of the accused legal entity, the accused responsible person, their defence counsels, the prosecutor, the injured party and their legal representative/proxy, witnesses, expert witnesses and an interpreter and, where necessary, he/she shall also obtain the objects to be used as evidence at the main hearing.

(2) The representative of the accused legal entity and the accused responsible person shall be informed by their summons that they may bring to the main hearing evidence for the defence or that they should inform the court about the evidence in due time so that it could be obtained for the main hearing. The summons shall warn the representative of the accused legal entity and the accused responsible person that the main hearing will be held in their absence if there are legal conditions for it (Article 111, paragraph 2) and shall instruct them that they are entitled to a defence counsel but that the main hearing does not have to be postponed due to the defence counsel's failure to attend or his/her being hired as late as at the main hearing.

(3) Along with the summons, the accused legal entity and the accused responsible person shall be served with a transcript of the indictment.

(4) The summons to the main hearing must be served in such a way as to leave sufficient time between its being served and the date of the main hearing for the defence counsel to prepare, which shall be three days minimum.

#### **Article 109**

(1) The main hearing shall be held at the court's seat, in the court building.

(2) If in some cases the premises in the court building are not suitable to hold the hearing, the president of the court may decide that the main hearing be held in another building.

(3) Upon approval by the president of the court, the main hearing may be held in a locality other than that where the court is based, if this is in the interests of facilitating the hearing of evidence and if that locality is in the area of the court which is in charge of the trial.

#### **Article 110**

(1) The main hearing before a single judge may be held in the absence of the Public Prosecutor. In that case, the injured party shall be entitled to represent the prosecution at the main hearing within the limits of the indictment.

(2) If the subsidiary prosecutor fails to appear at the main hearing, although duly summoned to it, and his/her proxy fails to do so as well, the court shall discontinue the proceedings under a ruling to this effect.

### **Article 111**

(1) If, despite being duly summoned, the representative of the accused legal entity and the accused responsible person fail to appear at the main hearing and provide any justification for their absence, the court may order that they be brought in by force. If they cannot be brought in immediately, the court shall adjourn the hearing and order their compulsory appearance at the next hearing.

(2) The court may decide to hold the main hearing in the absence of the accused responsible person duly summoned, if they were interrogated previously and the court decides that their presence is not relevant. Under the same terms, the main hearing may be held in the absence of the duly summoned representative of the accused legal entity.

(3) Where the terms set under the provisions of paragraphs 1 and 2 of this Article for the postponement of the main hearing exist, the court may decide to hold the main hearing if, based on the evidence in files, a judgement dismissing the indictment or acquitting the defendant of the charge should be passed.

(4) If the main hearing is held in the absence of the accused responsible person or the representative of the accused legal entity, the previous record of his/her hearing shall be read out.

### **Article 112**

The main hearing may be held even if the duly summoned defence counsel of the accused legal entity/accused responsible person fails to show up.

### **Article 113**

(1) The main hearing shall begin by announcing the main contents of the indictment. This shall be followed by the hearing of the representative of the accused legal entity, after which the accused responsible person shall be interrogated. The hearing of the representative of the accused legal entity cannot be attended by the accused responsible person who has not been interrogated yet.

(2) The court may order that the representative of the accused legal entity and the accused responsible person be confronted, if the main facts of their depositions do not match.

(3) The court may decide, despite the parties' disagreement, that, instead of hearing directly a witness or an expert witness who is not present, the record of his/her previous hearing be read out. The court shall proceed in this way also when a witness or an expert witness has not been summoned to the main hearing.



(4) The provisions of Article 98 of the present Act shall apply accordingly also to the main hearing proceedings.

(5) After the hearing of evidence and the prosecutor's and the injured party's arguments, the floor shall be first passed to the defence counsel and the representative of the accused legal entity and then to the defence counsel of the accused responsible person and the accused responsible person.

(6) After the main hearing, the court shall immediately pass and announce a judgement quoting the main grounds for it.

#### **Article 114**

(1) If a single judge establishes during the main hearing that the facts on which the indictment is based suggest that an economic offence which should be tried in chambers was committed, a chamber shall be set up and the hearing shall recommence.

(2) If the main hearing was adjourned and the adjournment exceeded one month, or if the adjourned main hearing is held before a chamber the composition of which has changed or another single judge, the chamber/the single judge may decide not to recommence the hearing. In that case, the hearing shall resume, while the president of the chamber/single judge shall sum up the previous hearing.

#### **Article 115**

Where the court finds that the proceeds should be confiscated from the accused legal entity (Article 36b) and that proceedings would be considerably delayed if the value of the proceeds were to be determined, it shall take a decision under a judgement to confiscate the proceeds without specifying their value, deciding on their value under a separate ruling at a later stage.

