



TOMIĆ STEVIĆ DULIĆ

ADVOKATSKA KANCELARIJA

TSD NEWSLETTER

Advokatska kancelarija TOMIĆ STEVIĆ DULIĆ informiše o aktuelnostima u radu Kancelarije i u zakonodavnom reljefu RS / Die Rechtsanwaltskanzlei TOMIĆ STEVIĆ DULIĆ informiert über aktuelle Themen der Kanzlei und über den Rechtsrahmen der RS / The TOMIĆ STEVIĆ DULIĆ Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора TOMIĆ STEVIĆ DULIĆ информирует о самых актуальных событиях, о работе конторы и законодательном релiefe РС / Glavni urednik/ Chefredakteur / Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proof reader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Danijela Stanić, Magda Braun / **Br. 35/11**

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CONTENT:

1. Entry into force of the Law on Restitution of Confiscated Property and Compensation

Entry into force of the Law on Restitution of Confiscated Property and Compensation ("Official Gazette of the RS", No. 72/2011)

On 6 October 2011, the Law on Restitution of Confiscated Property and Compensation came into force, providing for the conditions, procedure and method of restitution of confiscated property in the territory of the Republic of Serbia and compensation.

Restitution rights are available to domestic natural persons who are former owners of the confiscated property, their lawful heirs, endowments whose property was confiscated, natural persons who recovered their property, which had been confiscated, for a consideration, natural persons who concluded a purchase agreement with a government authority between 1945 and 1958, if it is established in court proceedings that the amount of the paid purchase price was to their disadvantage, as well as natural persons - foreign citizens - based on reciprocity conditions.

Restitution rights are not available to foreign citizens or their lawful heirs in respect of whom a foreign country assumed the compensation responsibility under an international agreement; natural persons - foreign citizens or their lawful heirs who received compensation or were granted the right to property restitution under a law of a foreign country even though there was no international agreement, and persons who were members of the occupation forces in the WWII and their heirs.

I. Methods of Property Restitution

a) The Principle of Priority of Natural Restitution

The Law provides for the principle of priority of natural restitution, and where this is not available, the former owners are entitled to compensation.

The law provides for protection of the acquired rights, thus the owners of real property, who acquired the title to property after confiscation, shall not have their acquired rights violated.

Thus the subject of restitution may be only the property owned by the Republic of Serbia, Autonomous Province, local self-government unit (property in state, social and cooperative ownership except for property in social and cooperative ownership which the holder acquired for a fee).





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b) Compensation

Where natural restitution is not possible, the Law provides for compensation of former owners in the form of government bonds of the Republic of Serbia and in cash for advance payment of compensation.

The amount of compensation shall depend on the value of the confiscated property and the total number of submitted and accepted claims for restitution of the confiscated property, however the Law prescribes that a maximum of 500,000.00 EUR may be recovered based on confiscated property per owner.

The compensation basis for confiscated real property shall be equal to the value of real property assessed by the Tax Administration, and the amount of compensation shall be determined by multiplying the compensation basis with the coefficient equal to the ratio between two billion EUR to be assigned for restitution purposes by the Republic of Serbia and the total sum of the individual compensation bases determined by decisions on compensation right.

Towards repaying the restitution debt, the Republic of Serbia shall issue bonds collectable over the next 15 years, payable in annual installments starting from 2015, with the exception of the bonds issued to persons above 70 and 65 as at the day of entry into force of the Law (6 October 2011), which shall be collectible within five and 10 years, respectively.

Under the Law, the Republic of Serbia shall make advance payment of compensation in cash to a former owner, based on a final decision on restitution rights, in the amount of 10 % of the compensation basis.

II. Submission of claims

Restitution claim may be submitted by former owners of the confiscated property their lawful heirs or lawful successors, regardless of whether or not they have submitted a report on confiscated property in accordance with the Law on Reporting and Recording Confiscated Property ("Official Gazette of the RS", No. 45/05).

The Restitution Agency shall be in charge of restitution procedure. The Agency shall publish an invitation for restitution claims in no less than two daily newspapers with a circulation covering the entire territory of Serbia, and post it at the official website of the Ministry in charge of finances and the Agency's operation, within 120 days of the day of entry into force of the Law (by not later than 3 February 2012).

a) Deadline for submitting claims and decisions on claims

A claim must be submitted within two years from the date the Agency publishes a public invitation for restitution claims.



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b) Required evidence in support of the claim

The claim must be supported by any and all evidence related to the confiscated property (decision on confiscation of property, evidence on the current status of real property, certificate from the Republican Agency for Geodesy on correspondence of the old and new surveys of cadastral plots), evidence of relation with the former owners of real property (birth certificates with probate judgements for persons having legal relations with former owners).

In addition, persons with a foreign citizenship are obliged to provide evidence of no impediments to the exercise of restitution rights (please see Paragraph I Item b).

Within six months from the receipt of a complete claim, the Restitution Agency is obliged to render its decision on restitution of property or compensation, and in particularly complicated cases, within one year from the receipt of a complete claim. Incomplete claims shall be rejected and may be resubmitted if they were rejected before the expiry of the deadline for submission of claims.

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