

International Association of Judges.

Third Study Commission

ISTANBUL, Turkey.
September 2011.

Criminal organizations:

Identification, Seizure and Forfeiture.

In the world as it is today criminal organizations are not restricted to the territory of one single country (see for instance human trafficking, drug-trafficking or the offences in the field of financial crime) and every country is affected by the activities of these organizations.

In the 2010 questionnaire we discussed in our commission Human Trafficking, which is- without doubt – also a prime object for criminal organizations.

The so called Palermo Protocol (going back to 2000) deals with matters regarding human trafficking. This protocol was an annexe to the United Nations Convention against transnational organized crime and the protocols thereto (Palermo, 2000). This Convention was approved by the European Union through its decision of April 29/ 2004.

The Secretary General of the UN – Kofi A. Annan – wrote in 2004 about this Convention i.a the following:

“Criminal groups have wasted no time in embracing today’s globalized economy and the sophisticated technology that goes with it. But our efforts to combat them have remained up to now very fragmented and our weapons almost obsolete. The Convention gives us a new tool to address the scourge of crime as a global problem. (..) I urge all States to ratify the Convention and the Protocols thereto at the earliest possible date and to bring these instruments into force as a matter of urgency “.

In 1987 and 2003 the Study commission discussed aspects of organized crime. There is reason enough to look into the subject again.

Question 1 :

Has your country signed and ratified the Convention and the Protocols thereto. If yes, on what date.

Question 2 ;

Has your country special legislation for

- 2.1. the identification,
- 2.2. the seizure (freezing),
- 2.3 the forfeiture,

of property of criminal organizations? If yes, could you specify to what extent?

If no, is there any such legislation under consideration.

Question 3 : Has your country set up one or more specialised agencies to identify and seize the proceeds of organized crime?

Question 4 .

5.1. What assets are subject to seizure?

5.2. What assets are subject to forfeiture?

5.3. Does an asset need to have been seized in order to be forfeited?

5.4. What is the process for seizure of assets ? (please summarize)

5.5. What is the process for forfeiture ? (please summarize).

5.6. Does in your country the judge plays a role in the process mentioned in 5.4. and 5.5.?

Question 5 :

6.1. Has your country legislation in force to confiscate after due process the proceeds of crime?

Question 6:

“Money makes the world go round” .

Has your country special legislation in force with regard to the electronic movements. ?

Question 7:

8.1..Should there be an international authority to handle organised crime besides for instance Interpol, Eurojust and Frontex.

8.2.Could your country be more active in that field?

8.3. Could you as Judge be more active in that field? Do you think that you have enough instruments and qualifications to handle cases of organized crime in Court?

Dear colleagues,

Thank-you for responding. The responses will be put in a scheme and discussed at the next meeting of the Third Study Commission in Istanbul.

Amsterdam, april 2011.