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Law Against Organized Crime
8754

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA
DECREES:

LAW AGAINST ORGANIZED CRIME

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1.- Interpretation and application

Organized crime is defined as a structured group of two or more persons existing for a certain period of time and acting in concert for the purpose of committing one or more serious crimes.

The provisions of this Law shall apply exclusively to investigations and judicial proceedings in cases of national and transnational organized crime. For all matters not regulated by this Law, the Penal Code, Law No. 4573; the Code of Criminal Procedure, Law No. 7594, and other concordant laws shall apply.

For the entire penal system, a felony is a crime that within its range of penalties can be punished with imprisonment of four years or more.

Article sheet

(Sinalevi Note: By article 19 of the Law of Creation of the specialized jurisdiction on organized crime in Costa Rica, No. 9481 of September 13, 2017, this numeral will be repealed. Pursuant to Article 4 of Law No. 9769 of October 18, 2019, which amended Law No. 9481, it shall enter into force eighteen months after the

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the necessary budget for its implementation has been granted, according to the technical studies of the Judiciary, and therefore, once this condition has been fulfilled, the respective derogation will be made).

ARTICLE 2. Declaration of special procedure

When, during the course of criminal proceedings, the Public Prosecutor's Office establishes that, in accordance with the international standards in force and the present Law, the facts investigated qualify as organized crime, it shall request before the court in which it is acting a declaration of the application of special procedure. The procedure authorized in this Law excludes the application of the complex procedure.

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The court will make a reasoned decision accepting or rejecting the request of the Public Prosecutor's Office. The decision in favor of the request of the Public Prosecutor's Office shall be declaratory in nature. The court will adjust the time limits; to this end, it may modify the resolutions it deems necessary.

Once it has been declared that the facts under investigation qualify as organized crime, all the ordinary terms established in the Code of Criminal Procedure, Law No. 7594, for the duration of the preparatory investigation will be doubled.

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CHAPTER II

CRIMINAL

ACTION

(Sinalevi Note: By article 19 of the Law of Creation of the specialized jurisdiction on organized crime in Costa Rica, No. 9481 of September 13, 2017, this numeral will be repealed. Pursuant to Article 4 of Law No. 9769 of October 18, 2019, which amended Law No. 9481, it shall enter into force eighteen months after the

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ARTICLE 3. Public action

The criminal action to prosecute crimes committed by or on behalf of members of criminal organizations, as provided in this Law, is public and may not be converted into a private action.

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ARTICLE 4. Statute of limitations for criminal action

The statute of limitations for criminal action, in cases of organized crime, shall be ten years from the commission of the last offense and may not be reduced for any reason.

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ARTICLE 5.- Interruption of the statute of limitations for criminal action

The statute of limitations established in Article 4 of this Law is interrupted by the following:

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a) When the Public Prosecutor's Office initiates the investigation.

- b) With the judicial declaration established in Article 4 of this Law.
- c) When the first formal accusation of the facts of the accused is made.
- d) With the filing of the complaint or civil action for compensation.
- e) With the filing of the indictment before the intermediate stage court.
- f) With the issuance of the first resolution convening a preliminary hearing, even if it is not final.
- g) With the issuance of the order to open a trial, even if it is not final.
- h) With any resolution that calls for an oral and public trial.
- i) With the issuance of the sentence, even if it is not final.
- j) For hindering the normal development of the process due to causes attributable to the defense, according to the declaration to be made by the court in a well-founded resolution.
- k) For the postponement in the initiation of the debate or for its suspension due to impediment or non-attendance of the accused or his defense counsel, or at their request.

The interruption of the statute of limitations operates even when the resolutions referred to in the preceding paragraphs are subsequently declared ineffective or null and void.

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Article 6- Suspension of the statute of limitations The computation of the statute of limitations shall be suspended for the following:

- a) For the duration of extradition proceedings, police assistance, judicial assistance, letters rogatory or requests for information through central authorities abroad.
- b) On the grounds set forth in Law No. 7594, Code of Criminal Procedure, of April 10, 1996.

Once the cause for suspension has ended, the statute of limitations shall continue to run its course.

(As amended by Article 3 of Law No. 9769 of October 18, 2019)

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the necessary budget for its implementation has been granted, according to the technical studies of the Judiciary, and therefore, once this condition has been fulfilled, the respective derogation will be made).

ARTICLE 7. Term of preventive detention

Without prejudice to the provisions of paragraphs a) and b) of Article 257 of the Code of Criminal Procedure, Law No. 7594, the original term of pretrial detention shall be up to twenty-four months.

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ARTICLE 8. Termination of the precautionary measure

The precautionary measure ceases for the following reasons:

- a) When new elements of judgment demonstrate that the reasons that founded it no longer exist or make it advisable to replace it with another measure, even before six months have elapsed since it was decreed.
- b) When its duration exceeds or is equivalent to the maximum amount of the sentence to be imposed, the application of penal rules relating to the suspension or remission of the sentence, or early release, will also be considered.

Article sheet

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the necessary budget for its implementation has been granted, according to the technical studies of the Judiciary, and therefore, once this condition has been fulfilled, the respective derogation will be made).

ARTICLE 9. Extension of pretrial detention. At the request of the Public Prosecutor's Office, the complainant or the civil plaintiff, the original term of pre-trial detention may be extended by the Court of Sentence Appeals for up to twelve months, provided that it sets the specific time of the extension. In this case, the Court shall indicate the necessary measures to accelerate the proceedings.

If a conviction imposing a prison sentence is handed down, the term of preventive detention may

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be extended by means of a well-founded resolution for an additional twelve months.

Once these time limits have expired, in order to ensure the completion of a particular act or of the debate, to verify the suspicion of flight or to prevent the obstruction of the investigation of the truth or recidivism, the Court may order the accused to be taken away by the Public Force and to be remanded in custody; it may also vary the conditions under which he/she is free or impose some of the other precautionary measures provided for by the Code of Criminal Procedure, Law No. 7594. In such cases, the deprivation of liberty may not exceed the time absolutely necessary to fulfill the purpose of the provision.

