

UDK: 343.272
343.296
347.922.1:347.513
doi: 10.5937/crimen2503383T

ORIGINALNI NAUČNI RAD
PRIMLJEN/ PRIHVAĆEN 28.4.2025 / 15.5.2025.

*Silvija Tripalo**

CIVIL LAW VS. CRIMINAL LAW: THE LEGAL CROSSROADS OF ASSET CONFISCATION AND PROPERTY CLAIMS

Abstract: This paper examines the intersection of civil and criminal law institutes in the context of property claims and the confiscation of property benefits acquired through criminal offences. It compares the procedural and substantive nature of property claims – most commonly submitted within criminal proceedings through the adhesion procedure or separately via civil lawsuits – with the criminal law measure of confiscation. Special attention is given to the legal differences, purposes, and practical challenges of these two institutes. Although both aim to address the financial consequences of criminal conduct, a property claim focuses on compensating the injured party, while confiscation primarily seeks to deprive perpetrator of illicit gain. Through the analysis of Croatian legislation, court practice, and a detailed case study involving conflicting outcomes between criminal and civil proceedings, the paper reveals misinterpretations of legal principles such as *ne bis in idem*, *res judicata*, and double recovery. The analysis highlights that, following the repeal of the Act on the Procedure for the Confiscation of Property Benefits in 2017, there is currently no legal framework enabling compensation of injured parties from confiscated assets. Consequently, both the state and the injured party may seek recovery from the same asset pool, potentially leading to unjust enrichment, legal uncertainty and double recovery problem.

Keywords: property claim, confiscation of property benefits, compensation for damages, criminal procedure, civil procedure.

1. INTRODUCTION

It is well known that the same event can simultaneously constitute both a civil law matter and a criminal law matter. In criminal (adhesion) proceedings, criminal courts have jurisdiction to resolve and determine matters arising from relationships

* PhD student at the Ferenc Deák Doctoral School of Faculty of Law of the University of Miskolc and researcher at the Central European Academy, silvija.tripalo@centraleuropeanacademy.hu, ORCID: <https://orcid.org/0009-0006-2082-3794>.

governed by substantive civil law, especially civil law matters concerning damages arising from the criminal offence. Property claims in criminal proceedings address and resolve relationships governed by the rules of substantive civil law. Given the broad scope of civil law, this paper will focus on a property claim for damages, submitted within criminal proceedings in comparison to civil procedure initiated by a lawsuit for compensation of damages. This paper will place particular emphasis on the differences between these institutes of a civil law nature and the criminal law institute of confiscation of property benefit.

The adhesion procedure is essentially a civil procedure attached to a criminal proceeding, within which the criminal court resolves property related disputes arising from the committed criminal offence. “Therefore, the property claim is defined as an ancillary matter of a civil-law nature within criminal proceedings, known as adhesion proceedings...”¹ This means that the criminal court, which determines guilt, also resolves the civil dispute within the criminal procedure, deciding upon compensation for damages or another civil law related issue linked to the criminal offence. This adhesion procedural arrangement arises from the principle of efficiency, but at the same time it serves the purpose of avoiding double victimization and disables unnecessary re-engagement of the judicial system.²

2. ADHESION AND CIVIL PROCEEDINGS

In civil proceedings, the court discusses and establishes facts within the framework defined by the lawsuit, which depends exclusively on the plaintiff’s discretion. In contrast, criminal proceedings for most criminal offences are conducted *ex officio*, meaning independently of the victim’s or injured party’s initiative,³ upon initiative of the prosecuting body – State Attorney’s request. Furthermore, criminal courts and prosecuting authorities have broader powers to establish facts relevant to determining criminal liability than civil courts do when ruling on a lawsuit, which is entirely determined by the plaintiff (the basis and the quantified value of the civil claim), who thereby independently and fully defines the subject matter of the civil proceedings in accordance with the principle of party autonomy.

- 1 M. Galot, V. Brzić Bahun /2022/, *Osiguranje imovinskopravnog zahtjeva*, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, Rijeka, p. 791.
- 2 D. Tripalo, T. Brđanović /2023/, *Imovinskopravni zahtjev, odluka o imovinskopravnom zahtjevu, oduzimanje imovinske koristi i privremene mjere osiguranja – teorijski i praktični aspekti za suce i državne odvjetnike – Priručnik za polaznike/ice*, Zagreb, p. 6 stated: “The principles related to the decision-making on a property claim include the principle of efficiency, the principle of avoiding double victimization, as well as the issue of procedural costs.”
- 3 The Criminal Procedure Act currently in force recognizes three categories of authorized prosecutors at whose request criminal proceedings are initiated, see Article 2, paragraph 2 of the Criminal Procedure Act. The current Criminal Procedure Act was published in the Official Gazette of the Republic of Croatia, “Narodne novine”, No. 152/08, 76/09, 80/11, 121/11 (consolidated text), 91/12 (Decision of the Constitutional Court of the Republic of Croatia), 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 80/22, and 36/24.

Both of these procedures, adhesion and civil procedure share the same goal, to grant protection of subjective right that was infringed.⁴ It is highly beneficial for the same court that rules on guilt in a criminal case to also address the related civil claim resulting from the criminal offence.

Primarily, the main task of the criminal court is to determine whether a person has committed a criminal offence and, if found guilty, to impose a criminal sanction, whereas the main task of the civil court is to rule on the lawsuit.⁵ Despite the primary role of the criminal court, the rights of the injured party in criminal proceedings are thoroughly regulated and guaranteed by both substantive and procedural criminal legal provisions, and "...compensation for damage caused by a criminal offence indeed emerges as one of the fundamental imperatives for achieving the purpose of punishment and conducting criminal proceedings."⁶

"This avoids the need for courts to judge, due to the same life event, in two different proceedings, which also leads to a reduction in the number of cases that are primarily resolved in civil proceedings, and at the same time avoids the possibility of rendering contradictory decisions."⁷ It is important to emphasize that since the parties in those proceedings have different roles, they have also different rights and guarantees depending on the initiated procedure, due to the differences between those proceedings.

