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# National Legislation on Organized Crime

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**last updated on August 11, 1999**

# Argentina

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## Substantial Provisions

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** 1: Articles 25 and 26 of Law 23.737 on Narcotic Drugs (11 October 1989)  
2: Decree 1849/90 (24 September 1990)  
3: General Resolution 310/98 of the National Securities Commission (17 June 1989)
- remarks\_and\_notes** 1: These articles deal with the laundering of the proceeds of drug trafficking offences.  
2: This establishes a Joint Monitoring Commission to control transactions involving the laundering of proceeds of drug trafficking, its operations base being located at the premises of the Argentine Central Bank.  
3: For the prevention of the laundering of proceeds of unlawful activities.
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## Procedural Provisions

### Witness protection

- existence of a legislation:** Yes
- legal\_provisions:** Decree 262/98 (Law 23.737; 18 March 1998)
- remarks\_and\_notes** The decree established the office for the Protection of Witnesses and Persons Awaiting Trial within the Department of Justice.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:**
- legal\_provisions:** 1: Law 23.933, Agreement with Bolivia (signed 13 December 1989)  
2: Law 23.944, Agreement with Paraguay (in force since 29 September 1992)  
3: Law 24.165, Agreement with Chile (in force since 3 October 1994)  
4: Law 24.505, Cooperation agreement with Brazil (in force since 21 July 1995)  
5: Law 24.767 on International Cooperation in Criminal Matters (passed 16 January 1997)  
6: Agreement on the communication of criminal records and information on drug trafficking convictions (in force since 27 May 1987; Argentine Law 23.444)  
7: Model regulations concerning laundering offences connected to illicit drug trafficking and related offences  
8: Inter-American Convention against the Illicit Production of and Trafficking in Firearms, Ammunition, Explosives and Other related Materials
- remarks\_and\_notes** 1-4: On the prevention of the unlawful use and suppression of the illicit traffic in narcotic drugs and psychotropic substances.  
5: In 1998, the MERCOSUR technical meetings of justice ministers began identifying the different legislative texts in force in the countries with a view to their harmonization. Agreement was reached regarding the implementation of a "security plan," structured around the following topics: a) criminal matters, b) customs matters, c) financial and banking matters, d) migration matters. Progress has been made on a large number of areas, in particular concerning procedures for the prosecution of offenders who flee across the border and in connection with the recovery and return of motor vehicles.  
6: Adopted by the Sixth Conference of Ministers of Justice of the Hispano-Luso-American countries and the Philippines, held in Lisbon on 12 October 1984.  
7: Adopted by the General Assembly of the Organization of American States in May 1992.  
8: Signed in Washington, D.C., on 14 November 1997, by Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay. (As yet unratified.)
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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

- existence of a legislation:**
- legal\_provisions:** Special Triple Frontier Working Unit (Argentina, Brazil, Paraguay)
- remarks\_and\_notes**

### General statements and observations on Organized Crime made by the Government

- existence of a legislation:**
- legal\_provisions:** Joint Communique of the Presidents of the MERCOSUR countries and of MERCOSUR associates Bolivia and Chile, at the Thirteenth Meeting of the Council of the Common Market, Montevideo, 15 December 1997, addressed in particular to the Meeting of Ministers of Justice of MERCOSUR
- remarks\_and\_notes** "The Presidents have decided that the Ministers of Justice or equivalent Secretaries of State shall endeavor to accelerate the process of harmonization of the laws of the MERCOSUR member countries and

associated States in all areas concerned with combating organized crime (drug trafficking, arms smuggling, traffic in chemical precursors, terrorism, money-laundering and other related offences), and that the Ministers of the Interior or equivalent Secretaries of State shall intensify coordination efforts aimed at the prevention and suppression of such manifestations of organized crime."

# Austria

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** Section 278a of the Penal Code
- remarks\_and\_notes** A "criminal organisation" is an association that: 1) is oriented, even if not exclusively, toward the repeated and planned commission of grave offences against life and limb, freedom, or property, or of grave offences relating to the sexual exploitation of human beings, smuggling of aliens, illegal trafficking in military weapons, nuclear and radioactive material, dangerous waste, counterfeit money or drugs, 2) aims at profits on a high scale or at considerable influence on politics or the economy, or 3) undertakes to corrupt or intimidate others, or to screen itself against prosecution measures.

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Section 278a of the Penal Code
- remarks\_and\_notes** It is illegal to a) establish or belong to a criminal organization of a considerable number of persons, intended to last a long period of time (similar to an enterprise), and b) acquire property items of a criminal organization, hold them in custody, invest, administer, convert, or transfer them.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** 1: Sections 20a-c of the Penal Code  
2: Section 144a  
3: Section 445
- remarks\_and\_notes** 1: This provisions call for the confiscation of illicit profits, or profits gained from connections with criminal organizations. Properties at the disposal of a criminal organization are forfeited.  
2: A provisional injunction may be ordered, leading to measures such as the freezing of assets.  
3: This discusses an independent application for provisional measures, arising out of special circumstances.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** Section 165 of the Penal Code
- remarks\_and\_notes** "Whoever conceals property items that derive from the crime of another person, or disguises the origin thereof, particularly by giving in legal relations false information regarding the origin of those property items, their ownership, the right to dispose of them, their transfer and location, shall be liable to imprisonment." The penalty is greater for engaging in money laundering as a a member of a gang or for crimes involving large sums of money. There is immunity for someone who informs the authorities of a money laundering operation.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** Section 278a of the Penal Code
- remarks\_and\_notes** Six months to five years for the basic offence of criminal organization, plus more imprisonment and fines for aggravating circumstances and collateral offences.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** Section 26 of the Penal Code
- remarks\_and\_notes**

### Electronic surveillance

- existence of a legislation:** Yes
- legal\_provisions:** Sections 149a-h of the Code of Criminal Procedure
- remarks\_and\_notes** This provides the legal base for interception, recording and transcription of telecommunication, as well as bugging operations. There is no electronic house arrest in Austria.

### Controlled deliveries

existence of a legislation: Yes  
legal\_provisions: Section 23 of the "Sicherheitspolizeigesetz," a law dealing with police powers and competences  
remarks\_and\_notes

### **Undercover information**

existence of a legislation: Yes  
legal\_provisions: Section 54 of the "Sicherheitspolizeigesetz" (see above)  
remarks\_and\_notes

### **Immunity**

existence of a legislation: Yes, indirectly  
legal\_provisions: Various drug, organized crime, and money-laundering provisions  
remarks\_and\_notes

### **Witness protection**

existence of a legislation: Yes  
legal\_provisions: Section 166a of the Code of Criminal Procedure  
remarks\_and\_notes: This provides for witness anonymity. The Interior Ministry is also examining a witness protection program, and a special national unit will be created to deal with this.

### **International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation**

existence of a legislation: Yes  
legal\_provisions: 1: Memorandum of Understanding with Russian Interior Ministry on Police Cooperation (1997)  
2: Memorandum of Understanding with Russian FSB on Police Cooperation (renewed annually)  
remarks\_and\_notes

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## **Other Provisions**

### **Victim compensation**

existence of a legislation: Yes  
legal\_provisions:  
remarks\_and\_notes: The victim is entitled to institute civil proceedings against the offender aiming at restitution or compensation for material or immaterial harm suffered. The compensation (or restitution) claims of the victim may be dealt with by the criminal court as part of its judgment.

### **Bank secrecy**

existence of a legislation: Yes  
legal\_provisions: Article 38 of the Banking Act  
remarks\_and\_notes: Credit and financial institutions are subject to a requirement to preserve bank secrecy, except when there is suspicion of money laundering. If the suspicion is reasonable and cannot be disproven after the initial examination, the institution must suspend the transaction and report the circumstances of the transaction to the Reporting unit.

### **Reporting of Suspicious Transactions**

existence of a legislation: Yes, see Bank Secrecy (above)  
legal\_provisions:  
remarks\_and\_notes

# Brunei Darussalam

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## Substantial Provisions

### Organized Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The laws do provide for a mechanism to charge parties to a crime by enacting laws governing the jurisdiction of the Brunei courts, creating an offence of abetment of a criminal offence as well as punishing parties to a criminal conspiracy.

### Participation in a Criminal Organization

existence of a legislation: Yes

legal\_provisions: Section 120 of the Penal Code

remarks\_and\_notes When two or more persons agree to do, or cause to be done, an illegal act, such an agreement is designated a criminal conspiracy.

### Confiscation and Provisional Measures

existence of a legislation: Yes

legal\_provisions: Criminal Procedures Code

remarks\_and\_notes Proceeds of crime and items seized as exhibits are confiscated upon the order of the courts.

### Money-Laundering

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Money deposited in banks remains the property of the account holder and there is no provision of law for these to be frozen, even if they are suspect.

### Sentencing

existence of a legislation: Yes

legal\_provisions: Penal Code

remarks\_and\_notes Drug trafficking offences are punishable with a minimum of 1 year imprisonment and 1 stroke of whipping and up to a maximum of 30 years and 15 strokes. A death sentence is imposed for those found trafficking in more than the set limit for each kind of drug (eg., 30g of cocaine, 50g of cannabis, 1200g of opium).

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## Procedural Provisions

### Search and Seizure

existence of a legislation: Yes, but not specifically addressing organized crime

legal\_provisions: Criminal Procedures Code, Common Gaming House Act

remarks\_and\_notes Relevant laws and regulations provide the police with the power of searching and seizing items connected with a criminal case. Such a power may be exercised by senior officers who may authorize any police personnel to conduct search (according to the Common Gaming House Act, authorization is required), or in some cases the police are empowered to conduct a search and seize stolen items under the Criminal Procedures Code.

### Electronic surveillance

existence of a legislation: No, but de facto legal

legal\_provisions: Chapter V of the Evidence Act

remarks\_and\_notes In past cases, video and tape recordings have been ruled admissible evidence. Evidence obtained through electronic surveillance are not widely used as direct evidence is usually sufficient.

### Controlled deliveries

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes

### Undercover information

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Undercover operations are conducted on major and serious cases only.

