



## LAWS AND REGULATIONS

### PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.*

#### SPAIN

#### Communicated by the Government of Spain

##### NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

#### **ROYAL DECREE NO. 864, OF 6 JUNE 1997, ADOPTING THE REGULATIONS OF THE FUND ORIGINATING FROM PROPERTY CONFISCATED ON ACCOUNT OF DRUG TRAFFICKING AND OTHER RELATED OFFENCES.**

The promulgation of Law No. 36, of 11 December 1995,<sup>1</sup> on the constitution of a Fund originating from property seized on account of drug trafficking and other related offences entailed a radical innovatory change in our legal system, specifically regarding the purposes of such a Fund and its possible beneficiaries, concerning which general provisions are set forth for the first time in article 344 *bis* (e), 3, of the Penal Code in force at that time, as well as in article 374.3 of the new Penal Code, adopted by means of Organizational Law No. 10, of 23 November 1995,<sup>2</sup> under which property confiscated by final judgement of a court shall be allocated to the State. Through this Law, there is established a Fund aimed at meeting, at least to a partial degree, some of the material needs which are arising in Spain as a result of the drug problem, both in terms of the control of illicit drug trafficking and in terms of demand reduction and the rehabilitation of drug-dependent persons.

As part of this comprehensive and integrated approach to the drug problem, as reflected in the aforementioned law, our system has incorporated the few principles forming the basis, at the international level, of specific legislation governing the use of confiscated property for similar purposes to those envisaged in the Spanish law.

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<sup>1</sup> E/NL.1998/42.

<sup>2</sup> E/NL.1998/41.

The Regulations adopted by this Royal Decree govern certain fundamental matters crucial to the effective operation of the Fund established.

The matters in question pertain, first of all, to the composition of the Allocations Coordination Committee, which is set up under article 6 of the Regulations, an organ assigned various functions by the legislator, most notably, that of determining the suitability of the confiscated property to fulfil the objectives laid down in the Law, as well as the functions of specifying the beneficiaries and recipients of such property and apportioning among them the funds obtained, the detailed composition of the Committee being referred by the legislator to the relevant Regulations.

At the same time, the Regulations regulate the operating procedures of the Allocations Coordination Committee in the discharge of the functions assigned it by the Law, through the rational coordination of those functions with a view to achieving the principal objective of ensuring that the apportionment and allocation of property confiscated on account of drug trafficking and other related offences by means of judicial sentences in proceedings relating to drug-trafficking offences should be carried out in the most expeditious and equitable manner possible with a view to achieving the various objectives set out in the Law.

With regard to the composition of the Allocations Coordination Committee, the Regulations make provision for participation in the Committee's work, as far as the demands of efficient operation allow, of State executive bodies with responsibility for matters related to the objectives pursued by the Fund, or with responsibility for application of the general property or budgetary legislation, which has also been affected by the aforesaid Law, without those bodies being specified by name, so that the composition of the Committee can be adjusted at any time to the exigencies of its operation and management and so that any changes arising in the administrative structure can be dealt with.

In addition, the composition of the Committee takes into account both the restructuring of ministerial departments effected through Royal Decree No. 758, of 5 May 1996, involving the abolition of the Ministry of Justice and the Interior, and the attachment of the executive bodies previously under its authority to the Ministry of the Interior and the Ministry of Justice, the former ministry being reassigned its former responsibilities with regard to the Government Commission for the National Drug Plan. Account is also taken of the responsibilities assigned to those ministries by Royal Decrees No. 1886, of 2 August 1996 (arts. 1.1 and 6) regarding the Ministry of the Interior, in relation to the updating and implementation of the National Drug Plan, and No. 1882, of 2 August 1996, regarding the Ministry of Justice (art. 5.1) in relation to that ministry's competence in the area of relations with the judicial system.

Against the background of an economic policy of public spending containment, the procedures set forth in these Regulations are aimed at meeting the objectives set forth by the Law through efficient use of the funds already at the disposal of central government authorities. For that purpose, and in order as far as possible to obviate the need for a new infrastructure of staff and facilities to be superimposed throughout Spanish territory on top of that existing in the local government authorities to ensure that functions assigned to the Committee can be properly discharged, the choice made in the Regulations is for this Royal Decree to adopt a collaborative arrangement whereby the Allocations Coordination Committee may enlist the services of the Ministry of Economic and Financial Affairs, through the respective Property Divisions, to permit effective discharge of its functions.

In addition, as a result of the adoption by Parliament of Law No. 3, of 10 January 1996,<sup>3</sup> on measures for the control of scheduled chemical substances liable to diversion for the illicit manufacture of drugs, whose sole additional

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<sup>3</sup> E/NL.1998/46

provision provides that “the proceeds from the financial penalties and confiscation stipulated in articles 13 and 21 of this Law shall feed the fund provided for in the Law concerning the establishment of a fund originating from property seized on account of drug trafficking and other related offences”, it being left to the associated Regulations to determine the manner in which the resources concerned are to be incorporated in such a fund, it was necessary for reasons of economy, coherence and legislative expediency that the Regulations adopted by this Royal Decree should also contain provisions governing the form in which the proceeds from the aforementioned penalties are to be incorporated in the aforesaid Fund established by Law No. 36, of 11 December 1995.

Lastly, as a result of the entry into force of a new Penal Code subsequent to that of Law No. 36, of 11 December 1995, and accordingly in application at the time of drafting of these Regulations, it is necessary to amend by regulatory means the references contained in that Law to the provisions on penalties adopted by Organizational Law No. 10, of 23 November 1995.

Accordingly, at the proposal of the Ministers of Economic and Financial Affairs, of the Interior and of Justice, with the approval of the Minister for Public Authorities, in accordance with the Council of State and following deliberation by the Council of Ministers at its meeting of 6 June 1997,

### **I HEREBY DECREE:**

Sole article. *Adoption*

1. Through this Royal Decree, the Regulations set out below in respect of Law No. 3, of 11 December 1995, concerning the establishment of a Fund originating from property seized on account of drug trafficking and other related offences are hereby adopted, in pursuance of the authorizations set forth in the first and second final provisions thereof.
2. Further, in pursuance of the authorization set forth in the sole additional provision of Law No. 3, of 10 January 1996, on measures for the control of scheduled chemical substances liable to diversion for the illicit manufacture of drugs, this Royal Decree lays down the regulatory provisions governing the incorporation of the proceeds deriving from imposition of the penalties stipulated in that Law into the Fund regulated by Law No. 36, of 11 December 1995, to which the preceding paragraph refers.

First additional provision. *Allocation of confiscated property*

In general terms, property confiscated in accordance with a final judgement pronounced in any proceedings relating to illicit drug trafficking or other related offences which has been allocated to the State and which has not been otherwise designated shall be incorporated in the Fund governed by Law No. 36, of 11 December 1995, and shall thus be allocated for the pursuit of the objectives set forth in article 2 of that Law, in conformity with the legal regime established therein and in the Regulations adopted by this Royal Decree.