Some authors argue that "...the position of the parties in the adhesion procedure is not equal to the position of parties in a regular civil procedure, which constitutes a violation of the right to equal legal protection..."⁸

Despite the general precedence of the property claim over the confiscation of illicit property benefit, it may occur that the unlawfully obtained benefit is confiscated from the defendant, who is simultaneously the liable party, in favour of the state budget, either through enforcement proceedings in which the Republic of Croatia is the holder of that right, or through the defendant's voluntary payment of the amount determined as property benefit into the state budget. Meanwhile, the injured party may obtain compensation for damages directly from the defendant in an enforcement proceedings (if he succeeded with the claim for compensation or property claim and has the final judgment in his favour). In such a scenario, a double recovery from the defendant's asset pool may occur, which is contrary to the intended purpose of the confiscation of property benefits.

4 M. Vedriš, P. Klarić /2003/, *Građansko pravo: opći dio, stvarno pravo, obvezno i nasljedno pravo*, Zagreb, p. 65 – Subjective right is defined as a set of entitlements granted to a legal subject within a specific civil law relationship, as recognized by the norms of objective civil law.

5 A detailed overview of the similarities and differences between civil and criminal proceedings can be found in M. Galiot, V. Brzić Bahun /2021/, *Položaj oštećenika u adhezijskom postupku*, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, Rijeka.

6 I. Grubišić /2014/, *Imovinskopravni zahtjev prema okrivljeniku odgovornoj osobi kada je kaznenim djelom pribavio imovinsku korist za pravnu osobu*, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, Rijeka, p. 745.

7 M. Galiot, V. Brzić Bahun /2021/, *op. cit.*, p. 467.

8 D. Šago, M. Pleić /2012/, *Adhezijsko rješavanje imovinskopravnog zahtjeva u kaznenom postupku*, in: *Zbornik Pravnog fakulteta sveučilišta u Rijeci*, Rijeka, pp. 967–999.

Conversely, it may also happen that neither the unlawful property benefit is successfully confiscated from the defendant into the State budget, nor is the injured party able to recover compensation from him.

3. RELATIONSHIP BETWEEN PROPERTY CLAIMS AND CONFISCATION OF PROPERTY BENEFITS

3.1. *Property claim*

“The property claim enables the injured party to pursue their civil law claim, arising from the fact that a criminal offence caused a damage for the injured party, within the framework of the criminal proceedings against the defendant.”⁹

The subject and content of the property claim made within the criminal procedure and the claim made in the civil procedure are *ratione materiae* identical.

Previously, the Criminal Procedure Act¹⁰ explicitly defined the subject matter of a property claim, restricting it to compensation for damages, restitution of property, and annulment of legal transactions.¹¹ Currently, the Criminal Procedure Act explicitly¹² stipulates that the subject of a property claim may be anything that can be the subject of a claim in civil litigation, although in practice, it will most commonly pertain to compensation for damages. Therefore, this paper will use a practical example to clarify the relationship between these two institutes and their connection and relation to the institute of confiscation of property benefit.

Property claim has primacy in relationship to the confiscation of property benefit, but only if injured party has the basis in form of final civil court’s judgement brought upon a claim for damages, or final criminal court’s judgement brought upon a property claim, and which judgements determine a substance and the amount regarding those claims.

A property claim that arose due to the commission of a criminal offence shall be discussed upon the motion of the injured party if this would not significantly prolong the criminal proceedings.¹³ In criminal theory legal standard *would not significantly prolong* was criticized because “such an imprecise term allows for its varying interpretation, including the possibility that the court, even without justified reasons, refers the injured party to civil litigation.”¹⁴

Additionally, in cases where the information available in the criminal procedure, despite establishing the perpetrator’s guilt, does not provide a reliable basis for

9 I. Grubišić /2014/, *op. cit.*, p. 741.

10 Former Criminal Procedure Act from 1997, was published in the Official Gazette of the Republic of Croatia “Narodne novine” No. 110/97, 27/98, 58/99, 112/99, 58/02, 143/02, 62/03, 178/04, 115/06, 152/08, 76/09, 80/11, and 143/12.

11 The Criminal Procedure Act from 2008 expanded the scope of the property claim to the form in which it is regulated today. Previous Art. 127. Pr. 2. Criminal Procedure from 1997.

12 Art. 153. Pr. 2 of Criminal Procedure Act currently in force.

13 Art. 153. Pr. 1 Criminal Proceeding Act currently in force.

14 M. Galot, V. Brzić Bahun /2021/, *op. cit.*, p. 463.

either a full or partial ruling on the property claim, the criminal court must refer the injured party to pursue the claim in a civil lawsuit.¹⁵

Criminal court deciding on the property claim within the adhesion procedure cannot reject it due to procedural deficiencies; it can either accept it or refer the injured party to pursue the claim in a separate civil lawsuit.

In some cases, Croatian criminal courts, referring to the mentioned provision, direct the injured parties to pursue their compensation claims in civil proceedings, even though there was a factual basis and sufficient evidentiary support for ruling (full or partial) on the property claim within the criminal proceedings.¹⁶ This is especially problematic for the victims of offences against a sexual freedom and other criminal offences with violence and detrimental psychological, emotional and physical consequences for the victims because it generates problems of secondary victimization and repeated traumatization, especially considering that civil proceedings do not provide the same level of guarantees for the victims regarding protection of their dignity, as criminal proceedings do or should.¹⁷

3.2. Confiscation of property benefits

In the Croatian Penal Code,¹⁸ the confiscation of property benefits (both ordinary and extended¹⁹) is a special criminal law measure,²⁰ placed in Chapter VI,