The Chamber or the Court of Sentence Appeal, exceptionally and ex officio, may authorize an extension of the pre-trial detention beyond the above terms and for up to twelve more months, when they order the remand for a new trial.

(Thus amended by Article 9 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

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ARTICLE 10. Secrecy of summary proceedings

When, due to the dynamics of the investigation, a defendant is at liberty or a suspect has not been arrested, the Public Prosecutor's Office may order by a founded resolution, the total or partial secrecy of the proceedings for up to ten consecutive days, provided that publicity may hinder the discovery of the truth or provoke the escape of a suspect. The term may be extended up to twenty days, but, in this case, the defense may request the court of the preparatory proceedings to examine the grounds for the disposition and terminate the secrecy.

This power may be exercised only twice during the investigation. In each of them the term shall be original.

Notwithstanding the expiration of the established deadlines, when the effectiveness of a particular act depends on the partial confidentiality of the proceedings, the Public Prosecutor's Office may request the judge to order it to be carried out without prior communication to the parties, who will be informed of the result of the proceeding.

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CHAPTER III JUDICIAL

BODIES

ARTICLE 11. Police Information Platform

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All police forces in the country will be linked to the Police Information Platform (PIP), in charge of the General Directorate of the Judicial Investigation Organism (OIJ), in which they will share and have access to information from their records, databases, electronic files, international networks and police intelligence, in order to achieve greater efficiency and effectiveness in investigations, both preventive and repressive, of all kinds of crimes. Any international police organization, to which Costa Rica is affiliated, will have the obligation to be linked in terms of criminal information.

Except in cases where a court order is required to access them, all records, databases, files of state bodies and entities, autonomous institutions and municipal corporations may be accessed by the Police Information Platform, without the need for a court order.

When access to the data can only be made with the judge's order, only the police or investigators previously designated, as well as the prosecutors in charge of the case and the judges who must issue an order or sentence in that case may have access to it; when the same information is required in another process, it may not be known or shared without the prior authorization of the judicial authority. Those who legally know such information must keep it secret and may only refer to it in declarations, reports or necessary and indispensable actions of the process.

The director of the Judicial Investigation Agency shall be responsible for the executive aspects of the Platform and shall determine the levels of access to the information, and the police and investigative bodies that may access it; to this effect, he/she shall prepare a protocol for access and use of the information contained in said Platform.

With respect to the information, any leakage that prejudices the results of the investigations or the illegal use of this information to the detriment of the investigated or other persons, will be the direct responsibility of the officer or officers involved.

(Sinalevi Note: By means of article 20 of the Law of Creation of the specialized jurisdiction on organized crime in Costa Rica, No. 9481 of September 13, 2017, this numeral will be reformed. Pursuant to Article 4 of Law No. 9769 of October 18, 2019, which amended Law No. 9481, it shall enter into force eighteen months after the

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the necessary budget for its implementation has been granted, according to the technical studies of the Judiciary, therefore, as of the fulfillment of this condition, the text of this article shall read as follows: "Article 11- Police Information Platform. The Police Information Platform (PIP) shall be part of the administrative structure of the Judicial Investigation Organism (OIJ), as an instrument of integrated consultation of data from different sources of public and private information relevant to judicial investigations and the maintenance of public security. Its objective is to function as a standardized information platform, capable of integrating all the data required for state police and judicial investigation bodies throughout the country to consult and provide feedback, as part of the activities of investigation, prevention and combating crime.

The state police and judicial investigation bodies will be linked to the PIP and will have the obligation to
of:

- i) Include data and information relevant to the public safety functions within its competence.*
- ii) Sharing and securing access by other state police, criminal investigation agencies to information from their records, databases, electronic files, international networks and intelligence.*

The aim is to achieve greater efficiency and effectiveness in both preventive and repressive investigations of all types of crimes and threats to public safety.

The information included in the PIP, which comes from personal data of citizens, will be used exclusively for internal purposes of the police and judicial bodies; it may not be commercialized under any circumstances or conditions and will be restricted access for being sensitive to the privacy of individuals. Its handling will comply with the provisions of Law No. 8968, Protection of the Person against the Processing of Personal Data, of July 7, 2011, considering that, even being part of publicly accessible records, they are not of unrestricted access because they are of interest only to their owner or to the Public Administration, in the fulfillment of public purposes.

However, in order not to affect criminal investigations in the preliminary stage, no information will be provided to any person on the consultations made in his name in the Police Information Platform, except by express order of the jurisdictional authority or as required in administrative disciplinary proceedings to determine the correctness of actions by personnel with access to it."

(Sinalevi Note: By article 20 of the Law of Creation of the specialized jurisdiction on organized crime in Costa Rica, No. 9481 of September 13, 2017, articles 11 bis, 11 ter and 11 quater will be added. Pursuant to the article of law No. 9769 of October 18, 2019, which amended law 9481, it will enter into force eighteen months after

the necessary budget for its implementation has been granted, according to the technical studies of the Judiciary, so that from the fulfillment of this condition, the new articles will read as follows: "Article 11bis- Access to information to support the Police Information Platform. Except in those cases in which a legal rule expressly requires a judge's order to access them, all records, databases, files of state bodies and entities, autonomous institutions, municipal corporations, private and public companies that provide public services to citizens, non-state public entities, will be accessed free of charge by the Judicial Investigation Organism (OIJ), for the exclusive use of the PIP. The information accessed will be strictly relevant to police and judicial investigations.

The requirements will be made by the director of the OIJ in an express and reasoned manner for each entity only once, in order to establish continuous access to such information, justifying its usefulness for the purposes pursued by the PIP.

Once the request has been formulated, the required information must be provided immediately and in a manner that ensures consultation through the transfer of information by technological means through communication networks, as well as by means of backups of the required databases.

Access to the data, motivated by a court order, will be restricted to previously designated police agents or judicial investigators, as well as to the prosecutors in charge of the case and the judges to whom it corresponds to issue any order or sentence in that case; when the same information is required in another process, it may not be known or shared without the prior authorization of the judicial authority. Those who know such data legally must keep them secret and may only refer to them in statements, reports or necessary and indispensable actions of the process.

