International Association of Judges.

Third Study Commission

ISTANBUL, Turkey.
September 2011.

Criminal organizations: Identification, Seizure and Forfeiture.

Report from Iceland

Question 1:
Has your country signed and ratified the Convention and the Protocols thereto. If yes, on what date.

Answer:
Yes, the Palermo protocol was signed on behalf of Iceland on the 13\textsuperscript{th} of December 2000, and ratified on the 22\textsuperscript{nd} of June 2010.

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.

Answer:
Iceland has no special legislation for this purpose and at the moment such legislation is not under consideration. New regulation regarding forfeiture is to be found in the General Penal Code and regulation regarding seizure is in the Code of Criminal Procedure.

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

Answer:
No, it has not.

Question 4:
4.1. What assets are subject to seizure?

Answer:
According to the Code of Criminal Procedure all kind of assets can be seized if there is reason to believe that a property, or things or information contained therein, may constitute evidence
in criminal proceedings, that the property may have been obtained in a criminal manner or that the property may be confiscated.

4.2. What assets are subject to forfeiture?

Answer:
According to the General Penal Code all kinds of assets are subject to forfeiture, such as money, items, objects, items of value, gains, or a sum of money that is partly or entirely equivalent in value. The same applies to objects that have been purchased for the gains, or that have replaced them. When it is not possible to demonstrate the monetary value of such gains, it may be estimated. If the gains of an offence have become merged with possessions that have been acquired lawfully, the possessions may be confiscated up to the estimated value of the gains that have become merged with them.

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

Answer:
No, not necessarily.

4.4. What is the process for seizure of assets?

Answer:
According to the Code of Criminal Procedure the police may seize property without a court order. If the property is however owned by, or in the possession of, a person other than a suspect and there is no risk of its destruction or concealment, the seizure shall be decided by a court order, unless the express consent of the owner or possessor has been obtained.

If the owner or possessor of seized property refuses to abide by such decision, the dispute may be referred to a judicial authority. However, a request for a release of seized property shall not have the effect of suspending the seizure.

4.5. What is the process for forfeiture?

Answer:
The forfeiture is decided as a part of the trial and the judgement in the case.

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

Answer:
See answers above.

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

Answer:
The General Penal Code contains provisions regarding the confiscation of proceeds of crime, see answer to question 4.2.
Question 6:
“Money makes the world go round”. Has your country special legislation in force with regard to the electronic movements?

No, Iceland does not have special legislation regarding electronic movements. In the case of this the General Penal code would be applied.

Question 7:

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

No comment.

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

Yes, I’m sure my country, as many other countries, could be more active in that field.

7.3. 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?

I think Icelandic judges are qualified to handle cases of organized crime, but I’m sure we could improve our instruments.

Sincerely,

Ragnheidur Bragadottir
member of the board of the Association of Judges in Iceland

Reykjavík, Iceland
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