- 15 Art. 158. Pr. 2. of the Criminal Procedure Act currently in force: “In a judgment by which the defendant is found guilty, the court may award the injured party’s property claim in full, or it may partially uphold the claim and refer the injured party to civil litigation for the remainder. If the data from the criminal proceedings do not provide a reliable basis for either a full or partial decision, the court shall refer the injured party to pursue the property claim through a civil lawsuit.”
- 16 Where the amount of the property claim is unequivocally established, the court is obliged to adjudicate on the claim and may not refer the injured party to pursue civil litigation. In this regard, the Croatian Supreme Court in case Kzz 42/2010-2 from October 6th, 2010, identified an error on the part of the first-instance court, which referred the injured party to civil proceedings despite the fulfilment of all legal prerequisites for adjudicating the claim.
- 17 In its recent judgment No. U-III-641/2021 from November 12th, 2024, the Constitutional Court of the Republic of Croatia addressed a criminal case in which the accused was convicted of rape. The Court held that the criminal court, by referring the injured party to pursue a compensation claim through civil proceedings, thereby obliging the victim to recount the traumatic events for a third time, engaged in conduct amounting to institutional victimization. This conclusion was particularly underscored by the fact that the criminal courts failed to provide any reasoning for their decision to deny the adjudication of the compensation claim within the criminal proceedings.
- 18 The current Croatian Penal Code was published in the Official Gazette of the Republic of Croatia, “Narodne novine”, No. 125/11, 144/12, 56/15, 61/15 (correction), 101/17, 118/18, 126/19, 84/21, 114/22, 114/23, and 36/24.
- 19 V. Marušić, M. Vučko, M. Kuštan /2020/, *Oduzimanje imovinske koristi i privremene mjere osiguranja s posebnim osvrtnom na trajanje mjera i poteškoće u praksi, Hrvatski ljetopis za kaznene znanosti i praksu*, № 2, vol. 27, pp. 471–496 – “In Croatian legislation, the asset confiscation can be distinguished by the scope of intervention in the perpetrator’s property: („ordinary“ and „extended“), [...]”
- 20 County Court in Zagreb in the case Kž 432/2015-4 from June 2nd, 2015, stated as following: “Namely, the confiscation of property benefit obtained through a criminal offence primarily serves a restorative function. For that reason, it does not constitute a form of sanction, but rather represents a specific so-called in rem measure, which follows the object or the form of benefit that was acquired.”

which also regulates the confiscation of objects and public disclosure of judgments. Regarding their position in Croatian Penal Code, this *sui generis* measure is distinct from the system of criminal law sanctions, at least nominally. Nevertheless, in author's opinion, both of these *sui generis* measures are criminal law sanctions in the broader sense, simply because they represent state response to the criminal behaviour given in criminal proceedings and can be imposed only in relation to the criminal offence (direct one in scope of ordinary confiscation, and indirect one in scope of extended confiscation).

The measure of confiscation of property benefits is based on the criminal law principle that no one may retain property benefits acquired through an unlawful act,²¹ which, according to some Croatian authors, is derived from a higher principle of justice.²²

The function of this measure, in the case of ordinary confiscation,²³ is primarily restorative,²⁴ as its goal is to restore a person's financial status to what it was before they benefited from the unlawful act, thereby preventing the profitability of committing a criminal offence. Traditionally, authorities could under ordinary confiscation only seize property benefit directly linked to proven criminal activities, in other terms, property benefit that is causally linked to the proven criminal offence or unlawful act.

It is important to emphasize that the purpose of this measure isn't for the state to gain wealth²⁵, that's just the consequence of a confiscation.

On the other hand, due to the scope of property confiscation and the shifting of the burden of proof, in extended confiscation²⁶ of property benefits, its punitive function prevails, making it impossible to insist on its restorative nature.^{27,28}

21 Art. 5 of Penal Code currently in force.

22 E. Ivičević Karas /2007/, *Kaznenopravno oduzimanje nezakonito stečene imovinske koristi*, in: *Hrvatski ljetopis za kazneno pravo i praksu*, № 2, vol. 14, p. 674.

23 Art. 77 Pr. 1 of Penal Code currently in force: "Property benefit shall be confiscated by a court decision establishing that an unlawful act has been committed. Property benefit shall also be confiscated from the person to whom it was transferred, if it was not acquired in good faith."

24 D. Tripalo, T. Brđanović /2023/, *op. cit.*, p. 30 – "Its function is primarily restorative, meaning its goal is to restore the financial status of the perpetrator of the criminal offence – as well as other persons – to the state that existed before they benefited from the offence."

25 F. Bačić, Š. Pavlović /2004/, *Komentar Kaznenog zakona*, Zagreb, p. 396 – "When the criminal law provides for the measure of confiscation of property benefit, it is certainly not for the purpose of the state obtaining some material benefit, to become enriched through the commission of a criminal offence, or in any way to participate in criminal profit, but rather to ensure that the property benefit does not remain in the hands of those who participated in the commission of the criminal offence."

26 Art. 78. Pr. 2. of Penal Code currently in force: "If the perpetrator of the criminal offence referred to in Paragraph 1 of this Article has or had assets that are disproportionate to their lawful income, it shall be presumed that such assets represent property gain derived from a criminal offence, unless the perpetrator makes it probable that their origin is lawful."

27 D. Tripalo, T. Brđanović /2023/, *op. cit.*, p. 30 – "Given the scope of asset confiscation, it also contains certain punitive elements, as the subject of confiscation can be the perpetrator's entire property, making it resemble a measure of asset confiscation." – by which is meant when confiscation was in previous times regulated as a criminal sanction.

28 E. Ivičević Karas /2010/, *Utvrdivanje imovinske koristi stečene kaznenim djelom primjenom bruto ili neto načela s obzirom na pravnu prirodu mjere (proširenog) oduzimanja imovinske koristi*,

Additionally, extended confiscation allows authorities to seize assets that aren't directly linked to a single crime. Namely, it is presumed that property benefit has been obtained through unspecific criminal conduct, and the specificity of that conduct through which the benefit was acquired is not subject to proof at all.

That is the reason why the subject of extended confiscation and the subject of property claim cannot have the same basis. In other words, subject of the property claim can be closely linked to the subject of an ordinary confiscation, but significantly differs from the subject of extended confiscation.

For this reason, this paper will not delve into the relationship between these two measures in detail but will instead primarily focus on the relationship between the measure of ordinary confiscation of property benefit and the property claim.

3.3. *Notion and purpose of property claim and confiscation*

The concept and the notion of property is important both in civil law as it is in criminal law.

Accordingly, in order to properly examine institutes discussed in this paper it is important to understand the term of a property. The legal definition of property is provided by the Penal Code, while the Civil Obligations Act nor Ownership right Act do not provide definition of a property.²⁹ However, Croatian civil law theory recognizes the concept of property in several different meanings, as an economic category, as a legal category, and as an accounting category.³⁰

Property in the economic sense consists of assets; in the legal sense, it is a set of subjective proprietary rights belonging to a single holder (subject); and in the accounting sense, it represents the ratio of assets and liabilities.³¹ Penal Code also defines a property benefit resulting from a criminal offence, as the direct property benefit obtained through the commission of the offence; the property into which such gain has been converted or transformed; and any other benefit derived from the direct property benefit or from the property into which it has been converted or transformed, irrespective of whether such property is located within the Republic of Croatia or abroad.³²

Hrvatski ljetopis za kazneno pravo i praksu, № 1, vol. 17, p. 193 – “Re-examining the legal nature of the measure of confiscation of property benefit is essential, particularly in light of the newly introduced measure of extended confiscation. It is certainly untenable to maintain that this form of the measure possesses a purely restorative legal character, since extended confiscation, given its fundamental characteristics, which will also be examined in this paper, undoubtedly assumes a punitive nature with respect to the perpetrator.”