Second additional provision. *Supplementary legislation*

1. All matters not covered by Law No. 36, of 11 December 1995, or by the Regulations adopted by this Royal Decree, relating to the legal regime governing property, assets and profits in respect of their transfer and assignment shall be governed by the text of the Law on State Property, adopted by Decree No. 1022, of 15 April 1964, and its implementing regulations.
2. Matters not covered by Law No. 36, of 11 December 1995, or by the Regulations adopted by this Royal Decree, relating to budgetary management and supervision of the Fund established by the Law, shall be governed by the revised text of the General Budget Law, adopted by Royal Legislative Decree No. 1091, of 23 September 1988, and its implementing regulations.

Sole transitory provision. *Regulations applicable to property allocated to the State whose future purpose has not been determined*

1. Property, assets and profits, as well as revenue or interest accruing therefrom, allocated to the State by virtue of a final judgement pronounced in application of the provisions of articles 344 *bis* (e) or 546 *bis* (f) of the Penal Code in force at the time of entry into force of Law No. 36, of 11 December 1995, of which the Treasury has been notified prior to the aforementioned date of entry into force thereof, and whose use was not determined prior to the date of entry into force of the Regulations adopted by this Royal Decree, shall be subject to the provisions laid down therein.
2. Property, assets and profits, as well as revenue or interest accruing therefrom, allocated to the State by virtue of a final judgement originating from proceedings in respect of offences referred to in the preceding paragraph, of which notification has been received by the Treasury or Allocations Coordination Committee established by article 6 of Law No. 36, of 11 December 1995 subsequent to the date of entry into force thereof and whose use was not determined prior to the date of entry into force of the Regulations adopted by this Royal Decree, shall also be subject to the provisions laid down therein.

First final provision. *Regulatory authorization*

The Ministers of Economic and Financial Affairs and of the Interior are hereby authorized to decree, within their respective areas of competence, whatsoever regulatory provisions may be necessary for the implementation of the provisions contained in the Regulations adopted by this Royal Decree.

Second final provision. *Entry into force*

This Royal Decree shall enter into force twenty days following its publication in the *Official State Gazette*.

Done at Madrid on 6 June 1997.

**REGULATIONS GOVERNING THE FUND  
ORIGINATING FROM PROPERTY SEIZED ON ACCOUNT OF DRUG TRAFFICKING  
AND OTHER RELATED OFFENCES**

**CHAPTER I**

**General provisions**

Article 1. *Purpose*

1. The purpose of these Regulations is, in accordance with Law No. 36, of 11 December 1995, to set forth provisions regulating the composition and operating procedures of the Allocations Coordination Committee established by article 6 of that Law, as well as procedures for determination by that Committee of the allocation and beneficiaries of the property, assets, instrumentalities of whatsoever nature and profits, as well as revenue and interest accruing therefrom, incorporated into the Fund established by the aforementioned Law which have been confiscated in application of articles 127 and 374 of the Penal Code and have been definitively allocated to the State by final judgement.

Equivalent status to such judgement shall be assigned to a ruling pronounced by a Spanish judicial authority, at the request of a foreign court or tribunal, in execution of a judgement for the confiscation of property and profits originating from proceedings in respect of offences similar to those defined in article 301.1, second paragraph, and articles 368 to 372 of the Spanish Penal Code, in accordance with the provisions of bilateral or multilateral agreements signed and ratified by Spain in which the right of the requested State to pay into its treasury the proceeds from such confiscation is recognized, without prejudice to the interests of third parties.

2. Further, the purpose of these Regulations is also to set forth provisions regulating the procedure for incorporation of the proceeds from imposition of the penalties and confiscation measures laid down in Law No. 3, of 10 January 1996, into the Fund referred to in the preceding paragraph, and to determine how such proceeds should be allocated in accordance with the objectives set forth in article 2 of Law No. 36, of 11 December 1995.

**CHAPTER II**

**Allocations Coordination Committee**

Article 2. *Composition*

1. The Allocations Coordination Committee established by article 6 of Law No. 36, of 11 December 1995, which is attached to the Ministry of the Interior through the Government Commission for the National Drug Plan, shall be presided over by the Government Commissioner for the National Drug Plan and shall be composed, in addition, of the following members:

- (a) Representing the Ministry of Economic and Financial Affairs:

Three Divisional Directors, or officials of equivalent rank, designated at the proposal of the Deputy Secretary of the Ministry, at least one of whom shall belong to the Department of State Property;

- (b) Representing the Ministry of the Interior:

Two Divisional Directors, or officials of equivalent rank, designated by the Government Commissioner for the National Drug Plan, one of whom, the Director of Management and Institutional Relations of the Government Commission for the National Drug Plan, shall serve as Deputy Chairman of the Committee;

(c) Representing the Ministry of Justice:

One Divisional Director, or official of equivalent rank, designated by the Deputy Secretary of the Ministry;

(d) The State Attorney, Chief of the State Legal Service of the Ministry of the Interior, who shall serve on the Committee without the right to vote.

2. An official from Group A of the Government Commission for the National Drug Plan, to be designated by the Government Commissioner, shall act as Secretary of the Committee, serving in that capacity without the right to vote.

3. Without prejudice to the competences assigned under article 25.3 of Law No. 30, of 26 November 1992, concerning the Legal Regime applying to Public Authorities and Common Administrative Procedures, the Secretary of the Allocations Coordination Committee shall discharge the following functions:

(a) Propose to the Chairman of the Committee the appointment of experts for the purposes specified in articles 6.1 and 12.2;

(b) Prepare, under the supervision of the Chairman of the Committee and for the latter's consideration, documentation relating to the policy guidelines governing the annual apportionment of confiscated property and liquid assets among the legally stipulated beneficiaries, which are subject to approval by the Council of Ministers, at the proposal of the Ministers of Economic and Financial Affairs, of the Interior and of Justice;

(c) Propose to the Committee, for its approval in conformity with the policy guidelines approved by the Council of Ministers, the apportionment and annual allocation of the property and assets incorporated in the Fund;

(d) Prepare draft agreements for the assignment of confiscated movable and immovable property, for approval by the Committee;

(e) Receive, for transmission to the Committee, the information and valuation costs referred to in article 9;

(f) Prepare the necessary documentation, in coordination with the competent service of the Government Commission for the National Drug Plan, relating to transfers of budgetary appropriations resulting from the allocation of Fund assets;

(g) Propose to the Committee, for its approval, invitations, for publication in the *Official State Gazette*, to make bids for the Fund property referred to in articles 14.2 and 15.3, as well as the draft ministerial order referred to in article 13.4;

(h) Prepare, under the supervision of the Chairman of the Committee and for his approval, the report to be submitted by the latter to Parliament in accordance with article 24.1;

(i) Prepare and update, under the supervision of the Chairman of the Committee, the Inventory of Property Seized on account of Illicit Drug Trafficking and Other Related Offences.

