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 it 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.

Yes, Denmark has signed the Convention and the 12th of December 2000 and ratified on the 30th of September 2003.

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.

There is no special legislation for criminal organizations, the normal legislation for all
criminal subjects, including companies and other kinds of non-physical legal persons applies.

No such legislation is, to my knowledge, under consideration.

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

Yes, Denmark has a special unit called the “Sporingsgruppen” (“Tracing group”) under the
Attorney General for Special Economic 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.?

Ad. 5.1 og 5.2

All kinds of assets, money or anything else of economic value, can be seized and later
forfeited.

Ad 5.3.

Not necessarily.

Ad 5.4.

Seizure will normally be requested by the prosecutor to the court, and a preliminary hearing
will be held to decide in the matter. If the aim would be wasted if the prosecutor had to wait
for the decision from the court, the prosecutor can make a temporary decision of seizure that
has to be brought to the court within 24 hours.

Ad 5.5.

The forfeiture will normally be decided as a part of the criminal trial against the persons or
organisations in the matter, but can also be held as a separate trial if no criminal trial is held
over the matter.

Ad 5.6.

Yes, the courts has a central role in the matter, making the final decision of both seizure and
forfeiture.

Question 5:
6.1. Has your country legislation in force to confiscate after due process the proceeds of crime?

Yes, all kinds of proceeds of crime can be confiscated after due process after the rules in the Criminal Code, article 75 – 77. Rules exist to confiscate both proceeds proved to be related to a specific crime and assets possessed by persons convicted for serious crimes, that normally generates a big economic outcome, and legal persons related to such persons, without a specific proof of the assets relating to a specific crime.

Question 6:
“Money makes the world go round”.
Has your country special legislation in force with regard to the electronic movements.?

Yes, as a part of the European Union, the Directives of the Union related to laundering of money applies in Denmark and special legislation has been made in accordance with this.

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?

To my knowledge, the persons working in the prosecution cooperates with both Interpol, Eurojust and Frontex. Special groups in the General Attorneys office works with tracing of proceeds of crime from criminal organisations and laundering of money. As a judge, I think we have the necessary means, instruments at qualifications to handle these matter, but not many cases of international, organized crime is to my knowledge brought to court in Denmark.

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.