29 However, Civil Obligation Act Obligations Act (“Narodne novine”, No. 35/05, 41/08, 125/11, 78/15, 29/18, 126/21, 114/22, 156/22, 145/23, and 155/23) defines damage in Article 1046 as a reduction of someone's property (actual damage), prevention of its increase (loss of profit), and violation of personal rights (non-material damage).

30 See more about notion, functions and different categories of the term property in the civil law theory in: S. Nikšić /2012/, *Imovina u građanskom pravu*, in: *Zbornik Pravnog fakulteta Sveučilišta u Zagrebu*, Zagreb, pp. 1599–1633.

31 P. Klarić, M. Vedriš /2008/, *Gradansko pravo*, Zagreb, pp. 97–98.

32 Art. 87, Pr. 22 of the Croatian Penal Code currently in force.

Although the institutes of property benefit and property claims may overlap, this is not necessarily always the case. Some Croatian criminal law experts argue that the property claim and the measure of confiscation of property benefits share a common goal, and that is a compensation for the injured party.³³ However, differences in their purpose exist because the measure of confiscation of property benefits is based on the aforementioned principle that no one may retain property benefits acquired through an unlawful act, and the confiscation of such benefits does not aim to compensate the injured party but rather to prevent the perpetrator of a proven criminal offence or unlawful act³⁴ from gaining and retaining benefits through criminal conduct. Nevertheless, both of these institutes have a common goal, they serve to restore the pre-offence state that was disrupted by the commission of a criminal act.

Namely, it would be illogical for a perpetrator of a criminal offence or an unlawful act to be sentenced to a penalty (imprisonment or a fine) while simultaneously being allowed to retain the property benefits gained through that criminal offence/unlawful act.

Furthermore, considering that the confiscation of property benefits is ordered in favour of the State budget (meaning that the state is the authorized recipient), rather than in favour of the injured party, the author considers it incorrect to claim that the goal of both institutes is to compensate the injured party. Only in cases where the state is the injured party and has the right to file a property claim, when such a claim in its nature and content corresponds to the property benefits, could the confiscation of property benefits be equalized with compensation.

In this regard, the conclusion follows that in cases of compensation realized through a property claim (or claim for damages), the emphasis is placed on the position of the injured party, on their financial situation. In contrast, in cases of confiscation of property benefits, the focus is placed on the financial situation of the perpetrator, and potentially other persons on whom the benefit is transferred to, or in whose favour the benefit was acquired.

3.4. Primacy of property claim decision over the decision on the confiscation of property benefit

The possibility of simultaneously awarding a property claim and ordering the confiscation of property benefit from substantive perspective primarily depends on whether the property claim, by its nature and content, corresponds to the acquired property benefit. In order for a property claim to take precedence over the confiscation of property benefit, it must, by its nature and content, correspond to the acquired property benefit.³⁵

33 M. Petranović /2000/, *op. cit.*, p. 1 – “It is particularly important to emphasize that the property claim and the measure of confiscation of unlawful material gain share a common goal – compensating the injured party – while all other aspects differ significantly.”

34 Art. 77 Pr. 1. of Penal Code states: “Unlawfully obtained property benefit shall be confiscated by a court decision establishing that an unlawful act has been committed. Such material gain shall also be confiscated from any person to whom it has been transferred, provided it was not acquired in good faith.”

35 If the injured party has been awarded a property claim that, by its nature and content, corresponds to the acquired property benefit, only the portion of the property benefit exceeding the awarded property claim shall be confiscated. Art.77 Pr.2 of the Penal Code currently in force.

For example, if the perpetrator organizes the offering of sexual services by another person and thereby earns a certain profit, that profit constitutes the property benefit derived from the committed criminal offence, criminal offence of prostitution.³⁶ If the victim of that offence files a property claim for non-material damage (due to the violation of personal rights), given that such a claim, by its nature and content, does not correspond to the property benefit in the form of profit, the awarding of that claim will not preclude the confiscation of the property benefit acquired through the criminal offence. In that sense, court should order confiscation of that property benefit, and also, award injured party non-material damage.

4. DIFFERENCES BETWEEN A PROPERTY CLAIM AND A DECISION ON THE CONFISCATION OF PROPERTY BENEFITS

Although both institutes may arise from the same factual and legal context, a decision on the property claim and a decision on the confiscation of property benefits serve fundamentally different purposes within the legal system. The following section outlines the key distinctions between these two institutes.

4.1. *Ex officio decision of the court*

The court cannot decide *ex officio* on a property claim but only at the request of the entitled party.³⁷ On the other hand, even if the authorized prosecutor in a criminal proceeding does not propose the confiscation of property benefits, the court must order its confiscation if that benefit was acquired through criminal offence.³⁸

4.2. *Existence of a property benefit does not imply existence of a damage and vice versa*

The possibility of filing a property claim exists even in situations where the criminal offence has not resulted in gaining of property benefits (but the damage has been caused). For example, the perpetrator of the criminal offence of damaging another person's property³⁹ does not, by that act, acquire any property benefit for themselves, but causes material damage to the injured party. In addition, almost all

36 See Art. 157 of the Penal Code currently in force.

37 A property claim arising from the commission of a criminal offence shall be considered in the criminal proceedings at the request of the injured party, provided that such consideration would not significantly prolong the proceedings. Art. 153 Pr. 1 of the Criminal Procedure Act currently in force.

38 Property benefit shall be confiscated by a court decision establishing that an unlawful act has been committed. Art. 77 Pr. 1. Relevant is also Art. 557 Pr. 2 of the Criminal Procedure Act which states: "The court shall, even without a motion from the authorized prosecutor, confiscate from the defendant any property benefit obtained through the unlawful act described in the indictment."

39 Art. 235 of the Penal Code currently in force.

criminal offences which cause non-material damage do not lead to the acquisition of a property benefit corresponding to that damage (for example, criminal offences against life and bodily integrity⁴⁰).