Article 3. *Functions*

1. The Allocations Coordination Committee, which shall have full legal capacity, shall discharge the functions assigned to it under article 6 of Law No. 36, of 11 December 1995, in accordance with the procedural rules laid down in chapter III, sections 1, 3 and 4, of these Regulations.
2. The aforementioned Committee shall also discharge the functions laid down in article 6 of the Law referred to in the preceding paragraph in relation to the purpose of the proceeds from the penalties and confiscation orders imposed for offences under Law No. 3, of 10 January 1996, in accordance with the provisions of chapter IV of these Regulations.
3. In the discharge of the functions assigned to it under article 6.3 and 6.4 of Law No. 36, of 11 December 1995, the Committee shall take sole account of the objectives referred to in article 2 of that Law, the policy guidelines adopted by the Council of Ministers for the apportionment of property, and the provisions of the following paragraphs of this article.
4. After deduction of any conservation and administrative costs arising and any import duty received, the Committee shall allocate to the State Security Forces and Bodies or to the Customs Surveillance Service at least fifty per cent of the proceeds from confiscated property not already assigned for the implementation of programmes for the prevention of drug abuse, care of drug-dependent persons and their social and occupational reintegration. To that end, account shall be taken of the guidelines adopted annually in that regard by the Council of Ministers, at the initiative of the Committee and at the proposal of the Ministers of Economic and Financial Affairs, of the Interior and of Justice, in accordance with the priorities of the National Drug Plan in the respective areas.
5. The proceeds from the remaining confiscated property and profits, after effecting of the allocations referred to in the preceding paragraph, shall be apportioned by the Committee among the legally designated beneficiaries in accordance with the policy guidelines adopted by the Council of Ministers. For the purpose of apportionment of such property and profits, due consideration shall be given to the allocations of property already effected in accordance with the provisions of article 16 of these Regulations.

#### Article 4. *Meetings and agreements*

1. The Allocations Coordination Committee shall meet, following its convening by the Chairman or by his substitute, if such person considers a meeting necessary or where it is requested for substantiated reasons by at least two members of the Committee. At all events, the Committee shall meet at least twice per year.
2. Valid constitution of the Committee for the purposes of holding sessions, conducting deliberations and adopting agreements shall require the consent of the Chairman and of the Secretary, or of their respective substitutes, and of at least four Committee members.
3. Minutes of each meeting shall be kept by the Secretary for submission, following their approval, to all members of the Committee, whether or not they attended the meeting in question.
4. Agreements of the Committee shall be adopted by a majority of the votes of the members present at a meeting. The Chairman shall have a casting vote in the event of a tie.
5. Except as otherwise provided in this article, the provisions relating to the legal regime and operation of collegiate organs set out in articles 22 to 27 of the Law concerning the Legal Regime governing Public Authorities and Common Administrative Procedures shall apply.

### CHAPTER III

**Procedure for the transfer of seized property  
and for the allocation and apportionment of the proceeds  
contained in the Fund**

SECTION 1. COMMON PROVISIONS

*Article 5. Notification of judgements and reception of property*

1. Following final confirmation by the pronouncing judicial organ of a judgement ordering confiscation and definitive allocation to the State, in application of articles 127 and 374 of the Penal Code, of property and assets of whatsoever nature having served as an instrumentality in the commission in any of the offences governed by articles 301.1, second paragraph, and 368 to 372 of that Code, or deriving from such offences, as well as profits therefrom, such judgement shall be reported by that judicial organ within the following three working days, to the Chairman of the Allocations Coordination Committee. Immediately upon its reception, the Chairman thereof shall transmit a copy of the judgement in question to the local Office of the Ministry of Economic and Financial Affairs for the place where the property concerned is deposited or located.

2. Together with the certified final judgement, the Secretary of the judicial organ shall also transmit certification of the decision whereby it assigned provisional use of the property to the State Security Forces and Bodies with competences in the area of drug trafficking or to the Customs Surveillance Service or, where appropriate, the specific units of one or other beneficiaries of such provisional use.

3. The confiscated property which does not consist in money or other bearer instruments shall be received by the Committee within as short a period of time as possible, with the collaboration of the local Office of the Ministry of Economic and Financial Affairs for the place where such money or instruments are deposited or located, the corresponding certificate being signed in duplicate by the Secretary of the judicial organ and by the representative of the Allocations Coordination Committee designated by the Committee for such purpose. The identity of such representative shall be reported in advance to the aforesaid judicial organ by the Chairman of the Committee.

*Article 6. Evaluation of the suitability of property by the Committee*

1. Upon receipt by the Chairman of the Allocations Coordination Committee of the documentation referred to in the preceding article and of the property concerned, that officer shall arrange forthwith for the appointment of one or more experts, who shall prepare a report within a maximum period of fifteen days from their appointment on the suitability of the confiscated property not consisting in money or other bearer instruments for use in pursuit of the objectives set forth in article 2 of Law No. 36, of 11 December 1995.

2. Following receipt of the expert report, the Chairman of the Committee shall convene a meeting of its members within the shortest possible period of time with a view to the adoption of an agreement regarding the suitability of the property in question for use in pursuit of the objectives referred to in the preceding paragraph, and regarding its transfer or assignment.

3. Property not consisting in money or other bearer instruments which the Committee does not consider suitable for use in pursuit of the objectives set forth in article 2 of Law No. 36, of 11 December 1995, shall be transferred, following its valuation and entry in an inventory in the manner set forth in articles 8 and 9, in accordance with the procedure applicable under article 17.2 and 17.4 of these Regulations, or shall be renounced or rendered unusable, at the discretion of the Committee.



The Committee shall, as a general rule with the collaboration of the local Office of the Ministry of Economic and Financial Affairs for the place where such property is located and in accordance with the procedure applicable under article 17.2 and 17.4 of these Regulations, sell any confiscated property not consisting in money or other bearer instruments in whose case it is deemed that, despite having been considered suitable for use in pursuit of the objectives set forth in article 2 of Law No. 36, of 11 December 1995, the objectives in question would be better served by the proceeds from its sale.

4. Confiscated property forming part of the national historical and cultural heritage shall be subject, notwithstanding the provisions of the preceding paragraphs, to the provisions set forth in section 4 of this chapter.

## SECTION 2. PAYMENT OF CONFISCATED PROFITS INTO THE FUND BY JUDICIAL ORGANS

### *Article 7. Payment into the Fund of liquid financial assets or other instruments of payment*

Liquid financial assets or other instruments of payment to bearer which have been confiscated, as well as revenue or interest accruing therefrom, shall be paid by the judicial organ into the Treasury in the manner laid down in Royal Decree No. 34, of 21 January 1988, and in its implementing regulations. In the corresponding transfer order, it shall be specified that such payment derives from the confiscation of property resulting from proceedings in respect of acts constituting the offences referred to in article 1, paragraph 1, of Law No. 36, of 11 December 1995.

## SECTION 3. TRANSFER AND APPORTIONMENT BY THE ALLOCATIONS COORDINATION COMMITTEE OF FUND ALLOCATIONS OF PROPERTY AND ASSETS

### *Article 8. Identification and inventory of property*

1. Confiscated property not consisting in money or other instruments of payment to bearer which have been deemed by the Committee to be suitable for use in pursuit of the objectives set forth in article 2 of Law No. 36, of 11 December 1995, shall be identified and valued by an expert or experts, at the request of the Committee, prior to its transfer or assignment.