All public and private entities that are requested to provide information for the PIP will be obliged to cooperate and, within a maximum period of six months after the Directorate General of the Judicial Investigation Agency formally requests the information, sign agreements for access to their digital databases and information relevant to the PIP to ensure its timely linkage.

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Failure to comply with the requests for information within the established term, public or private companies will be subject to a financial penalty consisting of a fine equivalent to two percent (2%) of the gross income earned in the previous fiscal year, up to a maximum of forty base salaries, which will be imposed by the competent body, and which will be used for the maintenance and development of the Police Information Platform.

The PIP should be linked to the information platforms of international police organizations with which the Costa Rican government is affiliated.

Those who do not cooperate with these provisions shall be subject to the penalties contemplated in the Penal Code for the crime of disobedience.

Article 11 ter- Administrative responsibility for the Police Information Platform. The director of the Judicial Investigation Agency (OIJ) shall be responsible for ensuring the conditions for the correct operation of the Platform, delegating its operational administration to its Office of Plans and Operations (OPO).

The Director will establish a protocol for access and use of the information contained in said Platform, establishing, among other elements, the guidelines that guarantee the integrity of the system to prevent said information from being used for illicit purposes or purposes other than those for which it was created, avoid duplication of information, ensure that the data contained therein is updated, as well as establish the security conditions of the information contained therein and the levels of access to the information by the different police and judicial investigation bodies, establishing access profiles for the users authorized to make use of the information of the PIP.

It is empowered to establish agreements with public institutions and private companies, to formalize the conditions of access to information relevant to the corresponding telematic and infrastructure schemes, required to ensure the connection, linkage and maintenance of equipment and computer networks for this purpose.

The use of the Police Information Platform will be the direct administrative responsibility of the authorized officer or officers, as enabled by their access profile; its misuse will be subject to administrative sanctions. Criminal responsibilities and penalties will be established, when the improper use results in a leak of information or to the detriment of judicial and police investigations.

Article 11 quater- Financing of the Police Information Platform. For the financing of the Police Information Platform, in addition to the provisions of this article and Article 30 of Law No. 8754, Law against Organized Crime, of July 22, 2009, an additional amount shall be available from the resources provided for in Article 85 of Law No. 8204, Law on Narcotics, Psychotropic Substances, Drugs for Unauthorized Use, Related Activities, and Related Activities, of July 22, 2009.° 8204, Law on Narcotics, Psychotropic Substances, Drugs for Unauthorized Use, Related Activities, Money Laundering and Financing of Terrorism, of December 26, 2001, as follows:

a) Two percent (2%) of the amount destined to the fulfillment of preventive programs.

b) Three percent (3%) of the percentage allocated to repressive programs.

c) One percent (1%) of the amount granted for the insurance and maintenance of forfeited property, on the occasion of the application of this law.

d) In order to comply with Article 31 of Law No. 9095, Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, of October 26, 2012, an additional amount of five percent (5%) of the resources raised in

the National Fund against Trafficking in Persons and Smuggling of Migrants (Fonatt), in accordance with the provisions of Article 52 of the aforementioned law").

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ARTICLE 12. Physical location of Interpol

The National Central Bureau of Interpol - San José will operate under the orders of the Director General of the OIJ.

Article sheet

ARTICLE 13. Dissemination of information from the Police Information Platform

A prison sentence of two to eight years shall be imposed on anyone who unlawfully accesses data stored or processed in the PIP. The same penalty shall be imposed on anyone who unlawfully discloses, collects or reproduces such information.

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ARTICLE 14. Judicial Center for the Intervention of Communications

The Judicial Branch will be in charge of the Judicial Communications Intervention Center (CJIC), with the necessary personnel to operate twenty-four hours a day, every day. This unit will carry out the interception of communications ordered by criminal judges throughout the country, when it is possible to use the available technology.

Each year, the President of the Supreme Court of Justice, in a private session, will inform the Ministers of the Presidency, Justice, Public Security and Government, the Public Prosecutor's Office and the OIJ about the efficiency, effectiveness and results of the Judicial Communications Intervention Center, as well as the improvements to be made for its updating.

Article sheet

ARTICLE 15. Intervention of communications

In all investigations undertaken by the Public Prosecutor's Office for organized crime, the court may order, by a well-founded decision, the interception or tapping of communications.

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between present or by epistolary, radio, telegraphic, telephonic, electronic, satellite or any other means. The procedure for the wiretapping shall be that established by Law No. 7425, Registration, Seizure and Examination of Private Documents and Interception of Communications. The time of the interception or wiretapping may be up to twelve months, and may be renewed for an equal period, with the prior authorization of the judge.

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ARTICLE 16. Authorization for the interception of communications

In addition to the provisions of Article 9 of Law No. 7425 and the present Law, the judge may order the interception of communications when it involves the clarification of the following crimes:

- a) Kidnapping for ransom or hostage taking.
- b) Aggravated corruption.
- c) Sexual exploitation in all its manifestations.
- d) Manufacture or production of pornography.
- e) Corruption in the exercise of public functions.
- f) Illicit enrichment.
- g) Bribery cases.
- h) Property crimes committed on a massive scale, either successively or simultaneously.
- i) Telematic bank robberies.
- j) Human smuggling, human trafficking, trafficking in minors and trafficking in minors for adoption.
- k) Trafficking in persons to commercialize their organs, trafficking, introduction, exportation, commercialization or illicit extraction of blood, fluids, glands, human organs or tissues or their derived components.
- l) Qualified homicide.
- m) Genocide.
- n) Terrorism or its financing.
- ñ) Offenses under the Law on narcotic drugs, psychotropic substances, drugs of unauthorized use.

- o) Money laundering originating from activities related to drug trafficking, terrorism, organ trafficking, human trafficking or sexual exploitation, or any other serious crime.
- p) International crimes.
- q) All other crimes considered serious, according to current legislation.