On the other hand, property benefits may (and must) be confiscated only if they were acquired through a criminal offence, and they must be confiscated even if no damage has been caused to anyone. For example, the perpetrator of the criminal offence of accepting a bribe (who demanded and received a bribe to perform an official act which they were obliged to perform⁴¹) acquires a property benefit but does not thereby cause damage to anyone.

In addition, in some cases the acquired property benefit may be greater than the damage caused. For example, when the perpetrator of a criminal offence of theft⁴² sells a stolen item for a price higher than its actual value, they obtain a property benefit greater than the damage suffered by the owner of the stolen item.

Finally, the caused damage may be greater than the obtained property benefit, as for example in the case of the theft⁴³ of an item through which its owner would have earned some income: the property benefit corresponds to the value of the item, and the damage, in addition to that value, includes lost profit.

4.3. *Entitled person of confiscation and property claim*

Property benefits are confiscated in favour of the State budget,⁴⁴ whereas a property claim is awarded in favour of the injured party.

4.4. *Subsidiarity*

Compensation to the injured party has priority over asset confiscation, given that the purpose of confiscation of property benefits is not to enrich the state (fill the state budget)⁴⁵ but ensure the aforementioned principle – crime does not pay. However, the criminal court must confiscate property benefits even in cases where it has referred the injured party to pursue the property claim through a civil lawsuit.⁴⁶ This is because the confiscation of property benefits cannot depend on whether the injured party (successfully) seeks protection of their subjective rights through a civil court or not.⁴⁷

40 Chapter X of the Penal Code currently in force.

41 Art. 293 Pr. 2 of the Penal Code currently in force.

42 Art. 228 Pr. 1 of the Penal Code currently in force.

43 Art. 228 Pr. 1 of the Penal Code currently in force.

44 According to the Art. 560 Pr. 2 of the Criminal procedure Act, confiscated property benefit becomes the ownership of the Republic of Croatia.

45 F. Bačić, Š. Pavlović /2004/, *op. cit.*, p. 396 – “When the Penal Code prescribes the measure of confiscating illicit gains, it is certainly not for the state to obtain material benefits or to profit from the commission of a criminal offence...”

46 Art. 77, Pr. 3 of the Penal Code currently in force.

47 K. Turković et. al. /2013/, *Komentar Kaznenog zakona*, Zagreb, p. 114 – “This avoids the possibility that it will not be confiscated if the injured party does not initiate civil proceedings.”

4.5. *Individual or joint and several obligations*

Given the purpose and basis of the measure of confiscation of property benefits, “the court cannot order its confiscation *in solidum* from multiple perpetrators of a criminal offence”.^{48, 49} Instead, it must individually order the confiscation from those perpetrators who acquired it, and only in the amount each of them individually obtained. However, the court may order confiscation in equal shares if it cannot determine who gained more or less benefit, usually based on free judicial assessment. Conversely, if a criminal offence was committed by multiple persons, the court may order all of them to provide joint and several compensations for damages to the injured party.

4.6. *Personal liability of the defendant or other persons*

A property claim in a criminal proceeding can only be filed against the defendant, the perpetrator of the criminal offence as the liable party.

Conversely, under certain conditions, the confiscation of property benefit may also be enforced against third parties who have received or to whom the illicit gain has been transferred.

4.7. *Rejection of the claim*

The criminal court has no authority to deny a property claim, whereas the court may either accept or dismiss a motion for the confiscation of property benefits.

4.8. *Relation to violation of subjective rights*

Through a property claim, the injured party seeks protection of their subjective right, which they believe has been violated. In contrast, the confiscation of property benefits acquired through a criminal offence must be ordered regardless of whether the injured party’s subjective rights have been violated, even when they have not been violated.

4.9. *Nature of property claim and asset confiscation*

Both institutes belong to criminal law, but a property claim is a criminal law institute of a civil law nature,⁵⁰ aimed at realizing the subjective civil right of the

48 P. Novoselec, I. Martinović /2019/, *Komentar Kaznenog zakona, Knjiga 1: Opći dio*, Zagreb, p. 471.

49 Supreme Court of Republic of Croatia in a case I Kž-293/13 from November 6th 2013 stated: “Thus, in cases involving the confiscation of unlawfully obtained property benefit, it is not possible to order the perpetrators to make a joint and several payments, as may be the case when adjudicating a property claim (provided that the claim is formulated in such a manner).”

50 M. Petranović /2000/, *Oduzimanje imovinske koristi ostvarene kaznenim djelom, Aktualna pitanja kaznenog zakonodavstva*, Zagreb, p. 1 – “The property claim is a category of civil law, and it is only for reasons of efficiency that it is decided within criminal proceedings, according to the rules of civil law, and it is characterized by the parties’ disposition.” In the author’s opinion, the property claim is an institute of criminal law, primarily because it is regulated by substantive and procedural criminal law provisions, yet it is civil in nature.

injured party that was violated by a criminal offence, whereas the confiscation of property benefits possesses both a restorative and a punitive character.

4.10. *Right to interest*

Interest cannot be awarded in confiscation of property benefits, whereas a property claim may include, in addition to the principal amount, an ancillary claim – interest.

5. INTERPRETATION OF PROPERTY CLAIM AND CONFISCATION INSTITUTES IN JUDICIAL PRACTICE

The challenges in interpreting and applying the concepts of property claims and confiscation measures become particularly evident in judicial practice. The following case study illustrates how the misapplication of fundamental legal principles can lead to conflicting outcomes between criminal and civil proceedings with critical overview regarding the two-man problems, double recovery problem and *ne bis in idem* principle.

5.1. *Case Study: Misapplication of Criminal Law Concepts in Relation to Civil Law*

This case study highlights the conceptual confusion and practical inconsistencies in the application of criminal and civil law institutes through the analysis of a legal case involving the criminal offence of embezzlement, confiscation of property benefits, and their relation to a civil lawsuit for damages.

5.1.1. *First-instance criminal proceedings*

The Municipal Court in Zlatar convicted the perpetrator of the criminal offence of embezzlement⁵¹ sentencing the perpetrator to one year in prison and imposing a suspended sentence.⁵²

Court also determined that the perpetrator illegally obtained a total amount of 29,354.65 EUR for herself, thereby causing financial damage to General Hospital.

General Hospital as injured party did not file a property claim in the criminal proceedings but decided to realize its rights filing a claim for damages in the civil proceedings.