If the Committee, in collaboration with the local Office of the Ministry of Economic and Financial Affairs for the place in which it is located, encounters insuperable difficulties in identifying the allocated property, it shall, through its Chairman, report that circumstance to the judicial organ which issued the judgement so that the latter may facilitate such identification or adopt, where appropriate, any measures it deems advisable or legally required.

Should the identification and valuation process reveal that the characteristics of the allocated property and its valuation are not consistent with those indicated in the judgement in which the confiscation was ordered, the result of that process shall be communicated to the judicial organ so that the matter may be duly resolved.

2. Following its identification and valuation, the incorporation of property as part of State property shall be effected through registration in the Inventory of Property Confiscated on account of Illicit Drug Trafficking and Other Related Offences, which shall be the responsibility of the Committee. If the confiscated property consisted of non-Community merchandise, its designation as merchandise subject to customs safekeeping regulations shall be expressly specified.

Separate entries shall be made in the aforementioned Inventory for matters relating to movable property not consisting in liquid financial assets or other bearer instruments, and for immovable property, as well as rights existing in respect to either types of property and changes which might affect the legal regime governing them.

*Article 9. Notification of the Committee regarding the valuation and costs incurred*

The Office of the Ministry of Economic and Financial Affairs for the place where the property concerned is deposited or located shall also report to the Allocations Coordination Committee regarding the amount of the costs of whatsoever nature incurred to date for the maintenance and/or safekeeping of the property and for its valuation, together with any other information that it possesses and any proposals it might have for the use of the property.

*Article 10. Entering of property in public registers*

1. The Office of the Ministry of Economic and Financial Affairs shall enter in the relevant registers, in the name of the State, the property and titles confiscated which are capable of registration. The Allocations Coordination Committee shall furnish the necessary funds for such registration.

2. Allocations of immovable property effected by the Allocations Coordination Committee, in accordance with Law No. 36, of 11 December 1995, and with these Regulations, in favour of beneficiaries not belonging to the general State administration or its public bodies shall be entered in the Property Register by means of registration in favour of the relevant beneficiary.

In such cases, it shall also be specified in the register entry that failure to pursue the objective or objectives for which the property was allocated by decision of the Committee shall entail its reversion to the Fund governed by Law No. 36, of 11 December 1995, or, failing that, to incorporation as State property.

The corresponding registration duties and other costs incurred as a result of the allocation of property shall be borne by the beneficiaries thereof.

*Article 11. Conservation of property*

The Allocations Coordination Committee shall have responsibility for the conservation and administration of the confiscated property until the time of its transfer or assignment in accordance with the provisions of Law No. 36, of 11 December 1995, and with these Regulations.

In the discharge of this function, the assistance of the Offices of the Ministry of Economic and Financial Affairs may be sought and the necessary funds furnished for covering all the costs arising.

*Article 12. General provisions on apportionment and allocation of assets and property among beneficiaries*

1. Following completion of the operations described in the preceding articles, the Committee shall allocate the assets and any other property contained in the Fund in conformity with the provisions of articles 13, 14, 15 and 16 of these Regulations.

2. In the exercise of these functions, the Committee may draw on whatever specialized advice is required and may appoint the experts which it deems suitably qualified for such purpose, whether or not they are officials of the State administration.

3. Decisions of the Committee shall have the effect of terminating administrative proceedings and shall be appealable before an administrative court, in accordance with its regulatory provisions.

4. The bodies and institutions referred to in article 3 of Law No. 36, of 11 December 1995, may be beneficiaries and recipients of the assets and other property incorporated in the Fund, and shall be subject to the obligations referred to in the assignment agreement and, where applicable, in the contract of transfer of the property, as well as other obligations laid down in article 18 of these Regulations.

5. Following apportionment of the liquid assets and, where applicable, assignment of the other property by the Committee, the relevant transfers, chargeable to the corresponding budgetary appropriations of the Government Commission for the National Drug Plan, shall be made in the first place, and the transfer of use of property, in the second place, shall be formalized through an appropriate agreement, except in the case of organs of the general State administration, in which shall be established the conditions governing such transfer, including, where appropriate, an indication of whether such property is designated as subject to customs safekeeping regulations.

6. The Chairman of the Committee shall then submit to the local Office of the Ministry of Economic and Financial Affairs for the place in which the movable or immovable property is located a copy of the assignment agreement or, where appropriate, of the agreement governing the conditions of transfer. The aforesaid ministerial Office shall execute the transfer, keeping a record of the proceedings or formalizing the transfer in a public deed, where appropriate, following delegation of the relevant powers.

Without prejudice to the direct competences of the Committee, the aforesaid Office of the Ministry of Economic and Financial Affairs shall also adopt whatsoever measures it may deem necessary for the purpose of monitoring application of the assignment agreement or, where appropriate, of the agreement on transfer of property and shall inform the Committee, at least once every five years, regarding such application, as well as any effects thereof.

An entry shall be made in the Inventory of Property Confiscated on account of Illicit Drug Trafficking and Other Related Offences, detailing the assignment made, its duration and the identity of the beneficiary.

7. Where the beneficiaries of the assignment of property are organs forming part of the general State administration or of the Office of the State Attorney-General, the Chairman of the Committee shall, in addition, transmit a copy of the assignment agreement to the State Property Department of the Ministry of Economic and Financial Affairs so that the latter might allocate the property in question to the ministerial department to which the beneficiary organ or organs belong.

#### Article 13. *Apportionment of liquid assets*

1. Sums of money confiscated in accordance with a final judgement and paid into the Fund, as well as other money subsequently incorporated into the Fund as a result of the transfer of other property and the interest accruing therefrom, shall be apportioned annually by the Committee among the different beneficiaries, with due regard for the established policy guidelines, at the initiative of the Committee and at the proposal of the Ministry of Economic and Financial Affairs, of the Interior and of Justice, by the Council of Ministers.

2. To that end, the Police Department, the Civil Guard Department, the State Revenue Agency and the Special Drug Trafficking Prevention and Control Office shall present to the Committee, in the third quarter of each year, their respective action plans for combating drug trafficking and money-laundering, with the omission of matters which they deem to be of a confidential nature, specifying clearly and in detail the material prerequisites entailed by those plans or, failing that, providing a detailed statement of the material prerequisites deriving from the normal discharge of their functions in that area of activities, including, where applicable, forecasts of the resources which might prove necessary for covering the costs referred to in article 2, paragraphs (a) and (c), of Law No. 36, of 11 December 1995.

3. The sums allocated by the Committee to the Autonomous Communities shall be apportioned among them with due regard for the criteria adopted by the Council of Ministers, at the initiative of the latter, and in accordance with the relevant forecasts contained in the Sectoral Conference of the National Drug Plan. Those forecasts may also provide for a percentage of the allocations to the Autonomous Communities to be apportioned by the latter among local bodies, non-governmental organizations and private non-profit-making entities within their territory.

4. The Committee may agree, taking account of the criteria adopted by the Council of Ministers and at the latter's initiative, that a percentage of the liquid assets contained in the Fund shall be allocated to the local bodies, in the light of the forecasts contained in the relevant Autonomous Community Drug Plan. The conditions governing such allocation shall be established, at the proposal of the Committee, by Order of the Ministry of the Interior, which shall be published in the *Official State Gazette*.