### Immunity

existence of a legislation: No  
legal\_provisions:  
remarks\_and\_notes Immunity is not provided except upon the order of the court or in some cases through the plea bargaining process (with the consent of the Public Prosecutor).

### Witness protection

existence of a legislation: No, but certain procedures available  
legal\_provisions:  
remarks\_and\_notes There is no witness protection legislation as such, but sources of sensitive information and victims of sexual offences are afforded confidentiality.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes  
legal\_provisions: 1: Extradition Act  
2: Extradition Order of 1984  
remarks\_and\_notes 1: This covers the extradition of criminals or fugitives from: Albania, Austria, Belgium, Bolivia, Chile, Columbia, Cuba, Czechoslovakia, Denmark, Estonia, Finland, Greece, Guatemala, Haiti, Hungary, Iceland, Iraq, Latvia, Lithuania, Luxembourg, Monaco, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, El Salvador, Spain, Switzerland, Yugoslavia, Germany, Sweden. There also exist mutual assistance agreements with all the ASEAN countries and several INTERPOL member countries.  
2: This is a special extradition treaty with Malaysia and Singapore.

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## Other Provisions

### Victim compensation

existence of a legislation: Yes  
legal\_provisions: Section 382 of the Criminal Procedure Code  
remarks\_and\_notes The court has discretion to order the convicted person to pay the prosecution costs as well as payment for the victim's injury to person, character or property by the offence for which the sentence is passed. Victims may also pursue claims through civil suit.

### Bank secrecy

existence of a legislation: Yes  
legal\_provisions: Section 6 of the Bankers Books (Evidence Act, Chapter 107  
remarks\_and\_notes A bank officer shall not in any legal proceedings to which the bank is not a party, be compellable to produce any banker's books [financial records of any kind], unless by order of a judge made for special cause.

### Reporting of Suspicious Transactions

existence of a legislation: No  
legal\_provisions:  
remarks\_and\_notes Banks and financial institutions are not legally obligated to report suspicious transaction to Law Enforcement Agencies.

### Border control of Proceeds of Crime

existence of a legislation: No  
legal\_provisions:  
remarks\_and\_notes

### Immigration control

existence of a legislation: Yes  
legal\_provisions: Immigration Act, Chapter 17  
remarks\_and\_notes Information relating to wanted persons is shared with the immigration authority.

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes  
legal\_provisions: 1: The Society Act  
2: The Public Order Act  
remarks\_and\_notes 1: The Minister of Home Affairs can declare a society unlawful if he considers it to be essential in the public interest and if in his opinion the society is used for intimidation, extortion or other unlawful purpose incompatible with the peace, good order or welfare.  
2: It is an offence for members of any association to be employed in usurping the functions of any security

force or to use or display physical force in promoting a political or other project. It is also an offence for a person not a member of an official security force exempted by the Minister of Home affairs, to be present at any meeting for the purpose of training in the use of arms or practicing military exercises.

### **General statements and observations on Organized Crime made by the Government**

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

Brunei Darussalam is free from any organized crime activities. Most of the criminal offences occurring in Brunei Darussalam are committed by individuals or groups of individuals who do not belong to any specific group. The only criminal activity which seems to be well organized in the country is the illegal four-digit gambling activity. However, most of the persons arrested by the police in connection with this activity have shown that they are operating on their own backed by main operators in neighbouring countries. At present Brunei is showing little sign of money-laundering activity. This is perhaps due to the the small size of the population and that any such activity can be easily detected.

# Canada

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes.
- legal\_provisions:** 1: Criminal Code, 2.  
2: Article 465.(1)
- remarks\_and\_notes** 1: "Criminal organization" refers to any group, association or other body consisting of five or more persons, whether formally or informally organized, (a) having as one of its primary activities the commission of an indictable offence under this or any other Act of Parliament for which the maximum punishment is imprisonment for five years or more, and (b) any or all of the members of which engage in or have, within the preceding five years, engaged in the commission of a series of such offences. "Criminal organization offence" means (a) an offence under section 467.1 or an indictable offence under this or any other Act of Parliament committed for the benefit of, at the direction of, or in association with a criminal organization for which the maximum punishment is imprisonment for five years or more, or (b) a conspiracy or an attempt to commit, being an accessory after the fact that in relation to, an offence referred to in paragraph (a).  
2: The notion of "conspiracy" is also provided by the Criminal code and can be resorted to in the case of organized crime. The participation is define in the following articles: 465.(3),(4),(5) et 466.(1). See also 425.c) Articles 74 and 75 deal with "piracy"; article 76 and 77 deal with hijacking

### Participation in a Criminal Organization

- existence of a legislation:** Yes.
- legal\_provisions:** Criminal Code, 467.1 (1).
- remarks\_and\_notes** Every one who (a) participates in or substantially contributes to the activities of a criminal organization knowing that any or all of the members of the organization engage in or have, within the preceding five years, engaged in the commission of a series of indictable offences under this or any other Act of Parliament for each of which the maximum punishment is imprisonment for five years or more, and (b) is a party to the commission of an indictable offence for the benefit of, at the direction of or in association with the criminal organization for which the maximum punishment is imprisonment for five years or more; is guilty of an indictable offence and liable for imprisonment for a term not exceeding fourteen years.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes.
- legal\_provisions:** 1: Forfeiture of Proceeds of Crime 462.37 (1), (2), (3) and (4) See also 462.38 (1) and (2)  
2: See also Articles 490.1 (1) and following untill par. (9).
- remarks\_and\_notes** 1: (1) Subject to this section and sections 462.39 to 462.31, where an offender is convicted, or discharged under section 730, of an enterprise crime offence and the court imposing sentence on the offender, on application of the Attorney General, is satisfied that any property is considered the proceeds of crime and that the enterprise crime offence was committed in relation to that property, the court shall order that the property be forfeited to Her Majesty to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law. 2: (2) Where the evidence does not establish to the satisfaction of the court that the enterprise crime offence of which the offender is convicted, or discharged under section 730, was committed in relation to property in respect of which an order of forfeiture would otherwise be made under subsection (1) but the court is satisfied, beyond a reasonable doubt, that that property is proceeds of crime, the court may make an order of forfeiture under subsection (1) in relation to that property. In several cases, particularly when seizure is impossible, the Law (same article, par. (3) and (4)) provides for fine or imprisonment.

### Money-Laundering

- existence of a legislation:** Yes.
- legal\_provisions:** Criminal Code, 462.31 (1)
- remarks\_and\_notes** Laundering of the proceeds of crime. An offence is committed when one uses, transfers the possession of, sends or delivers to any person or place, transports, transmits, alters, disposes of or otherwise deals with, in any manner and by any means, any property or any proceeds of any property with intent to conceal or convert that property or those proceeds, knowing or believing that all or a part of that property or of those proceeds was obtained or derived directly or indirectly as a result of (a) the commission in Canada of an enterprise crime offence or a designated substance offence; or (b) an act or omission anywhere that, if it had occurred in Canada, would have constituted an enterprise crime offence or a designated substance offence. Article 462.3 defines the notion of "proceeds of crime."

### Sentencing

existence of a legislation:	Yes.
legal_provisions:	1: 467.1 (2) 2: 462.31 (2) 3: 82.(2) 4: 718 to 718.3 5: 462.2
remarks_and_notes	1: Sentences to be served consecutively. A sentence is imposed on a person for an offence under subsection (1) shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events and to any other sentence to which the person is subject at the time the sentence is imposed on the person for an offence under subsection (1) 2: Punishment of money-laundering. Every one who commits an offence under subsection (1), article 462.31, (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or (2) is guilty of an offence punishable on summary correction. 3: The possession of, any explosive substance for the benefit of, at the direction of or in association with a criminal organization is liable to imprisonment for a term not exceeding fourteen years. 4: General principles of sentencing. 5: On drug selling.

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## Procedural Provisions

### Search and Seizure

existence of a legislation:	Yes.
legal_provisions:	Search, Seizure and Detention of Proceeds of Crime, 462.32 (1)
remarks_and_notes	Subject to subsection (3), where a judge, on application of the Attorney General, is satisfied by information on oath in Form 1 that there are reasonable grounds to believe that there is in any building, receptacle or place, within the province in which the judge has jurisdiction or any other province, any property in respect of which an order of forfeiture may be made under subsection 462.37(1) or 462.38(2), in respect of an enterprise crime offence alleged to have been committed within the province in which the judge has jurisdiction, the judge may issue a warrant authorizing a person named therein or a peace officer to search the building, receptacle or place for that property and to seize that property and any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made under that subsection. See also - inter alia - articles: 101, 102, 192, 489, 490, 490.1, 490.2. On search warrant: see 199, 487.

### Electronic surveillance

existence of a legislation:	Yes.
legal_provisions:	Articles 184.1 to 187. Of particular interest for organized crime are the following articles: 185.(1.1),186.(1.1),186.1
remarks_and_notes	These articles of Part IV (Invasion of Privacy) define the procedures and limits of electronic surveillance (and in particular of interception and recording of communications).The specific articles related to organized crime significantly facilitate the use of these methods of investigation in the case of criminal organizations (other investigative procedures are not to be tried before they been proven successful; the urgency of the matter is not important; reauthorization of electronic surveillance is easier).

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation:	Yes.
legal_provisions:	Extradition Act. R.S.C., 1985, c. E-23. Amended by: 1985, c. 19, a./s. 187, 206 1992, ch. 13. L.R. / R.S., ch. 27 (first suppl.), a./s. 187, 203
remarks_and_notes	

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## Other Provisions

### Victim compensation

existence of a legislation:	Yes.
legal_provisions:	1: 738 and 739 to 741.2 2: 689 3: 807
remarks_and_notes	1: These articles address restitution. 2: This article addresses restitution of forfeiture of property 3: This article defines the level of the penalties for joint offenders.

### Bank secrecy

existence of a legislation: Yes.

legal\_provisions: Disclosure of income tax information. 462.48 (1).

remarks\_and\_notes The Attorney General may, for the purposes of an investigation in relation to (a) a designated substance offence, (b) an offence against section 354 or 462.31 where the offence is alleged to have been committed in relation to any property, thing or proceeds obtained or derived directly or indirectly as a result of (i) the commission in Canada of a designated substance offence, or (ii) an act or omission anywhere that, if it had occurred in Canada, would have constituted a designated substance offence, or (c) an offence against section 467.1 or a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, such an offence, make an application in accordance with subsection (2) for an order for disclosure of information under subsection (3).