#### **Article 116**

(1) The court shall state the following in a judgement pronouncing the defendant liable:

- 1) the act for which the accused legal entity and the accused responsible person are pronounced liable, including the facts and circumstances constituting the elements of an economic offence;
- 2) the regulations on the economic offence which have been applied;
- 3) the penalty to be imposed on the accused legal entity and the accused responsible person;
- 4) the decision on acquittal;
- 5) the decision on a suspended sentence;
- 6) the decision on security measures;

7) the decision on the confiscation of proceeds;

8) the decision on the costs of proceedings and the claim for indemnification.

(2) A judgement shall set the date by which a fine is to be paid.

#### **Article 117**

(1) The accused responsible person may be sentenced to cover only the costs of proceedings he/she has incurred through his/her fault.

(2) If some evidence has been presented exclusively in favour of the accused responsible person, the costs of the presentation of the evidence shall be covered from the court's budget.

## **Chapter XIII PROCEEDINGS AS PER LEGAL REMEDIES**

### **1. Appeal against a Judgement and a Ruling**

#### **Article 118**

(1) Authorised persons may lodge an appeal against a judgement passed at first instance within eight days of the service of a transcript of the judgement.

(2) An appeal lodged by an authorised person in due time shall stay the enforcement of a judgement.

(3) Unless otherwise stipulated by the law, an appeal against a ruling shall be lodged within three days of the service of the ruling.

#### **Article 119**

(1) An appeal against a judgement or a ruling may only be filed in writing.

(2) An appeal may be filed by the parties, the defence counsel, the injured party and the holder of the right of disposal, i.e. the owner of the confiscated object or the user of the confiscated social assets.

#### **Article 120**

The Public Prosecutor may lodge an appeal not only to the prejudice of the accused legal entity/accused responsible person but also to their benefit.

## **Article 121**

(1) The injured party may file an appeal only regarding the court's decision on the costs of proceedings.

(2) If the Public Prosecutor assumes prosecution from the subsidiary prosecutor, the latter may file an appeal on all grounds whereby a judgement may be contested.

(3) If the Public Prosecutor was not present at the main hearing (Article 110), the injured party shall be entitled to file an appeal against a judgement in the capacity of the subsidiary prosecutor, irrespective of whether the Public Prosecutor has laid an appeal as well.

## **Article 122**

If the security measure of confiscation of objects which are not in the possession of the accused legal entity/which do not belong to the accused responsible person (Article 31, paragraph 2) has been imposed, an appeal may be laid also by the person whose object has been confiscated.

## **Article 123**

The defence counsel may lodge an appeal even without a special authorisation by the accused legal entity/accused responsible person but cannot do so against their will.

## **Article 124**

(1) A court of second instance shall decide on an appeal in a chamber session only.

(2) When ruling on an appeal against a judgement passed by a court of first instance, the parties shall be notified of a chamber session if the president of the chamber or the chamber finds that the presence of the parties or of just one of them would help clarify the matters.

## **Article 125**

Except in the case provided for by Article 387, paragraph 1 of the Criminal Procedure Act, a court of second instance may reverse a decision by a court of first instance, if it finds that the court of first instance has misjudged the identity papers or evidence it has not presented itself and that its decision is based on that evidence.

## **Article 126**

The prosecutor may drop the charge entirely or partly in a chamber session or may change the indictment in favour of the defendant. If the Public Prosecutor has dropped the charge entirely, the president of the chamber shall notify the injured party referred to in Article 50, paragraph 2 of the present Act thereof and invite him/her to state within eight days whether he/she wants to continue prosecution.

## **Article 127**

No appeal may be lodged against a decision taken by a court of second instance.

## **2. Reopening of the Proceedings**

### **Article 128**

The proceedings concluded by a final judgement or a final ruling on an economic offence rendered in summary proceedings may be reopened.

### **Article 129**

In addition to the cases provided for by Article 404 of the Criminal Procedure Act, the proceedings may be reopened also if it is established that the responsible person convicted of an economic offence has been validly convicted of the same act in criminal proceedings (Article 14).

## **3. Motion for the Protection of Legality**

### **Article 130**

The competent Public Prosecutor may file a motion for the protection of legality against a final court decision violating the present Act or a regulation on an economic offence, as well as against the court proceedings held prior to the final court decision.

### **Article 131**

(1) A motion for the protection of legality shall be ruled on by a court designated for the purpose under the republican/provincial law.

(2) The Federal Court shall rule on a motion for the protection of legality due to the violation of the present Act or a federal regulation on an economic offence, if a decision was taken by a court in the republic/autonomous province which is in charge of rendering rulings at second instance.

