Answers from the Association of Hungarian Judges to the Questionaire

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.

2.1 - 2.3 There is no special legislation. All concerned regulations can be found in the Criminal Code and the Code of Criminal Procedure.
Plans for amendments are not in question.

Question 3: Has your country set up one or more specialised agencies to identify and seize the proceeds of organized crime?
No specialised agencies. Police department and public prosecution service is in charge for that.

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.?

5.1 All assets and computer data being possible as piece of evidence or as subject of forfeiture are to be seized.

5.2 All assets used for the commitment of the offence (tool) or jeopardizing the public security or being the result of the offence or having been used for transportation are to be forfeited under the condition that the offender is the owner.
The property gains which the offender has benefited from the crime are to be forfeited as well. In case that the assets are not on hand an adequate compensation is to take.
Subject of forfeiture are moreover all given and also promised property gains (corruption) and enrichments of other persons in relation with the crime.

5.3 No, not necessarily.
5.4 The owner of the assets (or computer data) must be requested to handover. In case of refusal a fine can be imposed. A house search is also possible. The seizure of letters between the defendant, his law counsel and other persons having a right for refusal to give evidence is not allowed. All seized assets have to be minuted and carefully stored.

5.5 The court in its final judgement decides on all forfeiture of assets and property benefits, it also determines the amount of compensation in case that the assets are not more on hand (see above 5.2).

5.6 The judge has to decide on the seizure of documents in lawyers' and notaries' offices and all documents concerning health data (confidential medical communication). The seizure of documents in an editorial office and the seizure of letter post can also only be commanded by the judge.

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

Question 6:
"Money makes the world go round".
Has your country special legislation in force with regard to the electronic movements?
No, but see above

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?

8.1 Under the point of view that organized crime almost always is transnational and therefore a fight against it only can be successful on international level the creation of an European Public Prosecutor as provided in the so called Corpus Juris must be seen as helpful.

8.2 More activity not only but also in fighting against corruption always must be seen as appropriate. But that is in the first line the duty of police and public prosecution.

8.3 The legal instruments for judges in Hungary in my view can be seen as sufficient. There are also hold permanently training seminaries for judges on handling of organized crime cases in the Hungarian Judicial Academy.

Pécs, 23rd June 2011

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