# Chile

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** Criminal Code
- remarks\_and\_notes** "Illicit association" is defined as an organization with criminal aims, the offence being punishable simply by virtue of the fact of such association.

### Participation in a Criminal Organization

- existence of a legislation:** Yes, but the legislation does not refer to the precise term "organized crime."
- legal\_provisions:**
- 1: The Penal Code and Federal Law Against Organized Delinquency of 1996
  - 2: Law 18314, on Terrorism
  - 3: Law 19366 of 1995, on Illicit Drug and Psychotropic Substances Trafficking
  - 4: Law 17798, on Arms Control
- remarks\_and\_notes**
- 1: The law refers to "illicit association," which is a structured and with illegal activities as the goal. The fact of being organized and threatening the social order is considered an offence.
  - 2: Both in the Penal Code and in the Law 18314, the very fact of making an illicit association is criminalized.
  - 3: Such offences are liable to extradition, both into and out of Chile, even in the absence of a relevant treaty.
  - 4: Persons who organize themselves as private militias, combat groups or militarily organized parties, armed with any of the items subject to control under this Law, shall be liable to punishment.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:**
- 1: Article 19, Paragraph 7 (g) of the Constitution
  - 2: Criminal Code
  - 3: Code of Criminal Procedure
  - 4: Law 19.366 (Drugs)
  - 5: Law 17.798 (Arms Control)
- remarks\_and\_notes**
- 1: The penalty of confiscation may not be imposed, without prejudice to confiscation in the cases established by law; however, this penalty shall be considered appropriate in regard to illicit associations.
  - 2: Any punishment imposed for a serious or ordinary offence shall be punishable by loss of the assets derived from the offence and of the objects used for its commission. (Article 31)
  - 3: During criminal proceedings, the judge shall order the collection and safe-keeping of all instruments and arms which appear to have been used or to have been intended for use in the commission of the offense and of proceeds derived from such offense, whether they are in the possession of the accused or of another person. (Article 114)
  - 4: This lists the various things and categories of things liable to confiscation in drug-related offences.
  - 5: The relevant judgment shall provide for the confiscation of property subject to control under the Law, such property being required to be turned over to military arsenals.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:**
- 1: Article 12 of Law 19.366 (Drugs)
  - 2: Article 19
- remarks\_and\_notes**
- 1: "Any person who, in the knowledge that specific property, securities, money, profit, advantage or benefit have been obtained through or derived from the commission, in Chile or abroad, of acts constituting any of the serious offences under this Law, participates or cooperates in their use, exploitation or application shall be punished by long-term rigorous imprisonment and to a fine."
  - 2: Following the start of criminal proceedings in regard to offences covered by Article 12, the court shall adopt all measures necessary to avoid the use, exploitation, deriving of benefit from or application of any kind of property, securities or money derived from the preceding offences.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:**
- 1: The Penal Code
  - 2: Law 19.366 on Drug Trafficking
  - 3: Law 17.798 on Arms Control
- remarks\_and\_notes**
- 1: There is a gradation in sentencing: leaders are more heavily sentenced than other members. Sentence is increased by two levels (grados) for the chiefs and by one level for the participants and collaborators.
  - 2: Drug trafficking and Money Laundering are punished by incarceration (between five and fifteen years) plus a fine of 200-1,000 monthly tax units. Article 22 provides for heavy sentences (five to fifteen years) to

those individuals who associate or organize with the intent of committing offences that are punished by this law.

3: Three months to five years for organization of or membership in a private militia or combat group.

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## Procedural Provisions

### Search and Seizure

existence of a legislation: Yes

legal\_provisions: Code of Criminal Procedure

remarks\_and\_notes: There is stipulated prior to judicial proceedings an investigation process conducted by the State Defence Council, which, with due authorization by the Court of Appeals, is empowered to decree the following preliminary measures: 1) preventing the exit from the country of persons strongly suspected of being involved in money-laundering offences; 2) freezing securities, bank accounts, and other property, as well as prohibiting certain contracts or deeds; 3) seizing the evidence needed to investigate offences; 4) requesting the production of evidence or financial documents, which banks and other entities are obligated to produce. In order to carry out such measures, the forces of law and order are vested with entry and seizure powers, where necessary.

### Electronic surveillance

existence of a legislation: Yes

legal\_provisions: Law 19.366

remarks\_and\_notes: The law provides for wire-tapping and mail surveillance, but only for inquiries on drug trafficking.

### Controlled deliveries

existence of a legislation: Yes.

legal\_provisions: Law 19366

remarks\_and\_notes: To be used by a judge in criminal proceedings for inquiries on drug trafficking.

### Undercover information

existence of a legislation: Yes

legal\_provisions: Law 19366

remarks\_and\_notes: Only for inquiries on drug trafficking. "Undercover agent" is defined as a police officer who, authorized by his superiors, conceals his official identity and infiltrates or penetrates criminal organizations by pretending to belong to them or to be involved in the commission of the offence under investigation, for the purpose of identifying the participants or obtaining proof to serve as the basis for criminal proceedings. An "informant" is a person who supplies evidence to the police authorities concerning the preparations for, or commission of, an offence, or a person who, without intending to commit the offence participates as if he were an undercover agent. All necessary measures shall be adopted for the protection of such persons, and all statements and evidence from informants shall be kept confidential (to the judge and any higher court).

### Immunity

existence of a legislation: Yes, but not explicitly

legal\_provisions: 1: Effective cooperation under Law 19.366.  
2: Law 18.314 (Terrorism)

remarks\_and\_notes: 1 and 2: The legislation makes provision for what is called an "effective cooperation" (cooperacion eficaz). In this respect, the sentence can be reduced up to two levels (grados) for those that have: succeeded in avoiding or reducing the consequences of the crime under consideration; given information that is useful in avoiding or anticipating other terrorist acts, identifying or arresting the responsible persons for such acts.

### Witness protection

existence of a legislation: Yes

legal\_provisions: Law 19.366

remarks\_and\_notes: The judge may refuse to allow knowledge of the preliminary proceedings until the conclusion thereof if he considers that to do so may jeopardize the safety of undercover agents, informants, witnesses, experts, and, in general, any persons who have effectively cooperated in the investigation of the case. Witnesses are also covered by all the protective measures indicated earlier for informants, undercover agents and persons providing effective cooperation.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, but not specifically designed for organized crime

legal\_provisions: 1: Co-Operation Convention for the Fight Against Terrorism, Organized Crime and Illicit Drug Trafficking  
2: Co-Operation Agreement for the Fight against Illicit Drug Trafficking and Crime  
3: Co-Operation Agreement for the Fight against Terrorism, Organized Crime and Drug Trafficking

	4: Extradition Treaty
	5: Extradition and Mutual Legal Assistance in Criminal Matters Treaty
	6: Co-Operation Convention for the Fight against Terrorism, Organized Crime and Illicit Drug Trafficking
	7: Extradition Treaty and Judicial Assistance in Penal Matters
	8: Extradition Treaty
	9: Agreement on Prevention, Fiscalization, and Repression of Illicit drug and Psychotropic Substances Trafficking and Special Chemical Substances, 1996
	10: Co-Operation Convention for the Fight Against International Terrorism, International Organized Crime Activities and Illicit Drug and Psychotropic Substances Trafficking and Radioactive Substances Trafficking
	11: Convention on Mutual Assistance in Combating Illicit Drug and Psychotropic Substances (1996)
	12: Agreement of Cooperation to Eradicate the Production, Processing, Trafficking and Consumption of Illicit Drugs on the Chilean territory and territorial waters (1995)
	13: Memorandum of Agreement for the International Fiscalization of Drugs (1994)
remarks_and_notes	1: Austria (1996) and Romania
	2: Israel
	3: Italy
	4: Australia
	5: Spain
	6: Austria (1996) and Romania
	7: Nicaragua
	8: Republic of Korea
	9: Costa Rica
	10: Czech Republic
	11: United Kingdom and Ireland
	12: Chile, Argentina, Peru and PNUFID (UN Program For the International Fiscalization of Drugs)
	13: Unites States of America

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## Other Provisions

### Victim compensation

existence of a legislation:	Yes
legal_provisions:	1: Code of Criminal Procedure 2: Civil Code
remarks_and_notes	1: In criminal proceedings it is also admissible to bring civil suits desgined to redress the civil effects of the punishable act, such as those aimed at securing restoration or compensation. 2: A person who has committed an offence causing injury to another person shall be obliged to provide compensation. Any person who derives benefit from another's wilful act shall be obliged to provide compensation only up to an amount equivalent to the benefit derived.

### Bank secrecy

existence of a legislation:	Yes
legal_provisions:	1: Article 1, Paragraphs 2-3 of Decree-with-Force-of-Law 707 2: Article 16, Paragraph 3 (d) of Law 19.366
remarks_and_notes	1: Banks shall maintain in strict secrecy the movements of current accounts and their balances, but courts of law may order the disclosure of particular parts of current accounts in civil and criminal proceedings against the drawer. 2: This allows law enforcement agencies to obtain financial information.

### Reporting of Suspicious Transactions

existence of a legislation:	No
legal_provisions:	
remarks_and_notes	Numerous legislative bills have been submitted which seek the inclusion of such a reporting obligation in the relevant legislation.

### Border control of Proceeds of Crime

existence of a legislation:	Yes
legal_provisions:	
remarks_and_notes	"Controls of this kind are carried out through the police forces and customs service."

### Immigration control

existence of a legislation:	Yes
legal_provisions:	Article 10 of Decree Law 1.094 (1975)
remarks_and_notes	This established provisions on aliens in Chile, noting that "it is the responsibility of the Criminal Investigation Police to monitor the entry and exit of aliens and compliance with the obligations imposed

upon such persons by this Decree Law."