5. The sums which the Committee agrees to apportion among non-profit-making entities of national status engaging in activities wholly or partly related to the problem of drug addiction shall increase the budgetary allocation of the Government Commission for the National Drug Plan corresponding to current transfers to private non-profit-making entities of national status engaging in programmes of this nature in line with the priorities of the National Drug Plan. Actual apportionment among such entities shall be subject to the conditions established, at the proposal of the Committee, by Order of the Ministry of the Interior, which shall be published in the *Official State Gazette*.

6. The Government Commission for the National Drug Plan, as well as other public bodies or entities within the general State administration, may be beneficiaries of assets apportioned by the Committee, provided that they submit the appropriate requests, for the purposes of implementation of specific programmes related to the objectives set forth in article 2.1 and 2.2, of Law No. 36, of 11 December 1995, in accordance with the priority goals set by the authorities responsible for the National Drug Plan. To that end, such bodies shall present to the Committee, during the first quarter of the year, a detailed statement of the programme or programmes which they aim to implement, together with the associated budget and specification of the amount sought for the purpose of execution of such programmes.

7. International bodies may receive allocations from the Committee for the implementation of international cooperation programmes related to the objectives set forth in article 2.1 and 2.2 of Law No. 36, of 11 December 1995. For that purpose, they shall address to the Committee the relevant request in the first quarter of the year, accompanied by a detailed description of the programmes or activities which they wish to carry out, specifying the relevant budgets and the volume of funds sought. The Committee shall, in such cases, call for earlier reports from the Ministry of Foreign Affairs and the Government Commission for the National Drug Plan regarding such programmes and activities and shall respond to the aforesaid requests on the basis of the reports received, if both institutions concur in either a favourable or an unfavourable response. In the event of a discrepancy, the Committee shall decide the matter at its own discretion.

In addition, the Ministry of Foreign Affairs and the Government Commission for the National Drug Plan may request the Committee to provide funding for programmes or activities carried out or planned by international bodies in accordance with agreements signed by the Spanish Government and shall furnish in that connection the information required under the preceding paragraph.

#### Article 14. *Allocation of other movable property*

1. Notwithstanding the provisions of article 6.3, second paragraph, of these Regulations, the Committee may exceptionally, in conformity with the policy guidelines adopted by the Council of Ministers, assign to requesting beneficiaries movable property not consisting in money or other bearer instruments which has been confiscated in

accordance with a final judgement and declared suitable by the Committee for use in the pursuit of the objectives set forth in article 2.1 and 2.2 of Law No. 36, of 11 December 1995.

2. For the purposes of the provisions of the preceding paragraph, movable property which the Committee considers suitable for use in the pursuit of the aforesaid objectives and capable of assignment to the legally designated beneficiaries, shall be offered by the Committee for its transfer for use through a notice placed free of charge in the *Official State Gazette*. Such notice shall state the time-limit for submission of the relevant request, which shall be no less than fifteen days and no more than thirty days.

The aforesaid notice shall not include movable property which, having been provisionally assigned during the relevant judicial proceedings to State Security Forces and Bodies or to the Customs Surveillance Service, has been requested by such agencies to be finally assigned by the Committee following pronouncement of the final judgement ordering its confiscation.

3. Assignment requests submitted to the Committee by bodies and institutions shall, in both cases, state the use or purpose for which the property is intended, the procedure to be followed in the event of failure to do so being that laid down in article 71.1, of Law No. 30, of 26 November 1992. No account shall be taken of requests specifying a use or purpose inconsistent with the provisions of article 2 of Law No. 36, of 11 December 1995. Requests submitted by private non-profit-making entities shall be accompanied by certification attesting to the authorization to operate of such entities and, where applicable, certification by the competent body of the Autonomous Community or Communities where such entities have offices.

Where requests are not accompanied by such certification, the Chairman shall notify the entity concerned that if the certification required is not submitted within a maximum period of ten days, the request shall be filed without further response.

Requests submitted by private non-profit-making entities of national status whose centres of activity are not all duly authorized or, where applicable, approved shall not be considered.

4. The Committee shall reach a decision regarding requests submitted within a maximum period of six months from the date of publication of the relevant invitation, those on which no express decision is reached during this period being deemed to be rejected.

5. Movable property which has been assigned may not be sold, leased, transferred or encumbered by the beneficiaries thereof, except with express authorization of the Committee and in accordance with the conditions established by the latter, in which the case the proceeds from the sale or leasing transaction shall be paid into the Fund, any arrangement or agreement in that regard lacking such authorization being null and void. Transactions involving property governed by customs safekeeping regulations shall further be subject to the provisions related to merchandise governed by the aforesaid customs regulations in the EEC Regulations No. 2913 of the Council, of 12 October 1992, adopting the Community Customs Code, and No. 2454 of the Commission, of 2 July 1993, establishing special implementing provisions for the said Regulations.

#### Article 15. *Assignment of immovable property*

1. Notwithstanding the provisions of article 6.3, second paragraph, of these Regulations, in specific cases and with substantiation of grounds, the Committee may agree that immovable property which has not been sold shall be allocated for the installation, extension or relocation of facilities devoted to the prevention of drug abuse or health care or social and occupational reintegration of drug-dependent persons, as well as improvement of the delivery of the law-enforcement, investigation and prosecution services in connection with the offences specified in articles

301.1, second paragraph, and 368 to 372 of the Penal Code, in conformity with the policy guidelines adopted by the Council of Ministers, at the initiative of the Committee.

2. For the purposes of implementation of the provisions of the preceding paragraph, the Committee shall announce, through a notice placed free of charge in the *Official State Gazette*, in conjunction with or separately from the notice referred to in article 14.2 of these Regulations, the invitation to bid for the assignment of the property concerned. Such notice shall set out, in addition to other requirements, a brief description of the property to be assigned providing details of its nature, location and size. The time-limit for making the relevant request for assignment of such property shall be no less than twenty days and no more than forty days from the day following the date of publication of the invitation.

Such invitation shall not include immovable property which, having been assigned provisionally during the relevant judicial proceedings to the State Security Forces and Bodies or to the Customs Surveillance Service, was requested to be finally assigned by the Committee following pronouncement of the final judgement ordering its confiscation.

3. Assignment requests submitted to the Committee by organizations or entities shall be required to state the use or purpose for which the immovable property is intended, the procedure in the event of failure to do so being that stipulated in article 71.1 of Law No. 39 [30?], of 26 November 1992. No consideration shall be given to requests specifying a use or purpose not in conformity with the provisions of article 2 of Law No. 36, of 11 December 1995.

Requests submitted by private non-profit-making entities of national status shall be accompanied by the certification referred to in article 14.3 of these Regulations, with the effects established therein in the event of failure to do so.

Requests submitted by private entities whose centres of activity are not all duly authorized or, where applicable, approved shall not be considered.

