

Review of confiscation decisions under the Anti-mafia Law-preventive procedure

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Abstract

The review of final decisions is regarded as an unusual means of appeal aimed at countering a final decision that is considered adjudicated (*res judicata*). This means of appeal has been provided for in the European Convention on Human Rights, the Constitution of Albania, and the national laws of the Albanian state. Thus, at first sight, the review seems to be in contravention of Article 4 and 34 of the Constitution, the principle of legal certainty. But, in essence, this extraordinary means of appeal attempts to establish effective justice by overturning a wrong decision, despite the fact that this decision has been executed, suspended or terminated. To combat dangerous criminal activities Albania has adopted the Anti-mafia Law, which provides the confiscation of proceeds that are obtained from some of the most dangerous criminal activities such as organized crime, terrorist acts, trafficking, corruption and laundering of crime proceeds. This kind of civil confiscation constituted a novelty in the procedural law and it was imposed when the person was not able to prove the lawful origin of these proceeds obtained from criminal activities. But can these confiscation decisions about the final transfer of property to the state be reviewed? If so, which law shall be applied, the civil or criminal one? This and other answers will be provided in this paper.

Keywords: review, principle of legal certainty, confiscation, Anti-mafia Law, criminal activities.

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