### **Specific Governmental Institutions and Administrative Structures recently created**

**existence of a legislation:** Yes

**legal\_provisions:** Directorate of Public Security and Information (Direccion de Seguridad Publica e Informaciones)

**remarks\_and\_notes** Created by law 19.212 of 1993. The Ministry of the Interior is responsible for the centralization and computerization of information related to public order and public security maintenance. It also produces preventive studies in the field of civil security, in order to foster prevention and render more efficient the use of police forces and the scope of policies.

# Croatia

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** Article 89 of the Criminal Action Law 110/97
- remarks\_and\_notes** A "group of people" is an association of not less than three persons linked permanently or temporarily for the purpose of committing offences, each of the persons giving his contribution to committing the offences. A "criminal organization" is an association of not less than three persons joining together for the purpose of committing offences. The activity of a criminal organization of a higher level is aimed also at attaining and maintaining control over some economic or other activities, using threats or violence to influence others to join them or submit to them. A criminal organization is characterized by extremely close links between members, the internal hierarchical structure, discipline and division of labor. A criminal organization is the basis for organized crime. The substantive Criminal Law provides a framework and possibility to legally deal with flexible types of organized crime and criminal organizations extending often beyond the borders of the parent state where they came into existence.

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Criminal Code, Chapter III
- remarks\_and\_notes** In dealing with participation, the rule on the responsibility of organizers of a criminal association is left out, since all cases of participation in the implementation of a criminal offense are covered with the provision on complicity, instigation and assistance.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 80 of the Criminal Action Law  
2: Article 82  
3: Related articles
- remarks\_and\_notes** 1: This provides for the confiscation of an object intended for or used in the commission of an offence.  
2: This provides for the seizure of the proceeds of an offence. A party suffering a loss as a result of the offence may make a claim for this confiscated property.  
3: A special part of the Law states a number of offences for which compulsory seizure applies. There are also temporary seizure measures, to be used in the course of an ongoing investigation.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 279 of the Criminal Action Law  
2: Money Laundering Act 69/97  
3: Convention on Laundering, Investigation, Temporary Seizure and Seizure of Income Acquired through an Offence, MU 14/97
- remarks\_and\_notes** 1: Money laundering involves someone in the banking, financial or other economic operations investing, taking over, exchanging or otherwise hiding the real source of the money/property he knows was acquired through a criminal offence, as well as someone procuring, possessing, or circulating such money/property. Prison terms range from six months to five years, with greater punishment for money laundering while part of a criminal organization, and leniency for those who uncover laundering offences..  
2: This established a Money Laundering Prevention Office, which processes data and implements security measures in cooperation with relevant authorities.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** Clause 338 of the Criminal Code
- remarks\_and\_notes** For the act of associating for the purpose of committing a crime when someone organizes a group of people or in some other way links joint actions of three or more persons with the objective to commit a serious offence (punishable by five years' imprisonment), three months' to three years' imprisonment can be added onto the sentence. A member of a criminal organization disclosing the group's activities before committing an offence will not be punished.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** Criminal Action Law 110/97
- remarks\_and\_notes** Search and Seizure may be implemented in the course of the preliminary investigation procedure during the inspection of offences (Articles 177-79) and during urgent police investigations (Articles 184-86). During the course of the investigation, special provisions of the Criminal Action Law deal with the search of an apartment and search of a person (Articles 211-17) and regulate temporary seizure (Articles 217-21) and handling suspicious objects (Articles 222-24).

### Electronic surveillance

- existence of a legislation:** Yes
- legal\_provisions:** Articles 180-86 of the Criminal Action Law
- remarks\_and\_notes** If the investigation of any offences might not be implemented in any other way or would be linked with unproportional difficulties, the judge may order measures of surveillance and technical recording of phone conversations, or equipment for technical telecommunication, surveillance and technical video recording, as well as secret pursuit and photographing of persons, in connection with which there are reasonable grounds for suspicion.

### Controlled deliveries

- existence of a legislation:** Yes
- legal\_provisions:** Article 180 of the Criminal Action Law
- remarks\_and\_notes** This provides for controlled transport and delivery of crime objects.

### Undercover information

- existence of a legislation:** Yes
- legal\_provisions:** Article 180 of the Criminal Action Law
- remarks\_and\_notes** This provides for the use of undercover investigators, mock purchase and mock ransom, as long as these operations do not represent crime instigation or entrapment.

### Immunity

- existence of a legislation:** Yes, in the sense of diplomatic immunity; Unspecified otherwise
- legal\_provisions:** Article 168 of the Criminal Action Law
- remarks\_and\_notes**

### Witness protection

- existence of a legislation:** Yes, very limited
- legal\_provisions:**
- remarks\_and\_notes** The Croatia criminal action laws do not provide for the possibility of witness protection in the same way as the Anglo-Saxon legal system. There are, however, methods of providing witness protection that are stated in police action regulations. Additionally, Article 239, Paragraph 5 of the Criminal Action Law states the possibility of questioning the witness without the parties being in the same room as the witness (by video).

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:** Yes
- legal\_provisions:** 1: Chapter XXX and XXXI of the Criminal Action Law 34/93, and further applied in Article 504 of the Criminal Action Law 110/97  
2: Bilateral agreements  
3: Various international conventions (including UN Conventions on Drugs and Psychotropic Substances)
- remarks\_and\_notes** 1: Based on these provisions, international criminal law assistance and extradition are possible without the existence of treaties.  
2: Bilateral agreements on cooperation in criminal matters with: Austria 1982, Belgium 1971, Bosnia and Herzegovina 1996, Italy 1922, Bulgaria 1956, Czech and Slovak Republics 1964, France 1969, Greece 1959, Hungary 1968, Macedonia 1994, Germany 1971, Romania 1960, Slovenia 1994, Turkey 1973. Treaties on extradition: Austria 1982, France 1970, Netherlands 1986, Italy 1922, Slovenia 1994, USA 1901, Switzerland 1887, Turkey 1973, UK 1900. Bilateral agreements in the fight against terrorism, smuggling and drug abuse: Hungary 1993, Slovenia 1993, Italy 1993, Ukraine 1994, Albania 1994, Turkey 1996.

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## Other Provisions

### Victim compensation

- existence of a legislation:** Yes
- legal\_provisions:** Articles 127-38 of Criminal Action Law 110/97
- remarks\_and\_notes** A property right application (re: damages, recovery of objects or annulment of legal deed) made due to an offence is decided on by the Criminal Court.

### Bank secrecy

- existence of a legislation:** Yes
- legal\_provisions:** 1: Articles 45 and 46 of the Act on Banks and Savings Banks 46/97  
2: Article 219 of the Criminal Action Law
- remarks\_and\_notes** 1: Members of management and supervisory boards of banks, as well as employees, must keep the confidentiality of banking operations. This type of information may be released only at the written request of the court during legal proceedings.  
2: Banks may refuse to disclose confidential information, a final decision on the necessity of this action shall be reached by a non-trial council of the county court.

### Reporting of Suspicious Transactions

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 219 of the Criminal Action Law  
2: Money Laundering Prevention Act
- remarks\_and\_notes** 1: The court may order a legal entity to temporarily suspend the implementation of a suspicious financial transaction.  
2: This sets out the measures bank employees are obliged to undertake in order to detect money laundering. The Money Laundering Prevention Office may use the data obtained on the basis of this Act only for discovering and preventing money laundering or offences connected with it.

### Border control of Proceeds of Crime

- existence of a legislation:** Yes
- legal\_provisions:** 1: State Border Surveillance Act 9/92 and 26/93  
2: Movement and Stay of Foreigners Act 53/91, 22/92 and 26/93
- remarks\_and\_notes** The application of these regulations lies in the field of the Interior Ministry.

### Specific Governmental Institutions and Administrative Structures recently created

- existence of a legislation:** Yes
- legal\_provisions:** Criminal Action Law and Criminal Proceedings Law
- remarks\_and\_notes** With related legislation, these laws will make conditions easier for the police, the public prosecutor and courts to combat and prevent activities by crime syndicates in a manner more efficient than on the basis of the former legislation. A longer time period is needed to become aware of all the strengths and weaknesses of the new legal solutions.

### General statements and observations on Organized Crime made by the Government

- existence of a legislation:**
- legal\_provisions:**
- remarks\_and\_notes** "It will be possible to analyse the data on organized crime cases which were judged on the basis of the new Criminal Law after the annual report of the National Office for Statistics of the Republic of Croatia for 1998 (at the end of March 1999)."

# Cuba

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** No, but another category exists.
- legal\_provisions:** The Penal Code
- remarks\_and\_notes** The penal law provides for the offence of criminal conspiracy (asociacion para delinquir) which is defined as an association of two or three person intended to commit crime.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** The Penal Code
- remarks\_and\_notes** The Code permits the seizure of the proceeds of an offence. The Government is considering expanding the law to allow for the seizure of the criminal's property.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:**
- remarks\_and\_notes** Participation in a criminal association (a group of three persons or more) is a generic (valid for all offences) aggravating circumstance. In Cuba, there exist special tribunals designed to judge offences related to international organized crime.

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## Procedural Provisions

### Witness protection

- existence of a legislation:** No
- legal\_provisions:**
- remarks\_and\_notes** It is considered unnecessary to provide witnesses with particular protection, since the witnesses benefit from the general security provided to all the citizens. Nevertheless, recent legislative modifications have changed the Penal Code in a way that renders possible the extension of official protection to witnesses and their family.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:** Yes
- legal\_provisions:** 1: Agreement of the Conference of the Ministers of Justice of the Hispano American countries.  
2: Bilateral Agreements
- remarks\_and\_notes** 1: This conference has led to the creation a central repository for the convicts of offences related to illicit drug and psychotropic substances trafficking.  
2: They concern extradition, judicial cooperation and the combatting of drug trafficking.

# Dominica

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## Substantial Provisions

### Organized Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes

### Participation in a Criminal Organization

existence of a legislation: No

legal\_provisions: Proceeds of Crime Act, section 62

remarks\_and\_notes: This section makes it an indictable offence to be involved in Organized Fraud.

