

LAW NO. 115 DATED OCTOBER 16, 1996

**FOR THE DECLARATION AND CONTROL OF ASSETS OF THE OFFICIALS,
MAGISTRATES, OF PERSONS HOLDING MANAGEMENT AND CONTROL
POSITIONS AND OF PUBLIC OFFICIALS**

- AFTER PUBLICATION OF LAW NO. 176/2010 -

NOTE:

Are not included in the updated text the changes made by article 61 point 4 of Law no. 144/2007, with ulterior amendments. We reproduce below these provisions.

"4. throughout the content of Law no. 115/1996, the expression <<Investigation Committee>> is replaced by the designation <National Integrity Agency>>."

The Parliament of Romania adopts the present law.

Article 35 – Law no. 115/1996 for the declaration and control of assets evaluation of the officials, magistrates, of persons holding management and control positions and of public officials, published in the Official Gazette, Part I, no. 263 dated 28 October 1996, with subsequent amendments, will be completed and supplemented as follows:

*Article 1 *** Repealed*

Cap. 1

Assets declaration

*Article 2 *** Repealed*

Article 3 is repealed.

Cap. 2

Control of assets

*Article 7 *** Repealed*

A. Research Commission

*Article 8 *** Repealed*

*Article 9 *** Repealed*

Article 10

Article 10 will have the following content:

"Article 10 - (1) In addition to each court of appeal will operate a wealth Investigation Committee, hereinafter called "Investigation Committee" composed of:

- a) 2 Court of Appeal judges, appointed by its President, out of which one acts as chairman;*
- b) 1 prosecutor from the Prosecutor's Office that works with the court of appeal, appointed by the Prime Prosecutor of the institution above mentioned.*

(2) The President and Investigation Committee members are appointed for a period of three years. For the same period, and by the same persons will be appointed three surrogates who will replace the holders if they, by legal reasons, will not be able to take part in the proceedings of the research.

(3) The Investigation Committee has a secretary appointed by the President of the Court of Appeal out of the court clerks. "

After article 10 are introduced four new articles, article 10¹-10⁴, with the following content:

Article 10¹- The Investigation Committee will start the control action once it is brought to its attention by the National Integrity Agency with the evaluation report.

Article 10² - (1) The documents and proceedings of the Investigation Committee are not public. The person concerned may inspect the documents and the files and may be assisted by an attorney.

(2) The President may urgently summon the Investigation Committee, the representative of the National Integrity Agency and the person whose property is subject to review and spouse, if applicable, to be heard . Investigation Committee may summon any person who can give useful information in order to clarify the origin of property of the controlled person and may require government or any other legal information necessary to resolve the case. Those who, in the period under review, have acquired property from the person subject to investigation will automatically be heard.

(3) The Investigation Committee may conduct local investigation or it may ask for an expert for the clarification of the case.

(4) The investigations conducted by persons other than members of the Investigation Committee are null.

Article 10³ - The persons summoned in front of the Investigation Committee will be all heard and will have the opportunity to present evidence which gave rise to the assessment report. The person whose property is subject to the investigation by the Investigation Committee will be able to produce evidence in its defense or it may request their administration by the Investigation Committee and, if it considers necessary, may submit a statement that will show income and the acquisition of wealth.

Article 10⁴ - (1) The Investigation Committee decides, by majority of votes, within three months from the date of referral, giving a reasoned order, through which it may dispose:
a) Submitting the case to the Court of Appeal afferent to the residence of the person whose property is subject to investigation if it finds, based on the evidence, that the acquisition of a share of it or certain specific assets is not legally justified;

b) Dismissal, if it finds that the origin of goods is justified;

c) Suspension of the control and referral to the competent Prosecutor's Office, whether the goods whose origin is unjustified represents an offense.

(2) The ordinance of dismissal shall be communicated to the parties and Prosecutor's Office by the Court of Appeal that works in range of Investigation Committee, if the case, to the Prosecutor's Office by the High Court of Cassation and Justice or fiscal institutions.

(3) The control is resumed by the Investigation Committee if:

a) After the dismissal of the case appear new elements that can lead to a contrary solution;

b) The prosecuting authority, after conducting the investigation, in the situation referred to in paragraph (1), letter c), do not refer to the Criminal Court of Justice. "

Article 11 *** Repealed

Article 12 *** Repealed

Article 13 *** Repealed

Article 14

At Article 14, alignment (2) is repealed.

*(1) *** Repealed*

(2) Repealed

Article 15

The control is resumed by the Investigation Committee if:

a) After the dismissal of the case appear new elements that can lead to a contrary approach.

*b) repealed ****

B. The court

Article 16

(1) The President of the Court of Appeal or the President of the Criminal Prosecution & Forensics Section, receiving the file, fixates the judgment term, according to law, and summons all parties that has been called the Agency. The state, through the Ministry of Economy and Finance, will always be summoned in the Court. The participation of the Prosecutor and of the National Integrity Agency is required.