(3) The court referred to in paragraph 1 of this Article shall rule on a motion for the protection of legality even if that court's decision is in violation of the federal as well as the republican/provincial regulation. A motion for the protection of legality, which shall be ruled on by the Federal Court, may be filed against that court's judgement due to the violation of the present Act or a federal regulation on an economic office.

### **Article 132**

(1) A motion for the protection of legality to be ruled on by the Federal Court shall be filed by the Federal Public Prosecutor.

(2) A motion for the protection of legality to be ruled on by a court in a republic/an autonomous province shall be filed by the Public Prosecutor designated for the purpose under the republican/provincial law.

(3) If the competent Public Prosecutor in a republic/an autonomous province has not filed a motion for the protection of legality due to the violation of the present Act or a federal regulation on an economic offence because he/she has established that there are no grounds for it, the motion may be filed by the Federal Public Prosecutor with the Federal Court.

### **Article 133**

The Public Prosecutor may file a motion for the protection of legality within six months of the date of the parties' being served with a decision against which the motion may be filed, i.e. within six months of the date when one of the parties has been notified of the republican/provincial Public Prosecutor's decision that he/she has found no grounds to file a motion for the protection of legality (Article 132).

### **Article 134**

The Federal Court may request that the court in charge of enforcement postpone or discontinue the enforcement of a decision until a decision on the filed motion is rendered.

## **Chapter XIV SUMMARY PROCEEDINGS**

### **Article 135**

(1) In economic offence proceedings a single judge is in charge of, upon the prosecutor's proposal, a ruling on an economic offence may be rendered without scheduling the main hearing (summary proceedings).

(2) Summary proceedings may be conducted only if the representative of the accused legal entity has already been heard and the accused responsible person already questioned.

(3) In summary proceedings, a fine of up to 100,000 new dinars may be imposed on the accused legal entity, whereas the accused responsible person may receive a fine of up to 10,000 new dinars.

(4) Security measures cannot be imposed in summary proceedings, save for the measure of confiscation of objects and the measure of confiscation of proceeds.

### **Article 136**

A claim for indemnification may also be decided on in summary proceedings, if it does not exceed 10,000 new dinars.

### **Article 137**

(1) Authorised persons may lodge an appeal against a ruling on an economic offence rendered in summary proceedings within eight days of the service of a transcript of the ruling.

(2) The provisions of Articles 118 through 127 of the present Act shall apply to the proceedings under appeal referred to in paragraph 1 of this Article.

(3) If a court of second instance cancels a ruling on an economic offence rendered in summary proceedings when deciding on an appeal, it shall order that the standard proceedings be conducted.

### **Article 138**

*(deleted)*

### **Article 139**

The provisions of the present Act and the Criminal Procedure Act pertaining to judgements shall apply accordingly to a ruling on an economic offence rendered in summary proceedings.

## **Chapter XV SPECIAL PROCEEDINGS**

### **1. Proceedings for the Confiscation of Proceeds**

#### **Article 140**

(1) If the accused legal entity ceased to exist before or after the institution of proceedings, at the Public Prosecutor's request, the proceedings shall be conducted against the legal entity succeeding the obligations of the legal entity which ceased to exist but only with respect to the confiscation of the proceeds obtained from the commission of an economic offence.

(2) The proceeds may only be confiscated in the amount equalling the value of the assets taken over from the accused legal entity which ceased to exist.

(3) The court having territorial jurisdiction in the conduct of the economic offence proceedings against the legal entity which ceased to exist shall be in charge of the proceedings referred to in paragraphs 1 and 2 of this Article.

## **2. Proceedings for the Indemnification for Unjustifiable Conviction**

### **Article 141**

A legal entity or the responsible person unjustifiably convicted in economic offence proceedings shall be entitled to indemnification.

### **Article 142**

The provisions of Articles 541 through 549 of the Criminal Procedure Act shall apply accordingly to the proceedings for the indemnification for unjustifiable conviction.

## **3. Proceedings for the Expungement of Conviction and Termination of Security Measures or Legal Consequences of Conviction**

### **Article 143**

(1) A ruling on the expungement of a conviction or a suspended sentence (Article 42) shall be rendered by the court of first instance in charge of the relevant records (Article 41) at the convicted person's request.

(2) A ruling on the expungement of a conviction shall be preceded by the necessary checks and in particular by the collection of data on whether the accused responsible person is being tried for another economic offence committed before the expiry of the time period set for the expungement of the conviction.

### **Article 144**

The expunged conviction shall not be entered in a certificate issued on the basis of the records.