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ARTICLE 17. Obligations of those responsible for communication companies

Any company, public or private, that provides communications services in the country shall be obliged to carry out what is necessary for the timely and efficient operation of the Judicial Communications Intervention Center (CJIC), according to the requirements of this Center.

The following shall be the obligations of the companies and of the responsible officials of the companies or public and private institutions in charge of the communications:

- 1) To provide all facilities for the measures ordered by the competent judge to be effective.
- 2) Comply with the court order, in such a way that the execution of the ordered measure is not delayed, hindered or impeded.

Failure to comply with this rule will result in the cancellation of the company's concession or operating permit for communications activities.

The bodies responsible for applying the aforementioned sanction to the companies will be those established in the General Telecommunications Law, No. 8642 of June 4, 2008, and in the other laws, regulations and those governing the conditions of the concession.

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CHAPTER IV EMERGING

CAPITALS

ARTICLE 18. Lifting of bank secrecy

In any investigation for organized crime, the bank secrecy of the accused or of the natural or legal persons linked to the investigation shall be lifted. The order will be issued by the judge, at the request of the Public Prosecutor's Office.

If an investigation is initiated by the Public Prosecutor's Office or the Financial Analysis Unit of the Costa Rican Drug Institute (ICD) on the occasion of the unlawful acts contemplated in this Law, any financial entity or any entity part of a financial group shall be obliged to safeguard all information, documents, securities and monies that may be used as evidence or proof within the investigation or in a judicial process. As for the money or securities that are kept deposited or in custody, it must proceed to freeze them or deposit them in the Central Bank of Costa Rica and inform the authorities of the actions taken. The above obligations arise from the moment the entities receive from the authorities a formal notice of the existence of an investigation or a judicial criminal proceeding, or when the entities file the corresponding complaint, and end when officially notified of the termination of the process, dismissal, archiving, dismissal or final acquittal.

In the case of investigations carried out by the Financial Analysis Unit of the ICD, in the same act of notifying the financial entities or part of a financial group of the existence of such investigation, the aforementioned Unit must inform the Public Prosecutor's Office of the process in progress, so that within a peremptory term of five calendar days it may evaluate the value of requesting the corresponding precautionary measure to the competent judge. Once the indicated term has expired, without an order from the competent judge to reiterate the precautionary measure, the financial entities shall lift the preventive actions adopted.

Article sheet

ARTICLE 19.- Jurisdictional advance of evidence

Without prejudice to the provisions of the Code of Criminal Procedure, Law No. 7594, on the jurisdictional anticipation of evidence, in cases of organized crime, the anticipatory evidence will proceed whenever there is sufficient evidence to estimate that there is danger to the life, physical integrity or patrimony of any person, or those close to that person, who will provide compromising information on the responsibility of the suspects, the accused or the criminal organization.

Article sheet

ARTICLE 20. Cause of the estate

The Comptroller General of the Republic, the Ministry of Finance, the ICD or the Public Prosecutor's Office may denounce, before the Civil Court of Finance for Summary Matters, the increase of capital without apparent lawful cause, with a retrospective of up to ten years, of any public official or private law person, natural or juridical.

Once the complaint has been received, the Court will give a hearing to the interested party for a term of twenty working days in order to answer the complaint and to examine the evidence; in the same resolution it will order, as a precautionary measure, the seizure of assets, their immobilization in the registry and of all kinds of financial products. Only an appeal without suspensive effect may be filed against the precautionary measure, which must be filed within twenty-four hours before the Collegiate Contentious-Administrative Court, which will decide without further procedure and with priority over any other matter.

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ARTICLE 21. Sentence and appeals

The Court will decide in a sentence what is legally appropriate, at the expiration of the term established in Article 20 of this Law.

The complainant and the interested party may file an appeal against the decision, stating the reasons, within three days following the notification. Once the appeal has been filed, the proceedings shall be submitted to the Collegiate Contentious Administrative Court, which shall decide without further proceedings and with priority over any other matter. No appeal shall be allowed against the second instance decision.

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ARTICLE 22. Penalties

The person, natural or juridical, who cannot justify his patrimony or the emerging increases, will be condemned to the loss of the emerging patrimony, the fines and the costs of the investigation.

For tax assessment purposes, it is irrelevant the illicit cause of the patrimony or of the emerging increase.

The judgment shall be executed as soon as possible by the court of first instance; to this end, it may order the presentation of assets, their seizure, their transfer to the registry and the disposition of all kinds of financial products. These assets shall be delivered to the ICD, so that it may proceed in accordance with the provisions of this Law.

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ARTICLE 23. Distraction of patrimony

A prison sentence of five to fifteen years shall be imposed on whoever, knowing of the existence of proceedings to justify the emerging assets against him or against the person he represents, even if he has not been notified of the transfer of the complaint or the judgment, transfers his assets, encumbers them, destroys them, renders them useless, makes them disappear or renders them litigious, in such a way as to render impossible or difficult the execution of the precautionary measures or of the judgment.

Any public or judicial official or official of financial entities who collaborates with the perpetrator shall be punished with eight to eighteen years of imprisonment and disqualification from holding public or judicial office for ten years.

Article sheet

ARTICLE 24. Culpable misappropriation of patrimony

A prison sentence of two to six years shall be imposed on any public or judicial official or official of financial institutions who, through negligence, facilitates the diversion of assets described in the article of this Law to another.

Article sheet

CHAPTER V SEIZURE AND

FORFEITURE OF ASSETS

ARTICLE 25. Forfeiture

All movable and immovable property, money, instruments, equipment, securities and financial products used or originating from the commission of the crimes provided for by this Law shall be preventively confiscated by the competent authority hearing the case; the same shall apply with respect to the financial products of the legal persons linked to these facts.