4. In the cases referred to in paragraph 2, while the State shall have ownership of such immovable property, its use may be transferred by the Committee to any of the beneficiaries referred to in article 3.1 of Law No. 36, of 11 December 1995, provided that they request such use, in accordance with the terms and conditions stipulated in the transfer contract and also, where appropriate, in the agreement signed for such purpose. Beneficiaries shall be required to attest to the Committee that they are in possession of the requisite authorizations for pursuit of the specified activities in the immovable property concerned, actual transfer being conditional upon compliance with this requirement. The period of transfer for immovable property to beneficiary organizations or entities not belonging to the general State administration nor dependent on the latter shall have a maximum duration of fifty years, property reverting to the Fund or, in its absence, to State property.

5. The Committee shall decide on requests submitted within the maximum time-limit of six months, reckoned from the date of publication of the relevant invitation, those for which no express decision has been reached within such period being deemed to be rejected.

6. The Autonomous Communities may propose to the Committee that the use of immovable property be transferred to local bodies based in their territory or to private non-profit-making entities operating within their territorial ambit. For such purposes, the Committee, having accepted the request submitted to it, shall propose to the Ministry of the Interior that a transfer agreement be concluded with the relevant local body, or shall itself conclude such an agreement, through its Chairman, in the case of an agreement with private non-profit-making entities, subject to receipt in either case of a favourable report by the Autonomous Community in which the property is located, such report to be issued within a maximum period of ten working days and being deemed unfavourable [*Translator's*

*note: the Spanish actually has “favourable” here, but “unfavourable” would appear to make better sense.] if not issued within such period.*

7. The assigned immovable property may not be sold, leased, transferred or encumbered by the beneficiaries, any contract or agreement to such effect shall be deemed void under the provisions of article 26 of the Mortgage Act and article 10.2 of these Regulations.

8. The Committee, with the collaboration of the Provincial Offices of the Ministry of Economic and Financial Affairs, shall adopt whatsoever measures it may deem necessary to monitor the actual use of the transferred immovable property for the purposes stated in the transfer contract and, where applicable, in the agreement, in accordance with the terms and conditions stated therein.

If the transferred immovable property was not intended for the use specified in the transfer contract, or ceased to be intended for such use subsequently, the contract shall be deemed to be terminated and the property shall revert to the Fund governed by Law No. 36, of 11 December 1995, the Committee being empowered to demand from the assignee, following expert valuation, a sum equivalent to the value of damage or wear and tear suffered by the property concerned.

The termination of the transfer agreement shall be approved by agreement of the Ministry of the Interior, at the proposal of the Committee, in cases where the agreement was signed by the Ministry, and otherwise by the Committee.

#### *Article 16. Final allocation of provisionally transferred property*

1. The Police Department, the Civil Guard Department and the State Revenue Agency which, in conformity with the provisions of article 374.2 of the Penal Code, having made provisional use, by virtue of a judicial decision, of movable or immovable property subsequently confiscated by final judgement, shall request the Committee to order its final allocation within a period of thirty days, reckoned from the day following the date on which the Chairman of the Committee transmitted to them a copy of the final judgement pronounced.

2. Non-receipt of such request within the period stipulated shall give rise to the Committee's entitlement to assign the property in question to other beneficiaries, or to sell it with the collaboration of Offices of the Ministry of Economic and Financial Affairs, or to propose to the Council of Ministers its sale in accordance with the terms laid down in article 17.2 and 17.4 of these Regulations. If, however, the request is submitted within the requisite time period, the Committee shall assign the property finally to the State Security Forces and Bodies or to the Customs Surveillance Service, which had enjoyed use and possession thereof, in accordance with the terms stipulated in the transfer contract.

#### *Article 17. Intended use of non-allocated property and funds*

1. Sums of money contained in the Fund which have been converted into the corresponding budgetary appropriations, in accordance with the provisions of article 23 of these Regulations, shall, at the end of the budgetary period, be treated in the manner established in respect of the budgetary surpluses by the revised text of the General Budget Law, or the State General Budget Law for each financial year.

If the balances shown by the Fund at end-of-year have not been paid into the Treasury and have consequently not been charged to the State Revenue Budget, their payment into the Treasury during the subsequent financial year shall also be subject to the provisions of article 23. If such balances have been paid into the Treasury and their value charged to the Budget, the expansion of appropriations during the following financial year shall be governed by the provisions of the Budget Law for the relevant financial year.

2. Property which, in conformity with the provisions of these Regulations, have not been assigned in one or more successive invitations to any of the possible beneficiaries legally designated in article 3.1 of Law No. 36, of 11 December 1995, shall be sold by public auction, by the Committee, with the collaboration of the competent Office of the Ministry of Economic and Financial Affairs, if its unitary value as assessed by means of valuation is not in excess of three thousand million pesetas; and by the Council of Ministers, at the proposal of the Committee, if the aforesaid value is in excess of that figure. The procedure for sale by public auction shall conform with the provisions of the following paragraph and may be carried out through two invitations. In such invitations, bids shall not be accepted which are not at least equal to the bidding price or value established for each respective invitation, and bidders may be required to give any prior guarantees deemed necessary.

Auctions shall be declared void in the absence of any bid meeting all the requirements established in the relevant invitation. The Committee may in such cases renounce the immovable property in question if it is considered that special circumstances dictate that renunciation would be more beneficial from the point of view of achieving the objectives set forth in article 2 of Law No. 36, of 11 December 1995, on account of the meagre value of such property, or the high costs of its conservation and administration, or on account of some other reason deemed relevant. Likewise, it may renounce the aforementioned property without a prior invitation to auction if, because of the inherent characteristics of a particular item of property and on account of other circumstances as assessed by the Committee at its own discretion, it may be concluded that any auction held would be void and the other circumstances stipulated for renunciation also obtain.

If the Committee does not elect to renounce the immovable property in accordance with the provisions of the preceding paragraph, it may be sold by means of direct sale to one of the purchasers referred to in paragraph 4, subparagraphs (a), (b) and (c), of this article.

3. Invitations to public auction shall be announced in the *Official State Gazette* at least fifteen days ahead of the time-limit for submission of bids, if the object of the auction is constituted solely by movable property, and by at least twenty days ahead of the time-limit for submission of bids if its object includes immovable property. Bids shall be submitted in writing, with the property whose allocation is sought clearly designated, together with the amount of the bid being made for each item, mention also being included of the date of the invitation in which the property was offered and that of the publication of the invitation in the *Official State Gazette*.

During the aforementioned periods all items of property shall be open for examination by those interested in their purchase.

Allocation of the auctioned property shall take place in the first invitation in favour of the first bid submitted that is equal to or exceeds the bidding rate or value, which shall correspond to the valuation of the item or items of property, provided that the bid in question is the only one submitted and that it meets all the requirements set by the invitation.

Where two or more bids meeting all the requirements of the invitation are submitted in the first invitation and where they are equal to or exceed the bidding rate or value set, the item or items of property shall be sold in favour of the bid containing the highest financial offer with respect to the bidding rate or value. In the event of two or more equal bids containing the highest financial offer or in the event of equal bids of the same value as the minimum bidding rate or value, the sale shall be effected in favour of the bid submitted at the earlier date; in the case of two equal competing bids in this respect also, the body competent for the sale shall decide the matter at its own discretion.

If an item or items of property are not allocated in the first invitation, a second and final auction shall be held within a period no greater than thirty days, with a lowering by 40 per cent of the bidding rate or value initially set, in which the item or items of property shall be allocated in favour of the financial bid which meets all the



requirements of the invitation and is equal to or in excess of this bidding rate or value, provided that it is the only bid submitted.

