

## The Law on Investigation of Property Origin at the first glance

March the 7<sup>th</sup>2019

When 6 years ago presidents Vučić gave the assignment to his ministers to create a Law on Investigation of Property Origin, [announcing](#) that it should be adopted in few months, no one knew what the law should specifically be about. The question was also what is not good with the current law, so the new one is necessary. The law was not prescribed by the Strategy for the fight against corruption, nor the European Commission mentioned it in its recommendations. But, something had to be figured out, promises, announcements and deadlines were too many, and undoubtedly we talk about the topic which can be well used for winning the voters. Since 2016, the adoption of this law [became](#) part of the government's program (expose of Prime Minister), and it was only one of two laws announced as anti-corruption.

Of course, similar announcements and actions were also made at the time of former political setting, so following the promotion several laws became effective, Law on Extra profit (2001), Law on Seizing the Property Originated from Criminal Offense (2009), as well as the Law on Tax Procedure and Tax Administration (2002). In the meantime professor Čedomir Čupić [carried](#) the idea of creating a law which would specifically relate to “verification of the property’s origin”.

The targeted distribution of information on the spoon, in order to announce that the government is working on this law, lasted for years. On March the 5<sup>th</sup> the document on which the argued debate can be conducted, was [published](#) – the draft of the Law on Investigation of Property Origin and Special Tax.

With the draft, a scarce explanation was published, which does not provide enough information about why the proposer considered this material adequate for regulating through new law, and not only through amendments on existing laws. First of all, here we can mention the Law on Tax Procedure and Tax Administration, within which even in 2002 the possibility of crosschecking of the property and the incomes for determining taxpayers, was prescribed. Furthermore, there are special rules about reporting the property and validating the accuracy and completeness of those reports, which since 2004 relate to several thousand holders of public functions. Since 2010 the criminal offense in case of giving the incorrect data in the reports is foreseen. Finally, since 2009 Serbia has established a legal mechanism in which is possible to reverse the burden of proof, and to seize the property in case of suspicion that the suspect for committing serious criminal offenses has property without the base in legal incomes. Besides that, all the time in legislation there is a possibility of seizing the property for which is known that is acquired through the commission some criminal offense, commercial offense or offense.

Having that in mind, the necessary step that should preceded not only for laws to became effective, but also in the initial stage of writing the law, to determinate in which situations there are legal mechanisms which are not good enough, whether is the weakness of the legal provisions or lacking the resources and will to apply them.

The explanation is even more necessary in the field of possible confusions of legal nature. Namely, the draft provides significantly different rules regarding determining tax base, the amount of the tax rate and obsolescence in relation to those that have existed so far. For January the 1<sup>st</sup> 2007, which is taken as the initial point, no legal arguments were mentioned, but it is mentioned that since then the tax administration has an “unique electronic record of taxpayers and their property”. Among other dates that can be defined as a starting point, we can mention January the 1<sup>st</sup> 2003, when citizens were obligated to submit the records for property worth more than 20 million RSD, or maybe the deadline for determining tax obligations (5 years).

Although this law has been explicitly declared as anti-corruption for years, it should be emphasized that the law does not contain the norms that would specifically refer to persons who might initially be involved in corruption – public officials, and other persons engaged in public sector jobs. Namely, the provisions can equally apply to other citizens of Serbia. On the other hand, judging the first draft of revised Action plan for chapter 23 EU integrations, Serbia will not introduce a criminal offense “illegal enrichment”, based on the article 20 of UN Convention against corruption, which would apply to public officials and officials who own the property of unexplained origin, and which is planned in Strategic acts in 2013.