### Confiscation and Provisional Measures

existence of a legislation: Yes

legal\_provisions: 1: Proceeds of Crime Act, Part II and III.  
2: Customs (Control and Management) Act, 1985, Chapter 69:01.

remarks\_and\_notes: 1: It deals comprehensively with forfeiture and confiscation orders. In part II, sections 4 to 16 deal specifically with forfeiture orders while sections 17 to 23 deal with confiscation orders. Part III of the Act lays down the provisions designed to facilitate investigations and preservation of property liable to forfeiture and confiscation. Section 61 deals with possession of property derived from unlawful activity. Section 65 deals exclusively with forfeiture of cash while section 71 deals with external forfeiture and confiscation orders.  
2: Sections 116 to 118 of the Customs Act also deal with forfeiture of goods, including detention, seizure and condemnation of goods, forfeiture of vessels used in connection with goods liable to forfeiture.

### Money-Laundering

existence of a legislation: Yes.

legal\_provisions: Proceeds of Crime Act, Section 60(3)

remarks\_and\_notes: This section define participation in money laundering as follows: a person engages in money laundering if (a) the person engages directly or indirectly in a transaction that involves money or other property, i.e. proceeds of crime, or (b) the person receives, possesses, conceals, disposes of or brings into Dominica, any money or other property that is proceeds of crime and the person knows or ought reasonable to know, that the money or other property is derived, obtained or realised directly or indirectly from some form of unlawful activity.

### Sentencing

existence of a legislation: Yes. General legislation might apply to offences committed by organized crime.

legal\_provisions: Schedule of the Proceeds of Crime Act.

remarks\_and\_notes

# Egypt

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** No, but legislation on drugs and narcotics control might apply.
- legal\_provisions:** Law 182 (1960) Law 122 (1989), article 32/d
- remarks\_and\_notes** The legislation at present is Law 182 of 1960 on narcotics control, regulation of their use and trafficking, amended by Law 122 of 1989, which is in conformity with the provisions of international conventions, the most recent of which is the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. It includes an expansion of criminalization and increased severity of penalties. The law introduces new offences, the most important of which is the crime of forming a gang - even abroad - or joining such a gang or participating in it, with the intent of supplying, trafficking or offering narcotics for consumption in Egypt (article 32/d).

### Participation in a Criminal Organization

- existence of a legislation:** No, but legislation on drugs and narcotics control might apply.
- legal\_provisions:** Law 122 (1989), article 32/d
- remarks\_and\_notes** See above.

### Confiscation and Provisional Measures

- existence of a legislation:** No, but legislation on drugs and narcotics control might apply.
- legal\_provisions:** Law 182 (1960) Law 122 (1989)
- remarks\_and\_notes** The Law is committed to minimize the economic power of narcotic criminals and deprive them of the proceeds of crime, through confiscation of land, funds and means of transportation used in the perpetration of narcotic crimes or derived from such crimes, and by the imposition of heavy fines of up to half a million Egyptian pounds. Egyptian legislation is in conformity with contemporary trends in the international community, with regard to the seizure and confiscation of equipment, property and proceeds used in or derived from the perpetration of illicit narcotics trafficking offences, as provided in the relevant international conventions (1961, 1971, 1988).

### Money-Laundering

- existence of a legislation:** Yes, but not specifically mentioning "money-laundering"
- legal\_provisions:**
- 1: Article 44 of the Penal Act
  - 2: Articles 19, 20 and 27 of the Banks and Trust Law of 1957
  - 3: Articles 18 and 19 of the Illicit Profiting Law of 1975
  - 4: United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
- remarks\_and\_notes**
- 1: This stipulates a minimum two-year imprisonment for anyone who conceals stolen objects or those deriving from a crime.
  - 2: This bans all banking activity not registered with the Egyptian Central Bank, as well as obliging banks to report monthly on their financial status, providing all needed data and information.
  - 3: This penalizes anyone knowingly concealing illicit proceeds, as well as empowering courts to act against anyone involved in such an illicit act.
  - 4: This was officially certified by the Egyptian government.

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## Procedural Provisions

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:** No
- legal\_provisions:**
- remarks\_and\_notes** Final agreements are at present under way for signature of new cooperation agreements in this domain with Australia, India, Hungary and other countries.

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## Other Provisions

### Bank secrecy

- existence of a legislation:** Yes
- legal\_provisions:** Articles 4 and 6 of the Bank Secrecy Act of 1990
- remarks\_and\_notes** These provisions stipulate the exchange of information between Egypt's Central Bank and other banking institutions. The Law reconciles secrecy and the requirements of criminal investigations by granting access under authorization by the Cairo Appeals Court.

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions: Special Money-Laundering Unit within the Interior Ministry

remarks\_and\_notes

### **General statements and observations on Organized Crime made by the Government**

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

The response of the Government of Egypt included the following remarks: "Organized crime gangs in their traditional form are unknown in Egypt. Crime in Egypt is mainly of an individual nature, or is in the form of gangs consisting of several members formed to commit a crime or crimes, who subsequently disperse. Egypt is not a narcotics-producing country, the production or manufacture of narcotics does not represent a problem of any sort. The phenomena of prostitution, trafficking in human parts, kidnapping of childrens, and other activities in which organized crime gangs are specialized do not exist in Egypt. In spite of this, Egypt's geographic location at the junction of three continents, exposes it to narcotics smuggling.

# Finland

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## Substantial Provisions

### Organized Crime

existence of a legislation: No answer provided

legal\_provisions:

remarks\_and\_notes

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## Procedural Provisions

International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: 1: Agreement with the Russian Federation (5 March 1993)

2: Agreement with the Russian Federation (11 March 1994)

remarks\_and\_notes: 1: Cooperation of customs and law enforcement agencies in the prevention of crime.

2: Cooperation and mutual assistance in customs areas.

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: No Law Enforcement Agency recently created.

legal\_provisions:

remarks\_and\_notes: In Finland the Central Bureau of Investigation (Keskusrikospoliisi - KRP) is responsible for the practical coordination and prevention of organized transnational crime, together with other police units. The Central Bureau of Investigation has gathered for its own use information concerning organized crime with international aspects in Finland.

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes: It should be noted that Finnish police authorities do not make any difference between transnational crime and other types of crime. The nation-wide data system, the Police Investigation and Legal Assistance System, contains information on all offenses committed, but this system does not separate international crime from other types of crime either.

# France

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## Procedural Provisions

International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: 1: Reciprocity Law of 10 March 1927  
2: Protocol with the Russian Interior Ministry

remarks\_and\_notes 1: Judicial cooperation  
2: Police cooperation

# Gabon

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes.
- legal\_provisions:** Law No. 21/63 of 31 May 1963, amended by Law No. 19/93 of 27 August 1993
- remarks\_and\_notes** This legislation enacted the penal code, part of which is designed to combat "illicit drug trafficking and transnational organized crime."

### Participation in a Criminal Organization

- existence of a legislation:** Yes.
- legal\_provisions:** 1: Articles 193, 194 and 195 of the Penal Code  
2: Article 71  
3: Articles 105, 106, 107 and 108  
4: Articles 143, 144, 146, 147 and 148
- remarks\_and\_notes** 1: Criminal associations.  
2: Organization of armed criminal gangs.  
3: Counterfeit currency.  
4: Bribery, corruption and influence peddling.

### Sentencing

- existence of a legislation:** Yes.
- legal\_provisions:**
- remarks\_and\_notes** The penalties for these types of crimes are all an unspecified "term of forced labour" plus fines.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes.
- legal\_provisions:** Law No. 35/61 of 5 June 1961.
- remarks\_and\_notes** This law enacted the Code of Criminal Procedure, which will be amended shortly by a legislative bill.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:** Yes.
- legal\_provisions:** Pending legislative bill on extradition and mutual legal assistance in connection with illicit trafficking in narcotic drugs and psychotropic substances.
- remarks\_and\_notes**

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

- existence of a legislation:** Yes.
- legal\_provisions:** 1: The Central Office for Drug Control (OCLAD), established by Presidential Decree No. 001035/PR/MDNSI of 25 July 1991  
2: Interministerial Drug Trafficking Control Committee (CILTD).
- remarks\_and\_notes** 1: This structure is part of the national police force and works in close cooperation with the Ministry of Justice, the Ministry of Scientific Research, the customs authorities, and the revenue services. Its aims are to a) centralize information that may "facilitate the investigation and prevention of illicit trafficking in narcotic drugs," b) coordinate operations aimed "suppressing drug trafficking in the national territory, c) cooperate with the central offices--and other organizations responsible for drug control--of other Interpol member states.  
2: This committee, operating under the direct authority of the Prime Minister, is composed of several ministries, including the Ministry of Justice, and its coordinator meets periodically with counterparts in other Central African countries.

### General statements and observations on Organized Crime made by the Government

- existence of a legislation:**
- legal\_provisions:**
- remarks\_and\_notes** "According to the results obtained (statistics for 1998), Gabon does not yet appear to be a major crossroads for drug trafficking but is nevertheless already affected. There is thus already a need to introduce drug prevention and control mechanisms."

# Germany

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** 1: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organised Crime (22 September 1992)  
2: Act to Combat Crime (1 December 1994)  
3: Act to Combat Corruption (20 August 1997)  
4: Act to Ameliorate the Fight against Organised Crime (9 May 1998)  
5: Section 129 of the Criminal Code
- remarks\_and\_notes** 1 and 2: These sharpened the definitions of organised crime and introduced new measures to combat it, and consequent offences like money laundering.  
3: This introduced into the Criminal Code a new section on "crimes against competition," as well as expanding and tightening penal provisions for certain kinds of corruption and organised crime.  
4: This improved and extended key sections of the Criminal Code, Criminal Procedure Code, Money Laundering Act, and Finance Administration Act.  
5: This deals with the formation of a criminal association

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Section 129 of the Criminal Code
- remarks\_and\_notes** The following activities relating to organised crime are penalized: 1) the "establishment" of a criminal association, 2) "participation as a member" in such an organisation, 3) "promotion" via propaganda such an organisation, 4) "support" or assistance of any such organisation.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** 1: Criminal Code  
2: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organized Crime
- remarks\_and\_notes**

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** 1: Section 261 of the Criminal Code (Money Laundering Act)  
2: Bill to Ameliorate the Fight against Money Laundering, incorporated into the Act to Ameliorate the Fight Against Organised Crime (9 May 1998)
- remarks\_and\_notes** 1: Money laundering is "the introduction of assets from organised crime and other serious offences into the legitimate financial and economic cycle."  
2: This bill made the Criminal Code more comprehensive with regard to the predicate offences of organised crime, improved the Criminal Procedure Code by lowering the threshold of suspicion relating to financial transactions, eliminated uncertainty in the application of the Money Laundering Act, and extended the coverage of the Banking Act.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** Criminal Code
- remarks\_and\_notes** From 1995-97, the penalties for organised crime convictions ranged from 1 to 11 years' imprisonment.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organized Crime
- remarks\_and\_notes**

### Electronic surveillance

- existence of a legislation:** Yes
- legal\_provisions:** 1: Section 100 of the Criminal Procedure Code  
2: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organized Crime  
3: Act Concerning Article 10 of the Basic Law
- remarks\_and\_notes** 1: This covers visual and audio surveillance and interception of correspondence.