If two or more bids are submitted in the second invitation, the item or items of property shall be sold in favour of the bid containing the highest financial offer with respect to the bidding rate or value. In the event of two or more equal bids containing the highest financial offer, or in the event of equal bids of the same value as the minimum bidding rate or value set for the second invitation, the sale shall be effected in favour of the bid submitted at the earlier date; in the case of two equal competing bids in this respect also, the body competent for the sale shall decide the matter at its own discretion.

The Committee may accept bids for allocation submitted on the basis of the run-off system if this is so permitted in the invitation, subject to the requirements established therein.

4. The Committee, in collaboration with the local Office of the Ministry of Economic and Financial Affairs for the place where the property is located, may adopt the procedure of direct sale of the property instead of that of public auction referred to in paragraph 2 above, in the following cases:

(a) When the purchaser is a public authority, autonomous body, public entity or public company of the general State administration, of the Autonomous Communities or of the local Entities;

(b) When the purchaser is a non-profit-making entity in the welfare sector, or a legally constituted church or religious denomination;

(c) Following the holding of a second invitation to a public auction, when the latter has been declared void and a purchaser subsequently makes a request to purchase an item or items of property for the bidding rate or price set in the invitation;

(d) When, on account of the inherent characteristics of an item of property, and other circumstances affecting the situation as assessed by the Committee at its own discretion, it may be concluded by the latter that the auction would be declared void;

(e) When, for exceptional reasons for which due explanation is given, the procedure of direct sale proves more advisable, in the opinion of the Committee, for the achievement of the objectives set forth in article 2 of Law No. 36, of 11 December 1995, in the light of the deterioration of the property or its obsolescence, its meagre value and the high conservation and administrative costs associated with it, provided that such circumstances do not dictate its renunciation and that the property in question is not immovable.

Where there are two or more purchasers in the categories described in the foregoing subparagraphs, the property shall be sold preferentially to the purchaser specified in subparagraph (c) if so requested by such purchaser and if the property has not already been allocated; if not so requested, the sale shall be made to the purchasers specified in subparagraphs (a) and (b) in their respective order.

5. The proceeds from the sale shall be paid into the Treasury and shall be reflected in the budgetary cost sheets of the Government Commission for the National Drug Plan in the manner laid down in article 23. Where such proceeds derive from the sale of non-Community property, the relevant accountancy department of the Customs and Special Excise Administration or of the Special Excise and Customs Section of the State Revenue Agency shall be notified thereof with a view to the determination of monies owing to the Community, it being necessary to calculate and deduct the import duties.

Following deduction of any monies owing to the Community, the proceeds from the sale shall be incorporated in the budgetary cost sheets of the Government Commission for the National Drug Plan in the form indicated in the preceding paragraph.

The sale or renunciation of the aforesaid property shall entail its removal from the Inventory and release from its designation for use in the pursuit of the objectives set forth in article 2 of Law No. 36, of 11 December 1995. In addition, if the property was constituted by non-Community merchandise, the sale shall be treated as a customs clearance for home use of the property in question, entailing completion of all the relevant import formalities and inclusion in the sale price of the import duties arising.

#### Article 18. *Obligations of beneficiaries and allottees*

1. Beneficiaries of assets deriving from the Fund governed by Law No. 36, of 11 December 1995, and by these Regulations shall be obliged to use such assets for the purpose for which they were assigned and for the fulfilment of the other obligations laid down in article 81.4 of the General Budget Law.
2. Beneficiaries and assignees of other movable or immovable property shall use such property for the purpose for which it was assigned and shall be subject to the obligations laid down in the transfer contract and also, where applicable, in the relevant agreement, in particular, to that of furnishing whatsoever information regarding the location, use and other circumstances affecting the property may be required by the State Property services or by the Allocations Coordination Committee.

The transfer contract, which shall have an administrative character, shall be signed by the Minister of the Interior, at the proposal of the Committee, in cases where the beneficiaries of the property are Autonomous Communities, local bodies or international organizations, and by the Chairman of the Allocations Coordination Committee where the beneficiaries are non-governmental organizations of national status or private entities. In the event of any doubts or lacunae emerging in connection with the application or interpretation of this agreement, the applicable principles shall be those set out in Law No. 13 on Contracts of Public Authorities, of 18 May 1995. The aforesaid agreement shall be endorsed by the State Legal Service and by the State Audit Office.

3. Failure by beneficiaries of assets deriving from the Fund to fulfil the obligations laid down in this article shall entail the reincorporation of such assets in accordance with the terms stipulated in article 81.9 of the General Budget Law, as well as the penalties established in article 82.3 of the aforesaid Law.

Failure to fulfil the obligations laid down in this article by assignees of movable or immovable property shall entail revocation of the transfer contract and, where appropriate, termination thereof, as well as the reversion of the property to the Fund; in such cases the Committee shall also be entitled to demand the reversion of any illicitly acquired profits and payment of compensation for any damages that such failure might have caused to the assigned property, subject to expert valuation.

### SECTION 4. USE OF CONFISCATED PROPERTY FORMING PART OF THE HISTORICAL AND ARTISTIC HERITAGE

#### Article 19. *Notification of judgements*

1. Following final confirmation by the pronouncing judicial authority of a judgement ordering confiscation and final allocation to the State of property which may form part of the Spanish historical heritage, the Committee shall be notified thereof within the time period specified in article 5.1 and shall take possession of the property in the manner laid down in article 5.3 of these Regulations. The Committee shall immediately transmit a copy of the

aforesaid judgement to the Ministry of Education and Culture, which shall thereupon make arrangements to ensure appropriate legal protection of the property and to determine the financial value to be assigned thereto, in conformity with Law No. 16, of 25 June 1985, reporting to the Committee within a maximum period of three months its evaluation in that regard.

2. The Committee shall consent to or, where appropriate, urge the collaboration of the local Office of the Ministry of Economic and Financial Affairs for the place where the property is located, or shall propose to the Council of Ministers, in the terms set out in article 17.2 and 17.4 of these Regulations, the sale of the said property which, according to the report referred to in the preceding paragraph, has not been considered to form part of the Spanish historical heritage or of the historical heritage of any Autonomous Community, subject to a hearing of the latter. Where this is not the case, the provisions of the following paragraph shall apply.

#### Article 20. *Use of the property*

1. The final use of confiscated property forming part of the Spanish historical heritage shall be governed by the provisions of Law No. 16 on the Spanish historical heritage, of 25 June 1985, and its implementing regulations. The Ministry of Education and Culture shall inform the Committee of the use to which the property in question is to be put.

2. Movable or immovable property of artistic, historical, paleontological, archeological, ethnological, scientific or technical interest forming part of the historical heritage of an Autonomous Community shall be subject, in regard to its final use, to the regulatory provisions applicable to historical heritage of the Autonomous Community in question.