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ARTICLE 26. Judicial deposit

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If the forfeiture is ordered by the provisions of this Law, the assets of economic interest shall be immediately and exclusively deposited in court, to the order of the ICD. The ICD must destine these assets, immediately and exclusively, to the fulfillment of the purposes described in this Law, except in very qualified cases approved by the Board of Directors; likewise, it may administer them or deliver them in trust to a state bank, as it may be convenient to its interests. In the case of the loan of confiscated property, prior to delivery and use, the beneficiary institution must insure them for their value, when applicable, in order to guarantee possible compensation for loss or destruction. In the case of assets registered in the National Registry, the authority hearing the case shall immediately order the respective annotation and communicate it to the ICD. The proceeds of the administration or trust shall be used for the achievement of the purposes of the Institute.

From the moment of the designation of the ICD, as judicial depository, in accordance with the present Law and Law No. 8204, the assets shall be fully exempted from the payment of any kind of taxes, fees, rates, charges, stamps, circulation rights and any other form of contribution.

In case it is not possible, according to the second paragraph of article 33 regarding Loss of unclaimed goods or money, of this Law, the Institute shall publish a notice in the official newspaper *La Gaceta*, indicating the objects, merchandise and other goods in its possession. Upon expiration of the term established in the aforementioned article, without the interested parties filing the corresponding action, provided there is a judicial resolution, the seized goods and valuables shall become, definitively, the property of the Institute, and shall be used for the purposes established in this Law or in Law No. 8204, as the case may be.

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ARTICLE 27. Registration of the registration

In the case of assets registered in the National Registry, the judicial authority hearing the case shall immediately order the respective annotation and communicate it to the ICD.

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ARTICLE 28. Use of vehicles with foreign license plates

In the case of vehicles with foreign license plates, not registered or not nationalized, the request of the Institute will be sufficient for the authorized agencies of the Ministry of Public Works and Transportation (MOPT) and the National Registry to grant the corresponding permits and documentation for temporary circulation in the national territory.

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ARTICLE 29. Bona fide third parties

The measures and sanctions contemplated in this Law and in Law No. 8204, regarding forfeiture, shall be applied without prejudice to the rights of bona fide third parties.

Interested third parties who meet the requirements set forth in Articles 93 and 94 of Law No. 8204, shall have a three-month term, counted as of the communication mentioned in Article 84 of the same legal body, to claim the seized goods and objects. The court may defer the resolution of the interested party's claim until a judgment is rendered; however, upon expiration of the term indicated in this regulation without the intervention of a third party, the confiscation and definitive transfer of the domain in favor of the ICD shall be decreed.

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ARTICLE 30. Administration of forfeited money

The judicial authority shall deposit the confiscated money in the current accounts that the ICD shall arrange for such purpose in a public bank, and shall immediately send a copy of the deposit made to the ICD.

With the exception of the provisions of Article 85 of Law No. 8204, the yields produced by the investments described above shall be distributed as follows:

- a) Forty percent (40%) to the OIJ, for the attention, maintenance and updating of the PIP, as well as for the investigation of crimes and the protection of persons.
- b) Twenty percent (20%) to the ICD, for administration, insurance, follow-up and maintenance expenses of seized and confiscated goods.
- c) Ten percent (10%) to the Judicial Branch, for the maintenance and updating of the Judicial Communications Intervention Center (CJIC).
- d) Ten percent (10%) to the Ministry of Justice, to cover the needs of the Penitentiary Police.
- e) Ten percent (10%) to the Public Prosecutor's Office, for the Office of the Attention for the Victims of Crime.
- f) Ten percent (10%) to the Ministry of Public Security and Government, to cover the needs of the police forces that comprise it.

Said resources may be transferred to the beneficiary institutions described in this article, in compliance with the provisions of Law No. 8131, Financial Administration of the Republic and Public Budgets.

Article sheet

ARTICLE 31. Prior disposition of assets

The goods that may deteriorate, be damaged and costly to maintain may be sold, auctioned or auctioned before the final sentence. For this purpose, the Unit for the Administration of Confiscated and Forfeited Assets must issue a resolution stating the reasons for the act, which must include the market value of such assets. The money generated will be deposited in the current accounts of the ICD until the end of the process.

The ICD may make investments with the money generated by the disposal under any financial figure offered by state banks, which allow maximizing yields and minimizing risks. The interest generated by the investments may be reinvested under similar conditions or used in the development of policies, plans and strategies against the crimes provided for in this Law. The distribution of the yields generated by the investments will be made in accordance with the preceding article.

Article sheet

ARTICLE 32. Perishable and other goods

The ICD may sell, donate or destroy perishable goods, fuel, construction materials, scrap metal, precursors and essential chemicals and animals, prior to the final judgment in the respective criminal proceedings. For this purpose, the Unit for the Administration of Confiscated and Forfeited Goods must issue a resolution stating the reasons for the act, in which it must include the market value of such goods. The money generated will be deposited in the current accounts of the ICD and may be invested until the end of the process.

Article sheet

ARTICLE 33. Loss of unclaimed property or monies

If after six months have elapsed from the confiscation of the movable and immovable property, vehicles, instruments, equipment, securities and money used in the commission of the crimes provided for in this Law, as well as the various goods or securities derived from such actions, it has not been possible to establish the identity of the perpetrator or participant in the act, or if he has abandoned the goods of economic interest, the elements and the means of transportation used, the competent authority shall order the definitive confiscation of such goods, which shall be transferred to the order of the Institute, for the purposes provided for in this Law.

Likewise, when more than three months have elapsed since the final sentence was issued, without those who may claim a legitimate legal interest in the assets of economic interest used in the commission of the crimes provided for in this Law having taken any action to remove them, the action of the interested party to file any claim shall expire and the Institute may dispose of the assets, with the prior authorization of the court that heard the case.

ARTICLE 34.- Forfeiture

With the exception of what is confiscated in application of Law No. 8204, ordered the confiscation of movable or immovable property by judicial sentence or by application of this article, in favor of the ICD, the ICD may keep them for the fulfillment of its objectives, donate them to public interest entities, giving priority to organizations whose purpose is the repression of organized crime, auction them or auction them.