51 The defendant was found guilty of having retained for herself certain amounts of money received from nurses as participation and treatment fees, instead of depositing them into the hospital's cash register, failed to invoice the payment for meal vouchers purchased by hospital employees and volunteers, nor did she deposit the money received from the sale of these vouchers into the hospital's bank account and used actual beneficiary records of financial aid for cases of parental death and childbirth assistance to withdraw aid funds from the hospital's cash register for her own benefit, recording them in the cash register logs as duplicate disbursements.

52 The Municipal Court in Zlatar, case K-39/21 from June 7th, 2021.

5.1.2. *Second-instance criminal proceedings*

Since the first-instance criminal court failed to confiscate the property benefit acquired through the proven criminal offence, the County Court in Bjelovar⁵³ accepted the appeal of the State Attorney and modified the first-instance judgment by establishing that the sum of 29,354.65 EUR constituted property benefits acquired through the criminal offence of embezzlement and ordered the defendant to pay this amount into the State budget within 15 days from the finality of the judgment.

5.1.3. *First-instance civil proceedings*

Injured party almost simultaneously with initiated criminal proceedings,⁵⁴ filed a civil lawsuit for damages against the defendant claiming 29,354.65 EUR. The Municipal Court in Zlatar,⁵⁵ Permanent Service in Zabok (partially) granted the claim, only regarding interest as the ancillary claim filed in the lawsuit, while rejecting the claim regarding the main amount of 29,354.65 EUR.

The first-instance civil court had suspended the proceedings until the final completion of the criminal case, i.e., until November 11, 2021, after which the civil proceedings resumed, leading to the described judgment.

In the reasoning of the first-instance civil judgment, the following was stated: “The defendant, based on the final criminal judgment, was paying off the determined property benefit to the state budget, which she proved through payment records.” The court also established that: “The plaintiff’s right to claim damages in this civil proceeding was disputed, given that the plaintiff had the opportunity to file a property claim in the criminal proceeding but did not do so.” Additionally, the amount of damage was questioned, “considering that the defendant is making payments into the state budget as restitution for damages.”

It was recorded that an amount of 2,560.29 EUR was paid into the State budget, since the defendant was “making monthly payments of 15.00 EUR, or 100.00 HRK, in accordance with the final criminal judgment.”

Based on these findings, the first-instance civil court, concluded: “Regarding compensation for damages in this case, there is a final criminal judgment that established the defendant’s guilt and liability and ordered the confiscation of property benefits in the amount of 29,354.65 EUR, which the defendant is obligated to pay into the State budget. Since the plaintiff in this civil case is seeking the payment of the same amount as compensation for damages, granting such a claim would result in double recovery. Therefore, the plaintiff’s claim for compensation of the principal amount is unfounded, and the court has dismissed it as ungrounded.”

Furthermore, the court stated: “It should be noted that the defendant is repaying the amount ordered by the final criminal judgment into the state budget, from which the plaintiff may subsequently be reimbursed.”

53 The County Court in Bjelovar, case Kž-220/21 from November 11th, 2021.

54 First-instance proceedings lasted from June 26th, 2014.

55 The Municipal Court in Zlatar, Permanent Service in Zabok, case Pn-5/2022, from October 20th, 2023.

The first-instance court final conclusion when accepting the claim only for the interest was: “The final criminal judgment does not cover statutory interest, which the plaintiff has the right to claim from the defendant regarding the compensation for damages...”, and for this reason, the court found the claim for damages in this part to be well-founded.

5.1.4. *Second-instance civil proceeding*

Both parties filed an appeal against this judgment, which the County Court in Pula – Pola⁵⁶ dismissed as unfounded and upheld the first-instance judgment.

In the reasoning of the second-instance judgment, the court stated: “It is undisputed that the plaintiff may seek a property claim outside of the criminal proceedings in which they participated, but not for the same claim that was already finally adjudicated in that proceeding.”

5.1.5. *Third-instance civil proceeding*

After the final judgment, the plaintiff filed a request for leave to appeal (revision) before the Supreme Court of the Republic of Croatia, raising the following legal question: “Does this constitute a *res judicata* case, and is it impossible to conduct civil proceedings (litispendence) when the injured party did not file a property claim in the criminal proceedings but instead seeks compensation in a civil lawsuit, while the court in the criminal proceedings rendered a final judgment on the confiscation of property benefits in an amount that is included in or overlaps with the claim filed in the civil lawsuit?”

The Supreme Court of the Republic of Croatia has not yet ruled upon this claim.⁵⁷

5.2. *Critical overview of civil court judgments*

Given the complexity of the relationship between civil and criminal law institutes, it is of particular importance to examine how civil courts interpret and apply key principles when confronted with property claims and prior decisions on the confiscation of property benefits. The following analysis focuses on two recent interpretative challenges in judicial practice: the (mis)application of the *ne bis in idem* principle and the problem of double recovery.

5.2.1. *Misinterpretation of the Ne bis in idem principle*

Conducting an adhesion procedure while simultaneously pursuing a separate civil lawsuit concerning the same claim on its merits would violate the rules of litispendence. Moreover, if both proceedings reach final decisions, such parallelism would breach the principle of *res judicata* (prohibition of *ne bis in idem*). However,

56 County Court in Pula – Pola, case number Gž-56/2024 from June 3rd, 2024.

57 Supreme Court of Croatia, case Rev-387/25.

in the presented case, injured party did not file a property claim in criminal proceedings.⁵⁸

On the other hand, the confiscation of unlawfully acquired property benefit within criminal proceedings does not amount to a breach of these procedural rules regarding property claim or claim for damages. It does not preclude a separate civil action nor constitute a final adjudication (*res judicata*) regarding property claims filed in either an adhesion procedure or a civil lawsuit.

As previously outlined, the injured party retains the discretion to choose whether to seek the protection in front of the court and the legal avenue for protecting their subjective rights, which reflects the principle of party autonomy (dispositiveness). However, once they make that choice, their actions are no longer entirely free due to the prohibition of initiating a new lawsuit on the same claim during the course of the initiated proceedings (prohibition of double litispence), as well as the prohibition of re-litigation on a legal matter that has already been finally adjudicated (principle *ne bis in idem* regarding *res judicata* matter).