3: The power to employ the surveillance of international telecommunications was extended.

### Controlled deliveries

existence of a legislation: Yes  
legal\_provisions: Guidelines on Criminal Proceedings and Regulatory Proceedings (GCPRP)  
remarks\_and\_notes: Controlled transport is only possible if the identity of persons operating behind the scenes and involved in the illegal transit, import or export of narcotics, arms, stolen goods, or distribution routes, cannot be otherwise established or uncovered

### Undercover information

existence of a legislation: Yes  
legal\_provisions: 1: Section 110 of the Criminal Procedure Code  
2: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organized Crime  
remarks\_and\_notes

### Immunity

existence of a legislation: Yes  
legal\_provisions: GCPRP  
remarks\_and\_notes: Informants and other confidential agents (not the same as undercover investigators) are used primarily in the fields of serious crime, organised crime, narcotics and arms trafficking, and crimes against the state.

### Witness protection

existence of a legislation: Yes  
legal\_provisions: 1: Sections 68, 96, 172, 176, 223, 247, 251 of the Criminal Procedure Code  
2: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organized Crime  
3: The Act on the Protection of Witnesses during Examination in Criminal Proceedings and to improve the Protection of Witnesses (Witness Protection Act of 1998)  
remarks\_and\_notes: 3: This should modernize the provisions for witness protection, which already included hiding the witness' identity and address, denying a direct examination of a witness, etc..

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes  
legal\_provisions: Mutual Joint Action to fight International Crime  
remarks\_and\_notes: Agreement with Russia re: trafficking in drugs, arms, stolen vehicles, human beings, high-tech crime, money-laundering.

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## Other Provisions

### Bank secrecy

existence of a legislation: Yes  
legal\_provisions: Banking Act  
remarks\_and\_notes

### Reporting of Suspicious Transactions

existence of a legislation: Yes  
legal\_provisions: Finance Administration Act  
remarks\_and\_notes

### Immigration control

existence of a legislation: Yes  
legal\_provisions: Aliens and Asylum Procedure Act, amended 1 November 1997  
remarks\_and\_notes

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes  
legal\_provisions: 1: The Act to Combat Illegal Drug Trafficking and Other Manifestations of Organised Crime (22 September 1992)  
2: The Action Programme of 25 September 1995 of the Member States of the European Union and Associated Central and Eastern European Countries  
3: Action Plan of the European Council High Level Group (28 April 1997)  
remarks\_and\_notes: 2: In the area of judicial cooperation in combating international organised crime.  
3: The Action Plan includes the following points: 1) the acquisition and focusing of analytical expert

knowledge relating to organised crime, 2) ratification and effective domestic implementation of all instruments relevant to the fight against organised crime, 3) optimisation of the role of Europol in the fight against organised crime, 4) rigorous application of all conventions and agreements of the international community related to the fight against money laundering, 5) the creation of the Working Party on Organized Crime, consisting of high-level public officials, to develop strategies to coordinate the fight against organised crime in the EU.

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

"Organised crime has become a challenge for state and society. Offenders--who are usually part of an international network--use private and business contacts with great criminal energy and financial means to make a high illegal profit. Conspiratorial preparation and execution of the criminal offence make the fight against crime more difficult. Organised crime is concentrated in the types of crime which guarantee high criminal gains and in whichm at the same time, the risk of being caught is diminished by the fact that there are no direct victims or by the fact that the victims are not prepared to report the crime or make a statement before the authorities. In particular, characteristic types of organized crime are: drug crime, arms trafficking and smuggling, crime connected with the night world (mainly pimping, prostitution, trafficking in human beings and illegal gaming), extortion of protection money, illegal smuggling-in of foreigners, manufacturing and dissemination of counterfeit money, gang theft and burglary with centralized loot commercialization, auto theft, illegal disposal of hazardous waste and illegal transfer of technology."

"For the fight against crime, particularly organised crime, it is more decisive than ever for the criminal prosecution authorities to have access to the existing technical resources for the purposes of international investigation or announcements for other purposes, as well as for the reciprocal exchange of information. The Schengen information system and Europol make it clear in an impressive way how today's information technology can be used to fight crime."

# Greece

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## Substantial Provisions

### Organized Crime

existence of a legislation: No response provided

legal\_provisions:

remarks\_and\_notes

### Participation in a Criminal Organization

existence of a legislation: Yes (see note)

legal\_provisions: Criminal Code

remarks\_and\_notes The legislation does not contain the specific term "organized crime." The Code refers to the participation of two or more persons in the participation of a crime (complicity, instigation, aid and abetment); see articles 45 and 48 of the Criminal Code. Article 187 of the Criminal Code refers to and punishes the crime of "conspiracy and establishment of a gang."

### Money-Laundering

existence of a legislation: Yes

legal\_provisions: Article 7, Act 2331/95

remarks\_and\_notes Creation of a Committee for the Disclosure of Transactions Suspected of Money Laundering. It collects, assesses and investigates (preliminary inquiry) any information reaching it in connection with transactions suspected for generating criminal revenue.

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## Procedural Provisions

### Controlled deliveries

existence of a legislation: Yes

legal\_provisions: Article 38, Act 2145/93, amended by article 15, par. 1, Act 2331/95

remarks\_and\_notes Any requests submitted by other countries must be addressed to the Anti-Narcotics Co-Ordinating Body.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: 1: Bilateral Police Co-Operation Agreements  
2: Convention with the USSR re: Judicial Assistance (21 May 1981)

remarks\_and\_notes 1: Albania: Police Co-Operation Agreement.  
Armenia: Police Co-Operation Agreement.  
Bulgaria: Two agreements and one Implementation protocol.  
China: Police Co-Operation Agreement.  
Croatia: Police Co-Operation Agreement.  
Cyprus: Police Co-Operation Agreement.  
Hungary: Police Co-Operation Agreement.  
Italy: Agreement for the Suppression of Terrorism. Organized Crime and Narcotics Agreement.  
Iran: Police Co-Operation Agreement.  
Israel: Police Co-Operation Agreement.  
Latvia: Police Co-Operation Agreement.  
Poland: Three Agreements for Police Co-Operation.  
Romania: Two agreements and Protocols.  
Russia: Police Co-Operation Agreement. Agreement for the Fight Against Narcotics.  
Slovenia: Co-Operation Agreement.  
Tunisia: Police Co-Operation Agreement.  
U.S.A.: Agreement on Matters Involving Narcotics  
2: Still applies with respect to Russia in accordance with the law of the succession of states in international conventions.

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions: 1: Act 1729 (07/08/1997), article 20.  
2: Presidential Decrees 139 (06/03/1989) and 126 (06/04/1990).

remarks\_and\_notes 1: A Joint Co-ordination body was established at the Ministry of Public Order formed by officers of the Hellenic Police Force, the Customs Service and the Port Service, for a better use of information and co-ordination of the action of the Anti-Narcotics Departments of the Hellenic Police Force, the Customs Service and the Port Police.  
2: The decrees set forth the competencies of the Anti-Narcotics Co-Ordination Body

# Guyana

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## Substantial Provisions

### Organized Crime

existence of a legislation: No response provided

legal\_provisions:

remarks\_and\_notes

### Confiscation and Provisional Measures

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Draft legislation on the seizure and confiscation of cash suspected to be the proceeds of illicit drugs has been completed.

### Money-Laundering

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Draft legislation has been completed.

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## Procedural Provisions

### Witness protection

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The government is exploring the feasibility of establishing a witness protection programme.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Draft legislation on extradition and mutual legal assistance in criminal matters has been completed (it is not directly related to organized crime). Guyana has established a bilateral information exchange arrangement with other Caribbean and Latin American States. The country cooperates with Rocis and Interpol through authorized and safe channels in the exchange of information related to organized crime.

# Hungary

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** 1: Last amendment to the Criminal Code (Btk., Act IV of 1978) in July 1998. Act LXXIII of 1997  
2: Government resolution 1077/1996 (VII. 16)
- remarks\_and\_notes** 1: Although there is no separate act against organized crime, the Code has introduced the concept of "Criminal Organization," defined as a criminal conspiracy established in order to commit criminal acts continuously on the basis of a division of labor, and to make constant profit. Obligatory features: Participation of at least three persons; long or indefinite periods of time; criminal records indicating that the persons concerned have committed grave crimes; objective of acquiring power or financial benefits. Other features considered obligatory: existence of a hierarchy; members should be "professional" criminals; attempts to make international connections; money laundering by investing illegal profits in the legal economy; attempts to acquire positions in the state apparatus; group solidarity with members and members' relatives, implying efforts to interfere with prosecution.  
2: This resolution deals with governmental action against organized and economic crime.