Once the confiscation of vehicles, vessels, ships or aircrafts has been ordered, all economic obligations derived from the imposition of fines, annotations in the Public Registry that are prescribed and sanctions for infractions to traffic regulations shall be extinguished. Likewise, they shall be exempted from the payment of the right of circulation until their destination is defined, in accordance with the first paragraph of this article.

Once the seizure of real property has been ordered, such property shall be exempted from the payment of all taxes, royalties, fees, charges, both municipal and territorial, and from any other form of contribution, until its destination is defined, in accordance with the first paragraph of this article.

Article sheet

ARTICLE 35. Control and monitoring of investments

The ICD must submit, on a semi-annual basis, a general balance sheet of the results of the investments made, duly certified by the public capital entity that administers them, to the Comptroller General of the Republic and to the Special Permanent Commission for the Control of Public Income and Expenditures of the Legislative Assembly of the Republic of Costa Rica.

Article sheet

ARTICLE 36. Distribution of money and securities collected

With the exception of the provisions of Law No. 8204 and subject to the reservation of the assets necessary for the fulfillment of its purposes, in the case of money and securities seized or the proceeds of invested, auctioned or auctioned assets, the ICD shall distribute them in the following manner:

- a) Twenty percent (20%) to the ICD, for expenses of securing, storage, follow-up and maintenance of seized and forfeited goods.
- b) Ten percent (10%) to the Judicial Branch, for the maintenance and updating of the Judicial Communications Intervention Center (CJIC).
- c) Ten percent (10%) to the Public Prosecutor's Office, for the Office of Attention to Victims of Crime and the fight against organized crime.
- d) Fifty percent (50%) to the OIJ, for the attention, maintenance and updating of the PIP, as well as for the investigation of crimes and the protection of persons.
- e) Ten percent (10%) to the Ministry of Public Security and Government, to cover the needs of the police forces that comprise it.

These resources shall be transferred to the beneficiary institutions described in this article, in compliance with the provisions of Law No. 8131, Financial Administration of the Republic and Public Budgets.

Article sheet

ARTICLE 37. Registration of assets

In cases of seized property subject to registration in the National Registry, the order of the competent judicial authority shall be sufficient for the respective section of said registry to proceed with the registration or transfer of the property in favor of the ICD.

Immediately after the judgment is final, the competent authority shall send the registration or transfer order and shall be exempted from the payment of all taxes, fees, fees, charges, transfer and property taxes, provided for in Law No. 7088, as well as from the payment of stamps and transfer or registration fees. In such cases, it will not be necessary to have the respective note issued by the Department of Exemptions of the Ministry of Finance.

The registration order shall be equivalent to the destocking policy, in the case of vehicles with foreign license plates or recently imported vehicles.

Article sheet

ARTICLE 38. Donation of goods

In cases of donation of goods, movable or immovable, to State institutions or institutions of public interest, it will only be necessary to have the agreement of the Board of Directors of the ICD and the deed of donation issued by the Administration Unit of Seized and Confiscated Goods of said Institute, in order for the National Registry to carry out the transfer or registration in favor of the beneficiary entity. This document will be exempt from the payment of all transfer taxes.

Article sheet

ARTICLE 39. Destruction of property in a state of deterioration

In those cases in which the competent judicial authority orders, by means of a final judgment or resolution, the confiscation of goods that, due to their nature, are subject to registration or transfer in the National Registry and are in a state of deterioration that makes their repair or improvement impossible or excessively onerous, the Institute, upon a well-founded resolution, may destroy them or donate them in scrap condition. The evaluation of the condition of the goods shall be carried out by the ICD's Seized and Confiscated Goods Administration Unit.

Article sheet

ARTICLE 40. Other income

All other income generated as a result of the application of this Law shall be distributed in accordance with the provisions of Article 30 of this Law.

The proceeds of the costs won by the civil indemnification actions delegated to the Public Prosecutor's Office will be used for the protection of persons under the Program for the Protection of Victims, Witnesses and other parties involved in the criminal proceeding, under the Office for the Care of Victims of Crime, as provided by the Public Prosecutor's Office.

Article sheet

CHAPTER VI

FORFEITURE AND CONFISCATION FOR

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SEXUAL OFFENSES

**AGAINST UNDERAGE PERSONS CHARACTERIZED AS ORGANIZED
CRIME**

ARTICLE 41. Forfeiture of goods

All movable or immovable property, vehicles, instruments, securities, equipment and other objects used in the commission of sexual crimes against minors, provided for in this Law, as well as the various goods or securities derived from such actions, shall be preventively confiscated by the competent authority hearing the case; the same shall apply with respect to the shares, capital contributions and assets of legal persons linked to these facts.

[Article sheet](#)

ARTICLE 42. Forfeiture of goods and payment of fines

Those who have been convicted for the commission of sexual crimes against minors, in addition to the penalties established in the Criminal Code, shall incur the loss to the State of the instruments with which the crime was committed and of the things or values derived from its commission, or which constitute, for the agent, a benefit derived from the same crime, except for the right that the offended party or third parties may have over them.

[Article sheet](#)

ARTICLE 43. Judicial deposit of assets

The assets referred to in articles 41 and 42 of this Law shall be placed in judicial deposit, immediately and exclusively, to the order of the National Child Welfare Agency (PANI). Prior insurance for the value of the property, to guarantee a possible compensation for deterioration or destruction, PANI must destine these goods, immediately and exclusively, to the protection of minors victims of sexual crimes and to the fulfillment of the policies that by law are granted to it; likewise, it may administer them or deliver them in trust to a state bank, as it is convenient to its interests. Likewise, for purposes of the use of confiscated and forfeited assets, it may sign agreements with duly registered organizations and associations whose objectives are the prevention, repression and treatment of underage victims of commercial sexual exploitation. In the case of assets registered in the National Registry, the authority hearing the case shall immediately order the respective annotation and communicate it to PANI. The benefits of the administration or trust shall be used in the following manner:

- a) Forty percent (40%) in the compliance of preventive programs against commercial sexual exploitation.
- b) Fifteen percent (15%) in the repressive programs, which will be at the disposal of the Judiciary, for the investigation of the case.
- c) Five percent (5%) in the securing and maintenance of confiscated goods, whose destination is the one indicated in the preceding article.
- d) Forty percent (40%) in the pecuniary compensation of the victim.