3. For the purposes of compliance with the provisions of the preceding paragraph, the Ministry of Education and Culture shall transmit to the competent Department of the Autonomous Community in which the confiscated property is located or based and, if such property is known to have historical and artistic origins in a different Autonomous Community, also to the competent Department thereof, a copy of the judgement ordering confiscation so that such Department might, within a maximum period of thirty days from receipt thereof, expressly state its readiness to take charge of the property concerned.

Following receipt by the Ministry of Education and Culture of a communication by the competent body of an Autonomous Community expressing its readiness to receive the property concerned, the Ministry shall inform the Committee accordingly, prior to expiry of the time period specified in the preceding paragraph, with a view to preparation by the latter of the relevant assignment by means of the conclusion of the corresponding agreement, which shall be undertaken, at the proposal of the Committee, by the Minister of the Interior together with the representative of the aforesaid Autonomous Community. Notification of this agreement shall be sent by the Committee to the Office of the Ministry of Economic and Financial Affairs which has safekeeping of the property, and the latter shall take charge of its assignment and the issuance of the public document or deed necessary for such purpose.

If the communication referred to in the preceding paragraph is not received within the period stipulated in the first paragraph of article 20.3, or in the case of a negative response, or if two or more Autonomous Communities make competing claims regarding the future use of the property, the Ministry of Education and Culture shall pronounce a decision regarding such use, of which it shall notify the Committee. The aforementioned decision shall have the effect of terminating administrative proceedings and shall be appealable before an administrative court.

## CHAPTER IV

**Incorporation in the Fund of the proceeds  
of penalties imposed in respect of offences under  
Law No. 3, of 10 January 1996,  
concerning measures for the control of scheduled chemical substances  
liable to diversion for the illicit manufacture of drugs**

Article 21. *Procedure*

The proceeds of administrative penalties imposed in respect of offences under Law No. 3, of 10 December 1996, shall be incorporated in the Fund established by Law No. 36, of 11 December 1995, for the pursuit of the objectives set forth in article 2 thereof, in accordance with the principles set out in this chapter.

Article 22. *Use of the proceeds of penalties*

1. Following pronouncement of a final administrative decision imposing a financial penalty in respect of any of the offences established in articles 14, 15 or 16 of Law No. 3, of 10 January 1996, or ordering the confiscation of profits illicitly acquired as a result of such offences, the Allocations Coordination Committee established by article 6 of Law No. 36, of 11 December 1995, shall be notified thereof by the competent body pronouncing such decision.

2. Following payment of the penalty by the individual or corporate entity responsible for the offence within the period of collection or as a result of an enforcement procedure, the collecting authority shall notify the Committee of the relevant payment, specifying its provenance from a penalty in respect of an offence under Law No. 3, of 10 January 1996. Likewise, following the timely transfer thereof by this collecting authority to the Treasury, the latter shall enter the payment in the accounts against this budgetary item together with the corresponding amounts in the Fund established by Law No. 36, of 11 December 1995, placing it at the same time at the disposal of the Allocations Coordination Committee by means of the appropriate communication.

3. Final penalizing administrative decisions in which the competent authority has ordered the confiscation of substances listed in annexes II and III of Law No. 3, of 10 January 1996, under article 21 thereof, shall also be communicated to the Allocations Coordination Committee. Such substances shall be sold by competitive public invitation to bid, or else destroyed, by the organ of the Ministry of the Interior or of Economic and Financial Affairs which imposed the penalty, the proceeds from such sale, where applicable, being then paid to the Treasury, in accordance with the terms laid down in the preceding paragraph. Where such proceeds derive from the sale of non-Community merchandise, the departments of the Customs Administration specified in article 17, paragraph 5, of these Regulations shall be duly notified for the purposes set forth therein.

Following deduction, where appropriate, of monies owing to the Community, the Treasury shall enter the payment in its accounts in accordance with the terms laid down in the preceding paragraph.

**CHAPTER V**

**Budgetary incorporation and monitoring of Fund operations**

Article 23. *Incorporation of Fund monies in the General State Budgets*

1. Monies which feed the State-owned Fund established under the provisions of article 1.2 of Law No. 36, of 11 December 1995, shall be charged to the State Revenue Budget and shall be allocated for the financing of the Expenditure Budget appropriations of the Government Commission for the National Drug Plan which are expandable in character in the course of each financial year, for later apportionment in accordance with the terms laid down in the aforementioned Law and in these Regulations.

2. The budgetary appropriations of the Government Commission for the National Drug Plan, which are expandable in character under the provisions of the State General Budget Law for the corresponding financial year, shall be expanded up to the limit of the income constituting the Fund, in each financial year.

Following the apportionment of Fund income by the Allocations Coordination Committee, in conformity with the policy guidelines agreed each year by the Council of Ministers, at the initiative of the Committee, appropriate credit transfers shall be effected in favour of the different beneficiaries against the appropriations referred to in the preceding paragraph.

#### Article 24. *Monitoring of Fund operations*

1. During the first quarter of each financial year, the Chairman of the Allocations Coordination Committee shall submit to Parliament, through the Presidents of the House of Deputies and of the Senate, a complete report on the Fund operations, setting out both the main operations in detail and the most salient financial data revealing the scope of its operations in relation to the objectives assigned to it by law.

The aforementioned report shall also include data regarding the number of proceedings conducted and the most severe penalties imposed, in respect of offences under Law No. 3, of 10 January 1996, stating the total value of payments into the Fund deriving from such penalties.

2. The Treasury and Financial Policy Department of the Ministry of Economic and Financial Affairs shall provide quarterly reports to the Allocations Coordination Committee on income received by the Treasury under the provisions of Law No. 36, of 11 December 1995, and under these Regulations.

The competent organs of the Ministries of the Interior and of Economic and Financial Affairs shall furnish to the Allocations Coordination Committee, at the same quarterly intervals, information regarding the number of proceedings conducted and of final penalties imposed in respect of offences under Law No. 3, of 10 January 1996.

3. Irrespective of the provisions of paragraph 1 of this article, the Fund shall be subject to supervision by the State Audit Office, within its sphere of competence, and by the Court of Audit.

## CHAPTER VI

### **Operating costs of the Allocations Coordination Committee**

#### Article 25. *Constitution and operating costs of the Committee*

1. The constitution and normal operation of the Allocations Coordination Committee shall not, under any circumstances, give rise to increased costs or to the special allocation of budgetary funds.

2. Costs arising from the specialized advice required by the Committee in the discharge of its functions, together with any other costs arising from payment into the Fund, for purposes of safekeeping, of assets and proceeds in application of the assignment and sale procedures governed by articles 13, 14, 15, 16 and 17, shall be charged against the budgetary appropriations of the Government Commission for the National Drug Plan which have an expandable character in accordance with the provisions of article 23 of these Regulations.

#### Article 26. *Budgetary authorization*

In the Budget of the Government Commission for the National Drug Plan, authorization shall be granted, with funding from income deriving from the Fund, for the necessary appropriations to cover, at the proposal of the Allocations Coordination Committee, the costs arising from the administration and management of the Fund, including those for conservation and maintenance of confiscated movable and immovable property, from the time of their payment into the Fund until the time of their allocation or sale. Such authorization shall be effected through the transfer of credits charged against the appropriations referred to in article 23.2, first paragraph, of these Regulations.