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:**
- remarks\_and\_notes** Persons who participate in the establishment of, the management of, or who are members of a criminal organization are considered criminals. A member of a criminal organization is not punishable if, before the police obtains knowledge of the existence of the criminal organization, he or she leaves the organization, discloses to the authority or reveals the identity of other participants of the organization.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** Act XXIV of 1994. Government Decree 74/1994 (V.10)
- remarks\_and\_notes** On the prevention and hindering of money-laundering.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** 1: Act LXXIII/ 1997 Article 263/C. Notice: there is no separate act against organized crime for the time being. The "establishment of criminal organization" as an independent enterprise and the penalization of the "commitment as a member of a criminal organization", the latter as a qualifying circumstance were introduced in the Criminal Code by this Act.  
2: See also Act I of 1973
- remarks\_and\_notes** 1: Involvement in a criminal organization constitutes an aggravating circumstance in many cases (pandering, smuggling, money laundering, pimping, tax fraud, robbery, theft, misuse of explosive, etc). Art. 263/C: Those leading a criminal organization which commits criminal acts shall be sentenced to imprisonment between one and five years due to the commitment of a crime. Members of criminal organizations and those supplying material means to activities of such organizations shall be sentenced to imprisonment for a period up to three years due to the commitment of a crime.  
2: On prosecution.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** 1: Government Resolution 2317/1997  
2: Act XXXIV of 1994 on Police, Article 69
- remarks\_and\_notes** 1: Ratification of the Treaty on Adjustment, exploring, seizure and forfeiture of pecuniary advantages derived from criminal activities (dated Oct. 8, 1990, Strasbourg)  
2: The Act provides Police with wide-ranging authorization for actions against organized crime and may, with the authorization of the court, use secret service means. The police may, with the permission of the court, search private homes without the knowledge of the owner, record their observations by technical means; monitor and record events taking place in private homes by use of technical means; familiarize and record by use of technical means the contents of letters, other postal parcels, and communication transmitted through telephone lines or other telecommunication systems.

### Electronic surveillance

**existence of a legislation:** Yes

**legal\_provisions:** 1: Government Resolution 2317/1997  
2: Act XXXIV of 1994 on Police, Article 69

**remarks\_and\_notes** 1: Ratification of the Treaty on Adjustment, exploring, seizure and forfeiture of pecuniary advantages derived from criminal activities (dated Oct. 8, 1990, Strasbourg).  
2: The Act provides Police with wide-ranging authorization for actions against organized crime and may, with the authorization of the court, use secret service means. The police may with the permission of the court, search private homes without the knowledge of the owner, record their observations by technical means; monitor and record events taking place in private homes by use of technical means; familiarize and record by use of technical means the contents of letters, other postal parcels, and communication transmitted through telephone lines or other telecommunication systems.

### **Undercover information**

**existence of a legislation:** Yes

**legal\_provisions:** Act XXXIV of 1994 on the Police

**remarks\_and\_notes** Possibility to resort to secret service means in exploring crimes severely threatening order and public safety.

### **Immunity**

**existence of a legislation:** No

**legal\_provisions:**

**remarks\_and\_notes** The possibility to protect individuals who co-operate with law enforcement agencies has to be studied within and beyond the prosecution when developing the draft of the prosecution act (thus for example the confidentiality of information and the possibility to identify witnesses). The limitations--contained in Article 6 of the European Charter on Human Rights--ensuring the right to a "fair trial" must be borne in mind.

### **Witness protection**

**existence of a legislation:** No

**legal\_provisions:**

**remarks\_and\_notes** The possibility of protecting witnesses has to be studied when developing the draft of the prosecution act (thus for example the confidentiality of information and the possibility to identify witnesses). The limitations--contained in Article 6 of the European Charter on Human Rights--ensuring the right to a "fair trial" must be borne in mind.

### **International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation**

**existence of a legislation:** Yes

**legal\_provisions:** 1: Treaty on the Repression of terrorism (Jan.27, 1997, Strasbourg). Rendered effective by the Act XCIII of 1997.  
2: Agreement Memorandum.  
3: Berlin Declaration.  
4: Intergovernmental agreements against terrorism, drug-related crimes and organized crime

**remarks\_and\_notes** 1: Repression of terrorism.  
2: Czech Republic, Hungary, Poland, Slovakia, Slovenia and the UNDCP at the Conference of Ministers held in Prague on October 5, 1995.  
3: Berlin Declaration on co-operation in acting against drug-related and organized crime in Europe, dated Sept. 8, 1994.  
4: Effective agreements: Federal Republic of Germany, Kingdom of Spain, Republic of Turkey, Republic of Cyprus, Republic of Slovenia, Republic of Slovakia, Republic of Croatia, Republic of Greece, Ukraine, Czech Republic, Republic of Kazakhstan, Republic of Austria, Romania. Applicable and signed: Announcement in progress: State of Israel, Republic of Moldova, Russian Federation. Signed, but not entered into effect: Republic of France, Arabic Republic of Egypt, Republic of Bosnia-Herzegovina, Republic of Poland, Republic of Lithuania, Republic of Latvia, Kingdom of Sweden, Republic of Italy.

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## Other Provisions

### Bank secrecy

- existence of a legislation:** Yes
- legal\_provisions:**
- 1: Decree of Legal Force # 42 of 1989
  - 2: Act CXII of 1996
  - 3: Act CXI of 1996
  - 4: Act LXV of 1995
- remarks\_and\_notes**
- 1: On savings account deposits.
  - 2: On credit institutions and financial enterprises
  - 3: On negotiation of securities, on investment services and on the securities exchange.
  - 4: On insurance institutions and insurance activities.
- 1, 2, 3, 4: Regulations bind business organizations (financial institutions, cash-flow intermediators, insurance companies, insurance brokers, insurance consultants, arrangers of securities, operators of casinos and investment trust companies) to identify clients in cases of transactions involving cash payments made or collected in an amount equalling or exceeding two million Hungarian forints. In the event that information arises indicating money-laundering, the business is obliged to identify the client regardless of the value limit referred to above and to report the suspicion of money laundering. Such reporting may not be regarded as divulging bank, insurance or business secrecy.

### Reporting of Suspicious Transactions

- existence of a legislation:** Yes
- legal\_provisions:**
- remarks\_and\_notes**
- Regulations bind business organizations (financial institutions, cash-flow intermediators, insurance companies, insurance brokers, insurance consultants, arrangers of securities, operators of casinos and investment trust companies) to identify clients in cases of transactions involving cash payments made or collected in an amount equalling or exceeding two million Hungarian forints.

### Immigration control

- existence of a legislation:** Yes
- legal\_provisions:** Act XXXII of 1997
- remarks\_and\_notes** On defence of Borders and Border-Guards.

### Specific Governmental Institutions and Administrative Structures recently created

- existence of a legislation:** Yes
- legal\_provisions:**
- 1: Service Against Organized Crime.
  - 2: Department Against Organized Crime.
  - 3: Central Crime-Fighting Directorate (K.B.I.).
  - 4: Co-Ordination Panel on the Protection of the Economy.
- remarks\_and\_notes**
- 1: Established in 1992; former Service Against International Organized and Drug-Related Crime, created in 1991.
  - 2: It is one of the three departments of the Central Crime Directorate (namely the Department of the Protection of the Economy; Department against Organized Crime; Department of Investigations). It includes three divisions: division against drug-related crimes; division against organized crime; division of regions.
  - 3: Since Sept.1, 1996. Independant administrative organization, under the direct control of the National Chief Commander of Police.
  - 4: Created by Government Resolution 1023/1994 (IV.6.), designed to prevent and explore crimes related to financial management and to provide more effective accountability. Statutory laws reviewal, amendments and new statutory laws proposals, search for the existing contradictions in the system of economic rules, government assisting in preparing economic legislative decisions, monitoring of the economy- protecting and crime-preventing implementation of the recommendations of the European Council. Note: In government Resolution 1053/1997 (v.28), the Government has adopted a three-year medium-range development program for the improvment of the police crime fighting activities.

### General statements and observations on Organized Crime made by the Government

- existence of a legislation:**
- legal\_provisions:**
- remarks\_and\_notes**
- No uniform statistics have been compiled with regard to organized crime. Data have so far been supplied on one occasion, with the need for regularity in the future. The processing of information gave the following approximate figures: About 137 active organized criminal groups were operating in the country at the end of 1996. With regard to their total number, this figure approximatively refers to 1950 persons susceptible of participation. This number is continually changing, since groups are constantly being established ,