Article sheet

ARTICLE 44. Deposit of forfeited monies

The judicial authority shall deposit the confiscated money in PANI's current account and shall immediately send a copy of the deposit to PANI. PANI shall allocate the interest it produces:

- a) Forty percent (40%) to the fulfillment of preventive programs for commercial sexual exploitation.
- b) Fifteen percent (15%) to the repressive programs, which will be at the disposal of the Judiciary, for the investigation of the case.
- c) Five percent (5%) to the securing and maintenance of confiscated goods, whose destination is the one indicated in the preceding article.
- d) Forty percent (40%) for the pecuniary compensation of the victim.

Article sheet

ARTICLE 45. Administration of assets

The assets mentioned in Article 41 of this Law, PANI may sell them, administer them or deliver them in trust to a bank of the National Banking System, as it is convenient to its interests. The profits from the sale, administration or trust mentioned above shall be used for current and capital expenses, directly related to the fight against sexual crimes against minors.

Article sheet

ARTICLE 46. Sale of perishable goods

Perishable goods may be sold or used by PANI, before the final sentence is issued in the respective criminal trials, in accordance with the regulations of the Institution; for such purpose, an expert opinion issued by the competent office of the Ministry of Finance shall be required. The amounts obtained shall be destined as indicated in article 44 of the present Law.

Article sheet

ARTICLE 47. Safeguarding of information

If, on the occasion of the facts or illicit acts contemplated in the present Law, an investigation is initiated by the competent authorities, every financial entity or that is part of a financial group shall have the obligation to safeguard all information, documents, securities and monies that may be used as evidence or proof within the investigation or in a judicial process; as for the monies or securities that are kept deposited or in custody, it shall proceed to freeze them or to deposit them in the Central Bank of Costa Rica, and inform the authorities of the actions taken.

The actions to be taken will be notified within three days of the report and the freezing of the financial products.

The above obligations arise from the moment in which the entities receive from the authorities a formal notice of the existence of an investigation or a judicial criminal proceeding, or when the entities file the corresponding complaint.

Article sheet

ARTICLE 48. Registration and transfer of assets

In cases of seized property subject to registration in the National Registry, the order of the competent judicial authority shall be sufficient for the respective section of said Registry to proceed with the registration or transfer of the property in favor of PANI.

Immediately after the sentence has become final, the competent authority shall send the registration or transfer order, to which the respective security ticket shall be attached, and

shall be exempt from the payment of all transfer and property taxes provided for in Law No. 7088, as well as from the payment of stamps and transfer or registration fees.

In such cases, it will not be necessary to have the respective note issued by the Exemptions Department of the Ministry of Finance.

[Article sheet](#)

ARTICLE 49. Definitive forfeiture of goods

If one year after the seizure of the property, the identity of the perpetrator or participant of the act cannot be established, or he has abandoned the property of economic interest, the elements and the means of transportation used, the competent authority shall order the definitive seizure of said property, which shall be transferred to the order of PANI for the purposes provided for in this Law.

Likewise, when more than three months have elapsed since the end or closure of the criminal proceeding, without those who may claim a legitimate legal interest in the assets of economic interest used in the commission of the crimes provided for in this Law having taken any steps to remove them, the action of the interested party to file any claim shall expire and PANI may dispose of the assets, with the prior authorization of the court that heard the case. For such purposes, the provisions of Article 48 of this Law shall be followed.

[Article sheet](#)

ARTICLE 50. Deteriorated and onerous goods

In cases in which the competent judicial authority orders, by means of a final judgment, the confiscation of assets that, by their nature, are subject to registration or transfer in the National Registry and are in a state of deterioration that makes their repair or improvement impossible or excessively onerous, PANI may use them for the functions described in this Law, without requiring their registration or transfer in the National Registry. The evaluation of the condition of the assets shall be carried out by the Valuation Department of the Ministry of Finance.

Article sheet

ARTICLE 51. Period for cancellation

A natural or legal person whose patent, permit or concession has been cancelled, or a license, may not be authorized, either personally or through third parties, whether they are natural persons or legal entities, permits, concessions or licenses, during the ten years following the cancellation.

Article sheet

ARTICLE 52. Rights of bona fide third parties

The measures and sanctions referred to in the preceding articles shall be applied without prejudice to the rights of third parties in good faith.

In accordance with the law, those who may claim a legitimate legal interest in the goods, products or instruments will be informed of the possibility of appearing in the process in order to assert their rights.

Article sheet

ARTICLE 53. Return of goods

The court or the competent authority shall order the return of the goods, products or instruments to the claimant, when any of the following circumstances have been accredited and are fulfilled:

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- a) The claimant has a legitimate interest in the goods, products or instruments.

- b) The claimant cannot be charged with authorship of any kind or participation in an illicit trafficking offense or related offenses that are the subject of the proceeding.

- c) The claimant was unaware, through no negligence, of the illegal use of goods, products or instruments or when, having knowledge, did not voluntarily consent to their illegal use.

- d) The claimant did not acquire any right over the goods, products or instrumentalities of the defendant, in circumstances that reasonably lead to the conclusion that the right over them would have been transferred to him for the purpose of avoiding possible seizure and forfeiture.

- e) The claimant did everything reasonable to prevent the illegal use of the goods, products or instruments.

When an asset has been confiscated from a person who is innocent of the crime of which he is accused, he shall be entitled to be compensated for the damages suffered, understood as the non-use of the asset, its fruits, its deterioration or its value, if it has perished. The claim for this compensation may be made through the abbreviated process established in the Code of Civil Procedure.

Article sheet

ARTICLE 54. Alternative solutions to the trial

The confiscation referred to in this Law shall also proceed when alternative solutions to the trial are applied.