### **Article 145**

(1) The convicted responsible person shall file a petition for the termination of the security measure banning him/her from executing specific duties or of the legal consequence of his/her conviction with the court of first instance which has imposed the security measure/conviction leading to the legal consequence.

(2) Once the necessary inquiries about the circumstances relevant to decision-rendering have been made, the court referred to in paragraph 1 of this Article shall render a decision in a chamber of three judges.

(3) The petitioner and the Public Prosecutor proceeding before a court of first instance may lodge an appeal against that court's decision with a court of second instance.

### **Article 146**

If a petition is dismissed, another petition may be filed only upon the expiry of two years of the finality of the ruling to dismiss the previous petition.

#### **4. Duty to Notify of a Convicting Decision**

##### **Article 147\***

(1) A chief executive officer/head of the collegial body of management or the counterpart responsible person of a legal entity shall duly notify the workers' council or another management body of that legal entity of a final decision imposing a fine for an economic offence on the legal entity, within eight days of the submission of the decision to the legal entity.

(2) If the workers' council or another management body referred to in paragraph 1 of this Article is not notified, the responsible person of a legal entity shall be punished for the misdemeanour with a fine of up to 50,000 dinars.

### **Chapter XVI TERMS OF ENFORCEMENT OF DECISIONS**

##### **Article 148**

(1) Decisions shall become final once they can no longer be contested by an appeal or where an appeal is not allowed.

(2) A final decision shall be enforced once it has been served and when there are no legal impediments to its enforcement. If no appeal has been lodged or if the parties have waived or dropped an appeal, a decision may be executed upon the expiry of the time period set for entering an appeal, i.e. as of the date of waiving or dropping the appeal lodged.

##### **Article 149**

If an appeal has been lodged against a first-instance decision imposing a fine or a security measure, the decision shall not be enforced before the defendant is served with a second-instance decision.

##### **Article 150**

A decision validly imposing a fine or providing for the reimbursement of the costs of proceedings shall be enforced upon the expiry of the time period for the payment of the fine/costs of proceedings set in the decision. This time period shall be calculated from the date of the service of a decision under appeal on the defendant, i.e. from the date of the finality of a decision by a court of first instance which has not been ruled on by a court of second instance in connection with an appeal.

##### **Article 151**

If a court rendering a decision at first instance is not in charge of its enforcement, a certified transcript of the decision with an enforceability certificate shall be submitted to the body in charge of its enforcement, which shall commence its enforcement forthwith.



## **Part Three**

# **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 152**

Fines and security measures provided for by the regulations adopted before the entry into force of the present Act shall not exceed the maximum measure set in the present Act.

### **Article 153**

(1) If the indictment was laid before the entry into force of the present Act, further proceedings shall be conducted in keeping with the legislation adopted to date.

(2) If a court of higher instance cancels a decision by a court of first instance following the entry into force of the present Act and remits the case for reconsideration, the new hearing and the entire further proceedings shall be conducted in keeping with the present Act.

### **Article 154**

The provisions of Articles 121 and 122 of the present Act shall apply when the indictment was laid before the entry into force of the present Act, if a first-instance court decision was rendered after its entry into force.

### **Article 155**

The regulation on the reimbursement of costs in criminal proceedings shall apply accordingly to economic offence proceedings.

### **Article 156**

The Economic Offence Act (Official Gazette of the SFRY, Nos. 25/66, 42/69 and 6/73) shall be revoked upon the entry into force of the present Act.

### **Article 157**

The present Act shall enter into force on 1 July 1977.

***Separate article of the Law on Amendments to  
the Economic Offence Act***

*(Official Gazette of the FRY, No. 14/85)*

**Article 60**

Laws and other legislation providing for economic offences shall be aligned with the provisions of the present Law within one year of its entry into force.

***Separate article of the Law on Amendments to  
the Economic Offence Act***

*(Official Gazette of the FRY, No. 74/87)*

**Article 11**

Laws and other legislation providing for economic offences shall be aligned with the provisions of the present Law within six months of its entry into force.

***Separate article of the Law on Amendments to  
the Economic Offence Act***

*(Official Gazette of the SFRY, No. 57/89)*

**Article 11**

Laws and other legislation providing for economic offences shall be aligned with the provisions of the present Law by 31 December 1989.

***Separate article of the Law on Amendments to  
the Economic Offence Act***

*(Official Gazette of the SFRY, No. 3/90)*

**Article 11**

Laws and other legislation providing for economic offences shall be aligned with the provisions of the present Law within three months of its entry into force.

***Separate article of the Law on Amendments to  
the Economic Offence Act***

*(Official Gazette of the FRY, No. 27/92)*

**Article 11**

Federal laws and other federal legislation providing for misdemeanours shall be aligned with the provisions of the present Law within three months of its entry into force.