

2024 Questionnaire of the 3rd Study Commission IAJ-UIM

“The rapid evolution of illicit drug manufacturing and the challenges this unstoppable process poses to successful prosecution”

Answers from Iceland

1. Does your country have legislation, or regulations, and/or court rules of procedure that are relevant to the topic of our focus this year – chemical substances and essential equipment possibly used in illicit drug manufacturing and trafficking, including importing, exporting, for domestic distribution and use and private sector due diligence?

Yes, Iceland has legislation and regulation relevant to this year's topic, Act no. 65/1974, with subsequent amendments, in addition to Regulations based on the act, currently Regulation no. 233/2001.

2. Does your country have specific legislation on precursors control?

Yes, Act no. 65/1974, Article 4 and Article 4.a. (adopted with Act no. 10/1997). The last amendment/update was July 9, 2021.

3. In your country, is an approval by a judge a pre-condition to launch investigations into a case of diversion and trafficking of precursors? Similarly, is a court order or approval by a judge required for effecting controlled or monitored deliveries?

No, judicial approval is not a pre-condition to launching an investigation. The police decides whether to launch an investigation. However, there can be aspects of an investigation that may require judicial involvement, for example issue of search warrant. The primary actor exercising control over the delivery and transportation of precursors in Iceland is Icelandic Medicines Agency.

4. When a drug/precursor-related crime is being investigated in your country, does the judiciary have any role (a) in the request for information from a foreign state and/or (b) in the provision of information to a foreign state?

a) No, it's done directly by the police without the involvement of the judiciary.

b) Yes, if it requires investigatory authorizations such as phone tapping, searches etc. Such Authorizations are issued in accordance with Criminal Procedure Act no. 88/2008.

5. Does your country have legislation or court rules that relate to monitoring manufacture and distribution of precursors which are applicable over the entire national territory?

Yes, The primary actor exercising control over the delivery and transportation of precursors in Iceland is Icelandic Medicines Agency under provisions in Act no. 100/2020. The police is charged with monitoring and investigating the use of illegal manufacturing of drugs, i.e. chemicals listed as illegal substances.

6. Does your country have legislation or court rules that establish as a criminal offence the manufacture, transport and distribution of essential equipment intended to be used for illicit drug manufacturing?

Yes, in Act no. 65/1974. The penalty can range from a fine up to a verdict of 6 years in prison. The penalty increases with repeated offence.

7. In respect of non-scheduled chemicals/ equipment, is the fact that they have been mis-declared before the Customs, sufficient to impute 'knowledge' on the part of the supplier of their being used for illicit drug manufacture?

It is complicated but it can be a part of the assessment of guilt in a criminal case.

8. In your country, does domestic legislation include measures and/or civil, criminal and/or administrative sanctions to address non-scheduled chemicals and emerging precursors, namely those that are used as starting materials and/or intermediaries in the legitimate manufacture of substances in Table I and Table II of the 1988 Convention? If yes, which type of sanctions?

Yes, and it can both be administrative sanctions and criminal sanctions - fines of imprisonment of up to 6 years - with respect to the issue on hand.

9. Please elaborate on specific pieces of information and level of details that would allow you as a judge to act on information/intelligence/evidence received from counterparts in investigations related to new emerging drug precursor chemicals not under control in your country?

If the new emerging drug precursor chemicals is not under control in Iceland it would not be possible. Investigations are exclusively conducted by the police and a Court case could not be based on chemicals not already „blacklisted“ by the relevant Icelandic authorities. The list is regularly updated.

10. Are there any specific provisions that allow you as judge to act on non-scheduled chemicals with no known legitimate uses? Would information from an international body, or a collection of information from other countries, that a chemical has no known legitimate use facilitate your work in any way?

No specific or general provisions apply. Such information from an international body might have evidentiary role in a criminal proceeding.

11. As a judge, if you receive a request for assistance in a drug/precursor-related crime from a foreign country, whether at the investigation stage or in the context of a court proceeding (a hearing or a trial), how is it relevant to your determination to ensure that basic human rights, principles of natural justice, and/or rules of procedural fairness that exist in your country are respected?

These principles are reflected in Icelandic law namely Act no. 13/1984, Law on Extradition of Criminals and Other Assistance in Criminal Matters, with reference to the Icelandic Constitution and European Convention on Human Rights.