This means that if the injured party files a property claim within criminal proceedings and the court decides to deliberate on it under the framework of adhesion procedure, the injured party cannot file *ratione materiae* the same claim in a civil lawsuit; and if they do, the civil court should dismiss it based on the prohibition of double litispence.

Double recovery emerges when property benefit has already been confiscated from the defendant, and injured party decides to enforce civil law judgement in front of the Financial Agency (FINA),⁵⁹ without first attempting to seek compensation from the confiscated property (State budget). When both the State and the injured party attempt and succeed to recover from the same asset pool (from defendant's property), it undermines the objective and purpose of asset confiscation.

5.2.2. Misinterpretation of a double recovery problem

Civil courts' position in presented case that plaintiffs may recover from already confiscated property is questionable for two reasons. Firstly, confiscation in the State budget was only partially enforced (since perpetrator made monthly payments of 15.00 EUR into the State budget), which would disable full compensation upon damages, and secondly, current legal regulation provides no legal basis regarding requesting compensation from State budget confiscated property.

The issue of double recovery was previously addressed by the repealed Act on the Procedure for the Confiscation of Property Benefits Acquired Through Crimi-

58 In a revision ruling case: Revr-1275/2012-2 from May 22nd, 2012, the Civil Division of the Supreme Court of Croatia rejected the objection that the civil action was barred by *res judicata* due to the prior criminal judgment in which confiscation was ordered, and that awarding such claim would constitute double recovery problem. Court ruled that the injured party may pursue damages claim in civil proceedings if they had not previously filed a property claim in the criminal procedure.

59 As a designated enforcement authority, FINA (Financial Agency) is responsible for executing final court rulings through enforcement procedures.

nal Offences or Misdemeanours,⁶⁰ particularly in Chapter VIII – Rights of the Injured Party. Articles 23⁶¹ and 24⁶² stipulated that enforcement of confiscated benefit could be ordered only to the extent that it did not prevent the full satisfaction of the injured party’s claim. Republic of Croatia, represented by the State Attorney, was obligated to compensate injured parties upon their claim, from the confiscated property benefit, but only up to the amount of the confiscated assets.

This Act did not require injured parties to first seek compensation from confiscated property, it rather provided a possibility for the injured parties to do so. The benefit of choosing this route is the certainty of recovery from state-held assets rather than the uncertainty of (un)successfulness of ordinary enforcement proceedings.

Since the repeal of this Act, the relevant provisions regulating the rights of injured parties were mistakenly omitted, while the majority of its other provisions were incorporated into the current criminal legislation. As a result, injured parties can no longer legally request and realize compensation for damages from confiscated property benefits, even if they possess a final civil judgment. Especially now, both the State and the injured party can pursue compensation from the same pool of perpetrator’s assets, on different legal grounds (damages and confiscation).

Despite this legislative gap, the legal nature of the institutions in question has not changed since the Supreme Court’s 2012 opinion. Hence, problematic civil court decisions rejecting claims solely on the grounds that the property benefit had been confiscated in criminal proceedings are legally and logically unfounded.

6. CONCLUSION

The legal intersection between civil law property claims/ claims for damages and the criminal law measure of confiscation of property benefits represents a normative and practical challenge. Although both institutes may originate from the same factual context, their legal nature, purpose, and normative frameworks differ profoundly. A property claim, with nature rooted in civil law, is a manifestation of the subjective right of the injured party to seek reparation for harm suffered, while the confiscation of property benefit is a criminal law measure that expresses the imperative that no one should profit from criminal conduct according to the principal *crime does not pay*.

The findings of this paper indicate that the current Croatian legal framework inadequately regulates the coexistence of these two mechanisms, especially following the 2017 repeal of the Act on the Procedure for the Confiscation of Property Benefits Acquired Through Criminal Offences or Misdemeanours. That Act had

60 Official Gazette “Narodne novine” 145/2010, and 70/2017 – this Act has been repealed on July 27th, 2017.

61 If, during the course of criminal proceedings, a property claim has been submitted and the court has fully or partially granted it, or if there is an enforceable decision of a civil court by which the injured party’s claim related to the criminal offence has been fully or partially upheld, enforcement under this Act may be ordered only to the extent that it does not prevent full compensation of the injured party.

62 The Republic of Croatia shall satisfy the injured party’s claim based on the property claim only up to the amount of the property benefit confiscated in the proceedings under this Act.

previously provided a legal foundation for the compensation of injured parties from already confiscated assets. In its absence, the legal system has been left with a normative vacuum, resulting in legal uncertainty and the problem of double payment. Two main problems exist, both of which undermine legal certainty and the principle of fairness. Firstly, the injured parties may be deprived of compensation, and secondly, the perpetrator may be subjected to double recovery, if decisions on confiscation and compensation were enforced from the same pool of assets.

Through the analysis of legal provisions, doctrinal positions, and relevant case law, particularly the presented case study, this paper has highlighted recent judicial misinterpretations of foundational principles such as *ne bis in idem*, *res judicata*, and *litispence*. These principles, when not properly understood in the interplay between civil and criminal institutes, may lead to procedural paradoxes in which the injured party is denied effective legal remedy, or the perpetrator is penalized in a manner that exceeds what is legally justified.

It is therefore essential that future legislative reforms reintroduce a clear and functional mechanism enabling injured parties to claim compensation from confiscated assets, while balancing the rights of the perpetrators and preventing double recovery, and at the same time ensuring fair compensation for injured party.

In conclusion, only a coordinated and principled legislative and judicial approach can adequately regulate the coexistence of these two legal institutes. This approach must recognise the distinctive functions of property claims and confiscation, prevent double recovery and ensure just outcomes for all parties.

