

Art. 69

Confiscation
a. Confiscation
of dangerous
objects

¹ The court shall, irrespective of the criminal liability of any person, order the confiscation of objects that have been used or were intended to be used for the commission of a criminal offence or that have been produced as a result of the commission of a criminal offence in the event that such objects constitute a future danger to public safety, morality or public order.

² The court may order that the objects confiscated be rendered unusable or be destroyed.

Art. 70

b. Confiscation
of assets.

¹ The court shall order the confiscation of assets that have been acquired through the commission of a criminal offence or that are intended to be used in the commission of a criminal offence or as payment therefor, provided that the assets are not passed on to the person harmed for the purpose of restoring him to his prior legal position.

² Confiscation is not permitted if a third party has acquired the assets in ignorance of the grounds for confiscation and provided he has paid a consideration of equal value therefor or that confiscation would cause him to endure disproportionate hardship.

³ The right to confiscate prescribes after seven years; if, however, the prosecution of the offence is subject to a longer prescriptive period, this period also applies to the right to confiscate.

⁴ Official notice must be given of confiscation. The rights of injured parties or third parties expire five years after the date on which official notice is given.

⁵ If the amount of the assets to be confiscated cannot be ascertained, or may be ascertained only by incurring a disproportionate level of trouble and expense, the court may make an estimate.

Principles

Art. 71

Compensatory
claim

¹ If the assets subject to confiscation are no longer available, the court may uphold a claim for compensation by the State in respect of a sum of equivalent value, which claim may only be enforced against a third party provided he is not excluded in terms of Article 70 paragraph 2.

² The court may dismiss a claim for compensation in its entirety or in part if the claim is likely to be unrecoverable or if the claim would seriously hinder the rehabilitation of the person affected.

³ The investigating authorities may seize assets of the person affected with a view to the enforcement of a claim for compensation. Such seizure does not accord the State preferential rights in the enforcement of the claim for compensation.

Art. 72

Confiscation
of assets of a
criminal
organisation

The court shall order the confiscation of all assets that are subject to the power of disposal of any criminal organisation. In the case of the assets of a person who participates in or supports a criminal organisation (art. 260^{ter}), it is presumed that the assets are subject to the power of disposal of the organisation until the contrary is proven.