Article sheet

ARTICLE 55. Payment of fines

When the convicted person is unable to pay the fine in cash, his personal property that was not used in the commission of the offense shall be seized, up to an amount equivalent to the fine to be paid, in accordance with the appraisal made by an expert appointed by the court hearing the case. For these purposes, the seized goods shall be auctioned and any surplus, after deduction of the corresponding fine, the cost of the appraisal and the execution of the auction, shall be returned to the original owner of the goods.

The fine to be paid in favor of the victim shall be deposited by the court that heard the case, in a special PANI bank account exclusively for the deposit and disbursement of monies from this type of fine. PANI shall keep separate accounts for each case.

Article sheet

ARTICLE 56. Procedure for disbursement in favor of the legal guardians of the victims

The disbursement in favor of the legal guardians of the victims, of the monies referred to in Articles 43 and 44 of this Law, shall be made by check in favor of the service provider, in accordance with the following definition of priorities:

- a) Hiring of urgent medical treatment for the minor victim, in the event that this cannot be provided in a timely manner by the services of the Costa Rican Social Security Fund (CCSS).

- b) Private psychiatric or psychological treatment and therapy, individual and family, for the minor victim, in accordance with the opinion of PANI psychologists.

c) In the event that payments are required for materials, uniforms or any other goods necessary for the preschool, first, second and third cycles of General Basic Education of the minor victim.

d) Improvements to the victim's home, provided they directly affect the welfare of the minor.

e) Any other needs expressed by the legal guardians of the minor victim, provided that they directly affect his or her social, economic and recreational well-being.

For the purposes of this article, PANI shall ensure that interdisciplinary care is provided to minors who are victims of the crimes referred to in this Law.

Article sheet

CHAPTER VII FINAL

PROVISIONS

Addition of Article 18 bis to Law No. 8642.

Add Article 18 bis to the General Telecommunications Law, No. 8642, of June 4, 2008. The text shall read as follows:

"Article 18 bis.

For the granting of any concession contract stipulated in this Law, the concessionaire shall comply with all the technical requirements that guarantee immediate access to the Judicial Communications Intervention Center (CJIC) contemplated in the Law against organized crime, according to the scope of that normative body."

Article sheet

Addition of subsection g) to item 1 of Article 22 of Law No. 8642.

Add item g) to item 1) of Article 22 of the General Telecommunications Law, No. 8642, of June 4, 2008. The text shall read as follows:

"Revocation and termination of concessions, authorizations and permits.

[.]

1. The termination of the concession contract proceeds for the following causes:

g) Failure to provide immediate access of communications to the Judicial Communications Intervention Center (CJIC) under the terms and provisions established in the Law against organized crime. This infraction shall be classified as very serious, according to the provisions of Article 68 (a) of this Law.

[.]"

Article sheet

Addition of article 310 bis to the Penal Code.

Add Article 310 bis to the Penal Code.

"Article 310 bis.- Illegal use of police uniforms, insignia or devices.

1) Whoever, without being a police authority, uses uniforms, garments or insignia of any of the police forces of the country, the Fire Department, the Red Cross or the Public Prosecutor's Office, shall be punished with imprisonment from six months to one year.

2) Whoever, with the purpose of committing a crime, uses, exhibits, carries or identifies himself with clothing, uniforms, insignia or badges equal or similar to those used by any of the police forces of the country, the Fire Department, the Red Cross or the Public Prosecutor's Office, shall be sentenced to three to five years' imprisonment.

3) The conducts described in paragraphs 1) and 2) above shall be punishable by imprisonment for a term of five to eight years, when the purpose is to commit a felony."

Article sheet

CHAPTER VIII

TRANSITIONAL PROVISIONS

TRANSITIONAL I.-

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Within the twelve months following the effective date of this Law, the Superior Council of the Judiciary and the Costa Rican Electricity Institute (ICE) shall coordinate the necessary for the definitive opening of the Judicial Communications Intervention Center (CJIC).

TRANSITORY II.

Within three months following the enactment of this Law, the Supreme Court of Justice shall submit to the Ministry of Finance, on a one-time basis, a request for an extraordinary budget to finance the Judicial Communications Intervention Center (CJIC) until the end of that calendar year. Thereafter, the expenses required for its operation shall be included in the regular budget that the Supreme Court of Justice submits each year to the Ministry of Finance.

TRANSITORY III.

The protocol for access and use of the information referred to in Article 11 of this Law shall be drafted no later than three months after the entry into force of this Law. Under no circumstances may the Police Information Platform (PIP) enter into operation without the respective protocol being in force.

TRANSITORY IV.

The ICD employees who, prior to the enactment of this Law, are in interim status, shall comply with the recruitment and selection provisions set forth in the law.

TRANSITORY

ARTICLE V.- Article

Tab

The provisions contained in Articles 31 and 32 of this Law shall be applicable to vehicles seized and confiscated by means of Law No. 8204 and which are in the custody of the ICD at the time this Law enters into force.

TRANSITORY VI.

The regulations that will establish the cooperation mechanisms between PANI, the Judiciary and the other entities involved, shall be issued within a maximum term of six months after the entry into force of this Law.

Article sheet

TRANSITORY VII.- Judicial deposit of vessels and navigation equipment.

If the seizure of vessels and navigation equipment is ordered by the provisions of this Law or Law No. 8204, these shall be immediately and exclusively deposited with the National Coast Guard Service. This Institution will have to destine these goods to the fulfillment of the purposes described in Law No. 8000. Before their use, they must insure them for their value, with the purpose of guaranteeing a possible compensation for loss or destruction. In the case of goods registered in the National Registry, the authority hearing the case shall immediately order the respective annotation and communicate it to the National Coast Guard Service.

From the moment of the designation of the National Coast Guard Service as judicial depository, in accordance with the present Law and Law No. 8204, the assets shall be exempted as of right from the payment of any kind of taxes, fees, rates, charges, stamps, circulation rights and any other form of contribution.

Effective as of its publication.

Given at the Presidency of the Republic, San José, on the twenty-second day of July, two thousand nine.

Article sheet

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