LITERATURE

- Bačić Franjo, Pavlović Šime /2004/: *Komentar Kaznenog zakona*, Zagreb: Organizator.
- Galiot Mijo, Brzić Bahun Vanesa /2021/, Položaj oštećenika u adhezijskom postupku, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* (Rittossa, D. et. al., eds.), Rijeka: Sveučilište u Rijeci, Pravni fakultet, 451–469.
- Galiot Mijo, Brzić Bahun Vanesa /2022/: Osiguranje imovinskopravnog zahtjeva, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* (Rittossa, D. et. al., eds.), Rijeka: Sveučilište u Rijeci, Pravni fakultet, 967–999.
- Grubišić Ines /2014/, Imovinskopravni zahtjev prema okrivljeniku odgovornoj osobi kada je kaznenim djelom pribavio imovinsku korist za pravnu osobu, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* (Rittossa, D. et. al., eds.), Rijeka: Sveučilište u Rijeci, Pravni fakultet, 741–760.
- Ivičević Karas Elizabeta /2007/: Kaznenopravno oduzimanje nezakonito stečene imovinske koristi, *Hrvatski ljetopis za kazneno pravo i praksu*, № 2, vol. 14, 673–694.
- Ivičević Karas Elizabeta /2010/: Utvrđivanje imovinske koristi stečene kaznenim djelom primjenom bruto ili neto načela s obzirom na pravnu prirodu mjere (proširenog) oduzimanja imovinske koristi, *Hrvatski ljetopis za kazneno pravo i praksu*, № 1, vol. 17, 191–210.
- Klarić Petar, Vedriš Martin /2008/: *Građansko pravo: opći dio, stvarno pravo, obvezno i nasljedno pravo*, Zagreb: Narodne novine.
- Marušić Vanja, Vučko Marija, Kuštan Mirta /2020/: Oduzimanje imovinske koristi i priremene mjere osiguranja s posebnim osvrtom na trajanje mjera i poteškoće u praksi, *Hrvatski ljetopis za kaznene znanosti i praksu*, № 2, vol. 27, 471–496.

- Nikšić Saša /2012/, Imovina u građanskom pravu, in: *Zbornik Pravnog fakulteta Sveučilišta u Zagrebu* (Karlović, T. et. al., eds.), Zagreb: Sveučilište u Zagrebu, Pravni fakultet, 1599–1633.
- Novoselec Petar, Martinović Igor /2019/: *Komentar Kaznenog zakona, Knjiga 1: Opći dio*, Zagreb: Narodne novine.
- Petranović Milan /2000/: *Oduzimanje imovinske koristi ostvarene kaznenim djelom, Aktualna pitanja kaznenog zakonodavstva*, Zagreb: Inženjerski biro.
- Tripalo Dražen, Brđanović Tomislav /2023/: *Imovinskopravni zahtjev, odluka o imovinskopравnom zahtjevu, oduzimanje imovinske koristi i privremene mjere osiguranja – teorijski i praktični aspekti za suce i državne odvjetnike – Priručnik za polaznike/ice*, Zagreb: Pravosudna akademija.
- Turković Ksenija, Novoselec Petar, Grozdanić Velinka, Kurtović Mišić Anita, Derenčinović Davor, Bojanić Igor, Munivrana Vajda Maja, Mrčela Marin, Nola Sanja, Roksandić Vidlička Sunčana, Tripalo Dražen, Maršavelski Aleksandar /2013/: *Komentar Kaznenog zakona i drugi izvori novoga hrvatskog kaznenog zakonodavstva*, Zagreb: Narodne novine.
- Šago Dinka, Pleić Marija /2012/, Adhezijsko rješavanje imovinskopravnog zahtjeva u kaznenom postupku, in: *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* (Rittossa, D. et. al., eds.), Rijeka: Sveučilište u Rijeci, Pravni fakultet, 967–999.
- Vedriš Martin, Klarić Petar /2003/: *Građansko pravo, Opći dio, stvarno pravo, obvezno i nasljedno pravo*, Zagreb, Narodne novine.

Silvija Tripalo*

GRAĐANSKO I KRIVIČNO PRAVO NA GRANICI ODUZIMANJA IMOVINSKE KORISTI I IMOVINSKOPRAVNOG ZAHTEVA

REZIME

Ovaj rad istražuje složeni pravni odnos između građanskog i krivičnog prava u kontekstu oduzimanja imovine i imovinskopravnih zahteva u Hrvatskoj. U središtu analize nalazi se poređenje dva pravna instituta: zahteva za naknadu štete, odnosno imovinskopravnih zahteva (koji se obično podnose u parničnom postupku ili kao adhezioni zahtev u okviru krivičnog postupka) i oduzimanja imovinske koristi (mere krivičnog prava *sui generis*). Autorka ispituje njihovu pravnu prirodu, svrhu i međusobne razlike.

Rad počinje kontekstualizacijom adhezionog postupka, koji omogućava krivičnom sudu da odlučuje o zahtevima građanskopravne prirode, kao što je naknada štete. Krivični sud može odrediti oduzimanje imovinske koristi u korist države, dok oštećeni istovremeno potražuje isti iznos kao naknadu štete, što potencijalno dovodi do situacije u kojoj se od okrivljenog dva puta potražuje isti iznos. Kroz pravnu analizu i studije slučaja, posebno na primeru krivičnog dela pronevere, rad pokazuje kako sudske odluke mogu nenamerno omogućiti ili onemogućiti naknadu štete usled pogrešnog tumačenja pravne prirode imovinske koristi u odnosu na naknadu štete.

63 * Doktorandkinja na Doktorskoj školi Ferenc Deák Pravnog fakulteta Univerziteta u Miškolcu i istraživačica u Centralnoevropskoj akademiji, silvija.tripalo@centraleuropeanacademy.hu, ORCID: <https://orcid.org/0009-0006-2082-3794>.

Lutanje sudova u primeni pravnih principa, kao što je *res judicata*, pravila litispendencije i zabrane dvostruke naknade (*double recovery*) ukazuje na postojanje praznine u sudskom razumevanju. Ključna je razlika u svrsi ova dva instituta: imovinskopravni zahtev usmeren je na vraćanje oštećenog u pređašnje stanje, dok je oduzimanje imovinske koristi usmereno na sprečavanje protivpravnog bogaćenja i ima kazнено-preventivnu funkciju. Iako se materijalno mogu preklapati, njihov pravni osnov je različit.

Štaviše, hrvatski sudovi su dužni da oduzmu imovinu stečenu krivičnim delom, bez obzira na to da li je oštećeni tražio građansku naknadu. Ukidanjem Posebnog zakona o oduzimanju imovinske koristi 2017. godine, oštećenom je ukinuto pravo na naknadu iz oduzete imovine. Na kraju, rad poziva na harmonizaciju sudske prakse i jasnije zakonsko uređenje, radi sprečavanja preklapanja pravnih ishoda, zaštite prava oštećenih i obezbeđenja dosledne primene pravde.

Ključne reči: imovinskopravni zahtev, oduzimanje imovinske koristi, naknada štete, krivični postupak, parnični postupak.