

46) The Act is amended by adding Chapter 4¹ worded as follows:

“Chapter 4¹

Using the assets of a subject of an international sanction as prepayment of compensation for damage

§ 29¹. Using the assets of a subject of an international sanction as prepayment of compensation for damage

(1) The Ministry of Foreign Affairs may, taking into consideration the purposes established by Section 3 (1) of this Act, decide to use the funds, or other assets of a subject of an international sanction (hereinafter the *assets*) as prepayment of the compensation for the damage caused to a foreign state if the damage has been caused by a violation of the prohibition on the use of force arising from Article 2 (4) of the United Nations Charter or a violation of the rules of warfare during the unlawful use of armed forces (hereinafter the *unlawful act*).

(2) The prerequisites for using the assets are damage caused by the commission of the unlawful act, a claim for compensation for damage submitted by the affected foreign state to the foreign state which caused the damage, a partial or full failure by the state which caused the damage to satisfy the claim within a reasonable period of time, and a request by the affected foreign state, an international organisation, or an internationally acknowledged compensation mechanism related to the claim to use the assets of a subject of an international sanction as prepayment of compensation for damage.

(3) The measure may be applied to the following persons of a foreign state who have caused damage by their unlawful act and received a claim for compensation of damage:

- 1) an entity or a legal person established in this state that is under the control of the respective state or of which more than 50% is owned by that state and which has financially or materially supported the commission of the unlawful act;
- 2) a natural or legal person whose connection to the commission of an unlawful act or aiding such act has been identified and proven sufficiently.

§ 29². Deciding the use of assets as prepayment of compensation for damage

(1) In order to use assets as prepayment of compensation for damage, the Ministry of Foreign Affairs will conduct an administrative procedure and establish the following circumstances for the purposes of meeting the prerequisites set out in Section 29¹ of this Act:

- 1) unlawful act has caused damage, which has been proven and which must be compensated for pursuant to international law;
- 2) the affected foreign state has submitted a claim for compensation of damage to the foreign state that caused the damage, and the claim has not been satisfied within a reasonable period of time;
- 3) the affected foreign state, an international organisation, or an internationally acknowledged compensation mechanism related to the claim has submitted a request to the state of Estonia to use the assets of a subject of an international sanction as prepayment of compensation for damage, and the terms and conditions for using the assets as prepayment of compensation for damage and assignment of the right of claim to the owner of the assets, set out in Section 29⁴ of this Act, have been agreed upon;
- 4) the connection of the entity or person referred to in Section 29¹ (3)1) of this Act with the foreign state that caused the damage and the commission of the unlawful act, and the connection of the natural or legal person referred to in Section 29¹ (3)2) of this Act with the commission of or aiding the commission of the unlawful act described in that subsection;
- 5) the assets to be used as prepayment of compensation for damage belong to the person referred to in Section 29¹ (3) of this Act;
- 6) there are no exceptional circumstances due to which the interests of the person would outweigh the need to implement the measure.

(2) The person whose assets are to be used as prepayment of compensation for damage will be informed of the opening of the administrative procedure by electronic means, by post or by other means. If it is not possible to inform the person by electronic means, by post or by other means, the Ministry of Foreign Affairs will publish a notification on initiating an administrative procedure in at least one national newspaper and the official publication *Ametlikud Teadaanded* within ten days as of the initiation of the procedure.

(3) The decision of the Ministry of Foreign Affairs to use assets as prepayment of compensation for damage must contain the following data and circumstances:

1) the name, personal identification code (or, in the absence of a personal identification code, date and year of birth), known residence or seat, and address of the owner of the assets to be used as prepayment of compensation for damage;

2) information about the assets to be used as prepayment of compensation for damage, including the description, location and value of the assets;

3) explanations about the occurrence of the circumstances set out in subsection (1) of this Section and the justifications for using the assets as prepayment of compensation for damage;

4) confirmation about the right of claim of compensation.

(4) The person regarding whose assets a decision on using the assets as prepayment of compensation for damage has been made will be delivered the decision referred to in subsection (3) of this Section by electronic means, by post or by other means. If it is not possible to deliver the decision by electronic means, by post or by other means, the Ministry of Foreign Affairs will publish the operative part of the decision in at least one national newspaper and the official publication *Ametlikud Teadaanded*.

(5) If the person whose assets are used as prepayment of compensation for damage based on a decision of the Ministry of Foreign Affairs contests the decision in administrative court, the validity of the decision will be suspended for the duration of court proceedings.

§ 29³. Management and sale of the assets used as prepayment of compensation for damage

(1) The Ministry of Foreign Affairs will organise the possession of the funds until the funds are handed over to the affected foreign state, an international organisation, or an internationally acknowledged compensation mechanism related to the claim. Other assets will be sold by an enforcement agent on the basis of an order of the Ministry of Foreign Affairs in a public auction pursuant, by another method or under supervision of the enforcement agent in accordance with the procedure set out in the Code of Enforcement Procedure. The decision of the Ministry of Foreign Affairs to use the assets as prepayment of compensation for damage is an enforceable title within the meaning of Section 2 (1)21) of the Code of Enforcement Procedure.

(2) The assets are appraised by an enforcement agent on the basis of the usual value of such assets. If the enforcement agent is unable to determine the price of the assets, the enforcement agent commissions an expert to appraise the assets.

(3) The costs of storage of the assets and the enforcement expenses will be deducted from the proceeds from the sale of the assets, and the remaining amount will be handed over to the affected foreign state, an international organisation, or an internationally acknowledged compensation mechanism. All expenses incurred by the state of Estonia for the preservation of the assets are deemed to be costs of storage of the assets.

§ 29⁴. Transfer of the right of claim

(1) The person referred to in Section 29¹ (3) of this Act whose assets have been used as prepayment of compensation for damage will acquire a freely transferable and inheritable right of claim in the amount of the value of the assets used for compensation for damage in respect of the compensation owed to the affected foreign state by the foreign state that caused damage by its unlawful act.

(2) The terms and conditions for using the right of claim will be agreed upon in a treaty between the Republic of Estonia and the affected foreign state, an international organisation, or an internationally acknowledged compensation mechanism related to the claim.”