*(2) *** Repealed*

Article 17

(1) The proceedings shall start based on evidence produced before the Investigation Committee. On the first day of hearing, the parties may ask for new evidence and the Court Of Appeal will have their approval, granting a new term.

(2) Until the final solution of the case, the Court may order the seizure of goods, if such action was not taken in terms of Article 13.

Article 18

(1) If it is ascertained that the acquisition of certain specified good or a certain part of certain good is not justified, the Court of Appeal will decide either to confiscate or to pay a sum of money equal with the value of the goods, as determined by the Court on the basis of expertise. If the Court decides it had to be paid a sum of money equal with the value of the goods it will determine the term of payment.

(2) *If in connection with goods whose origin is unjustified and represents an offense, the Court remits the case to the competent Prosecutor's Office, to consider whether it is the case to bring criminal action.*

(3) *If it is found that the origin of property is justified, the court decides to close the case.*

C. Appeal

Article 19 *** Repealed

Article 20

The Court of Appeals rulings – Administrative Section may be appealed by the interested parties, by the Agency and the Prosecutor, within 15 days of notification, at the High Court of Cassation and Justice - the Administrative Section.

Cap. 3

Special Procedures

Article 21 *** Repealed

Article 22 *** Repealed

Article 23 *** Repealed

Article 24 Article 24 is repealed.

Article 25

The wealth of the President of Romania can be studied only after ending the exercise of office, and during the mandate its wealth can be investigated only upon request or based on the decision of the Romanian Parliament adopted with a majority of deputies and senators votes. In this case, the Romanian President may explain to the Parliament the facts it is accused.

Cap. 4

Final Provisions

Article 26 Article 26 (1) will have the following content:

"Art.26 - (1) The legal decision that remained irrevocable, stating that the acquisition of a certain part of the wealth or several determined goods do not have a justified character will be published in the Official Gazette Part III and it is communicated to the National Integrity Agency as well as to the specialized body of the Ministry of Finance where is the domicile of the person whose property was searched, in order to be enforced/seized. The publication expenses are bearded by the budget of the Ministry of Justice. "

(2) The confiscated property will be used by selling it in auction, thus the income amounts received will become income at the state budget. The starting price in the auction may not be less than the value of goods determined by the court on the basis of expertise.

(3) The sale of goods and collection of debts established under the present Law shall be made by tax authorities in accordance with legal provisions relating to enforcement against individuals for not paying debts owed to the state.

(4) The expenditures made for the storage, preservation and enhancement of the seized goods will be deducted from amounts obtained from their sale.

Article 27

If the seized goods are rare objects or made of precious metals, securities, foreign means of payment, art objects, valuable collections and museum objects, they are to be submitted to the National Bank or, as appropriate, Ministry of Culture to exploit the auction.

Article 28 Article 28 (3) will have the following content:

(1) The investigation and proceed procedure regarding the origins of goods, started on a person continues against its successors.

(2) The investigation can be started directly against the heirs, but only within three years period after the heritage sequence opening. The heirs are liable only to the amount of assets of the estate.

(3) The investigation request regarding the wealth of a person who held a public office or dignity of those specified in this Law, may be made not later than three years after the end of office or its removal from the position. "

Article 29

All pleadings in this matter are exempt from any stamp duty, and if recovery by selling goods at auction, do not charge VAT.

Article 30

Amounts necessary for advancing the expertise of its own motion are to be paid from a fund provided in the budget of the Ministry of Justice, in case of dismissal of the case being paid from the state budget.

Article 31

The provisions of this Law are completed with the ones from the Code of Civil Procedure and those regarding the execution of the budget claims.

Article 32 *** Repealed

Article 33

(1) A person whose property has been declared, in whole or in part, unjustified by an irrevocable court will be dismissed or withdrawn, as appropriate, from the function they have.

(2) The Deputy or Senator whose wealth was declared unjustified by irrevocable court decision is considered incompatible.

Article 34

In this Act, a public official is a person appointed or elected into a public office, permanently in the service of a public or local authority or a public institution subordinated to it. Public officials may also be in the autonomous institutions.

Article 35 *** Repealed

Article 36 *** Repealed

Article 37 *** Repealed

Article 38 *** Repealed

Article 39 *** Repealed

Article 40

*Upon entry into force of this law is repealed Law no. 18/1968 regarding the control of origin of goods by individuals who were lawfully acquired, the provisions of Article 68 paragraph (3) of Law no. 68/1992 *) election for the Chamber of Deputies and the Senate, Article 69 of Law no. 58/1991**) regarding the privatization of the companies and Government Decision no. 473/1993 referring to the declaration of assets by public officials of the executive authorities, and any contrary provisions.*

*) Law no. 68/1992 was repealed by Law no. 373/2004.

**) Law no. 58/1991 was repealed by the Government Emergency Ordinance no. 88/1997.