dissolved, merged and separated. In the case of some foreign groups, the number of members may not even be estimated, since some of them often come into the country for the completion of "temporary assignments." The majority of those groups (80 groups) have less than 10 participating members. The number of groups with more than 30 members is relatively small (only 6 groups). The group structure is clearly characterized by hierarchy, specific sub and superordinated relationship (106 groups; 77.4%). Adjunct structure can only be observed in 16 cases. In 61 cases, the group is headed by a single person; there are additional persons besides the head in 23 groups. In the case of 20 groups, the management structure is shared (i.e., two or more persons control the organization simultaneously). The basis of the organization is the involvement in a particular nationality or ethnic group in 40 cases. In general (for 93 groups, 67.9%) the organization is aimed at making financial profits, which can be regarded as a change if compared to previous situations, where the decisive basis was the involvement in a particular nationality or ethnic group, or a family. According to the information available, more than fifty percent of organized criminal groups in Hungary, about 75 groups are made of persons of Hungarian citizenship. There are 46 mixed groups. 16 groups are exclusively composed of foreign criminals. It should be noted that the suppliers of data have also taken a position with regard to the composition of groups with an unknown number of members. The number of offenders from former Yugoslavia, Russia, Ukraine, Albania and Turkey is the highest in the case of mixed and foreign criminal groups. Individuals from former Yugoslavia make up a lot of groups of relatively small size. In the case of criminal groups from Russia and Ukraine we find fewer groups but with a larger number of members, which may be regarded as evidence of a higher degree of organization. Similar group and member ratios may be observed with Albanians and Turkish. Relying on the information received from the various agencies that organized criminal groups are related or can be related to each other (meetings of members or leaders). Conflict of interests between groups often emerge. In general, it is typical that the complicated system of hostilities and alliances changes almost on a day-by-day basis, depending on market opportunities and the balance of powers. There is some information on foreign connections and financial channels. Financial channels towards Austria, Slovakia, Holland, Germany, Spain, Israel, the United States and Russia are bound to company contacts. Activities of organized crime: According to the data collected, organized criminal groups are primarily interested in crimes related to vehicles (53 groups, 38.7%), drug-related crimes (49 groups, 35.8%) and "violent" crimes against property and individuals (blackmail, blackmail for protection, kidnapping, encashment, etc.) (34 groups, 24.8%). There is a significant number of groups involved in prostitution (21 groups), in thefts and robberies (16 groups), in smuggling and trafficking of goods (17 groups). 12 groups are involved in alien smuggling, and 17 in weapons smuggling. According to this breakdown of unlawful activities 76 groups (55.5) may be regarded as having a pure "product line", that is they are specializing in a single sector/specific activity, and 61 groups (44.5%) have a mixed profile. In this case they have committed almost every type of crime. Geographical aspect of organized crime: 30% of the groups perform their activities within a small area, in single city and its vicinity, or in several smaller close settlements. These groups usually commit crimes against vehicles and property, or violent and drug-related crimes, and they are typically groups in the early stages of becoming an organization. The majority of groups perform their activities in a more extensive area covering several regions or even the entire territory of Hungary, and are often operating abroad as well. The area of operation of 41 groups (29.9%) extends beyond the borders of the country. The activities of these large groups cover the entire crime spectrum of organized crime. Budapest is of particular importance. Several groups operate abroad: the members and leaders still live and organize their activities in Budapest or its vicinity. Another important focus of organized crime is Lake Ballaton and its vicinity, where activities are seasonal, and the regions of Csongrad, Heves, Gyor-Moson-Sopron, and Szeged. Tools: Joint or independent companies, ventures and other non profit organizations of individuals acting in a group play a particularly important role. There are money-laundering ventures. Among the 530 companies owned or controlled by group members, it has been reported that in 11 cases the companies were bogus. There is information indicating unlawful activities for 101 companies (gas forwarding and distributing companies associated with "oil" crimes are many: 50). VAT fraud with fake invoices concern 14 companies. 8 companies are used for smuggling and various trafficking purposes. 4 companies are involved in loan fraud. 6 companies may be associated with vehicle related crimes. Money-laundering is suspected in the case of 6 companies. 6 groups have contacts with the public administration, 7 with business circles and 9 with the police forces. There are three extremely dangerous groups involved. They are trying to establish contacts not only with the police representatives, but with government officials, the APEH (Tax and Financial Supervisory Office), judges and attorneys, and with business circles. The intention of laundering money from basic criminal activities yielding to large profits is typical of all the three groups. Almost each group has supporters that assist the group activities without actually engaging in crimes. The means of such support varies on an extremely wide scale. Some supporters allocate their capital to the group while regarding organized crime as a business and enjoy the profits made. Others give legal or business advice, thus investing their intellectual wealth. There are other forms of support such as tangible and intangible properties. Money-laundering: 1700 reports have been received in Hungary with regard to 2400 such transactions over a period of 3 years; 304 institutions have been involved in these transactions. Money comes to Hungary from abroad by physical means or through bank transfer, which is then withdrawn in Hungary and given to others who transfer the money back abroad through their own private accounts or companies.

# Iceland

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## Substantial Provisions

### Organized Crime

existence of a legislation: Yes

legal\_provisions:

remarks\_and\_notes The Icelandic legislation contains several provisions specifically prohibiting forms of organized transnational crime in accordance with multilateral agreements.

### Participation in a Criminal Organization

existence of a legislation: Yes, but mainly addressed to terrorist activities

legal\_provisions:

remarks\_and\_notes Iceland is party to several multilateral conventions on terrorism and rules of territorial jurisdiction prescribed in the penal code (section 6) have been extended. This applies to acts of terrorism following the 1977 European Convention on the Suppression of Terrorism, air piracy and related offences, following the 1963 Convention of Offences and Certain Other Acts Committed on Board Aircraft, the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft and the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (as amended), and hostage taking and related offences under the 1981 Convention against the taking of hostages and the 1973 Convention on the Prevention and the Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. Administrative authorities can provisionally prohibit the activities of an organisation deemed to serve an unlawful purpose, but in such a case legal action shall be brought without undue delay.

### Money-Laundering

existence of a legislation: Yes

legal\_provisions: Act of Actions against Money Laundering, 80/93

remarks\_and\_notes Laundering of the proceeds offences was criminalized under the Narcotics Act and the Penal Code following the 91/308 EC Directive on the Prevention of the Use of the Financial System for the purposes of Money Laundering. Rules on reactions to laundering of the proceeds of crime within the financial system were set out in the 1993 Act. Legislation criminalizing laundering of the proceeds of all types of crime is currently under preparation. The Government has proposed that money laundering will be criminalized under the penal code (section 264). A bill on this subject is under parliamentary discussion. Iceland has cooperated with the Financial Action Task Force on Money Laundering since 1991.

### Sentencing

existence of a legislation: Yes, but addressed to drug trafficking and terrorist activities

legal\_provisions: 1: The 1974 Narcotics Act

2: The Penal Code: section 173 a, section 6, section 120.a., 165 par. 2, 3 and 4 and section 257 par. 2

remarks\_and\_notes

1: Following the 1961 Single Convention on Narcotic Drugs and the 1971 convention on conspiracy to commit such an act, was criminalized under the 1974 Narcotics Act. A person guilty of an offence under this Act is liable to imprisonment for up to six years.

2: In addition, amendments were made to the 1940 Penal Code, making persons who commit serious narcotics offences liable to imprisonment for up to ten years (section 173 a) and extending rules of territorial jurisdiction for this type of crime (section 6). Most terrorist acts are punishable under sections of the 1940 Penal Code, and several provision were added to the Penal Code in order to cover acts of air piracy and other acts against the safety of aviation (section 120.a., 165 par. 2, 3 and 4 and section 257 par. 2).

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## Procedural Provisions

### Search and Seizure

existence of a legislation: Yes

legal\_provisions: 1: Section 78 of the code of Criminal Procedure (CCP)

2: Section 89

remarks\_and\_notes

1: This provides for the seizure of articles (incl. Documents) if there is reason to believe that they will be of evidential value in criminal litigation, if they have been acquired by crime, and if they can be assumed to be subject to confiscation.

2: This allows searches to be conducted in the houses of a suspect, his places of storage, closets and cabinets, his ships and other transport conveyances, in order to arrest him, ascertain any evidence of crime, or to find any objects or evidence to be seized.

### Controlled deliveries

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The use of controlled delivery by police and the customs authorities is regarded as allowed. The Minister of Justice has appointed a committee now engaged in drafting rules in this respect.

### Undercover information

existence of a legislation: No, but accepted practice

legal\_provisions:

remarks\_and\_notes The use of a decoy is deemed to fall within the scope of the current law on investigative methods, in spite of the fact that the use of such methods is not expressly provided for in law. The courts of Iceland have deemed this lawful subject to certain conditions. The Minister of justice has appointed a committee now engaged in drafting rules governing the use of decoys in investigation.

### Immunity

existence of a legislation: Yes, though not relevant to organized crime

legal\_provisions: 1: Vienna Convention on Diplomatic Relations of 18 April 1961 (Act 16/71)

2: Vienna Convention on Consular Relations of 24 April 1963 (Act 4/78)

remarks\_and\_notes Certain entities, such as foreign states, are immune from the exercise of Icelandic state authority in accordance with the customary international law on extritorial rights.

### Witness protection

existence of a legislation: Yes

legal\_provisions: Sections 8 and 59 of the GPC

remarks\_and\_notes A judge may decide to conduct a hearing in camera, or to dismiss a defendant from the courtroom while the statement of a witness is being received, if a request is made to that effect, and if the judge considers that the defendant's presence will be particularly burdensome for the witness or that it may influence the testimony provided.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, not addressd to organized crime specifically but still effective in this area

legal\_provisions:

International instruments:

1: European Convention on Extradition, 13 December 1957

2: European Convention on Mutual Assistance in Criminal Matters, 20 April 1959

3: United Nations Single Convention on Narcotic Drugs, 30 March 1961

4: European Convention on the International Validity of Criminal Judgments, 28 May 1971

5: United Nations Convention on Psychotropic Substances, 21 February 1971

6: European Convention on the Transfer of Sentenced Persons, 21 March 1983

7: United Nations Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 20 December 1988

8: Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 8 November 1990

National laws:

9: Act on Extradition of Criminal Offenders to Denmark, Finland, Norway and Sweden, Law 7/62

10: Act on Enforcement of criminal judgments rendered in Denmark, Finland, Norway and Sweden, Law 69/63

11: Act on Extradition of criminal Offenders and Other Cooperation in Criminal Matters, Law 13/84

12: Act on International Cooperation for Enforcement of Criminal Judgments, Law 56/93

remarks\_and\_notes

8: In the context of a foreign party's request for search and seizure in accordance with international agreement and in preparation for confiscation in Iceland, Section 78 of the CCP permits seizure if the articles in question can be assumed to become subject to confiscation. This also applies to conditions for a search under Section 89.

9: Persons within Icelandic territory who are suspected or have been indicted or sentenced in the above mentioned countries may, subject to fulfillment of the conditions provided for in the Act be extradited.

11: Section 1 permits extradition of a person suspected of or indicted or sentenced for a crime in a foreign state, subject to the conditions provided for in the Act in further detail.

12: Certain sanctions ordered abroad, such as confiscation, may be enforced in Iceland subject to bilateral or multilateral international agreements to which Iceland is a party.

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## Other Provisions

### Victim compensation

existence of a legislation:	Yes
legal_provisions:	Act 68/95
remarks_and_notes	According to Section 1, the State Treasury shall pay compensation to victims leading from a violation of the GPC. The Act also applies to physical injury sustained in assisting police or in performing civil arrest, and physical injury sustained in an attempt to forestall a criminal act. Section 2 provides that compensation be paid for physical injury and damage to personal effects, or for reasonable costs of funeral, and to any dependents. Under Section 3, compensation can be made for non-financial loss (but not if the violation relates to offences against reputation and privacy. Section 5 provides that compensation shall not be made to public authorities and public institutions, or if both the victim and perpetrator were staying in Iceland temporarily. According to Section 6, the Compensation Committee has to have received an application within two years of the crime. Section 7 says that compensation shall not be made due to a single act unless the loss is over ISK 100,000. There are also several compensation limits. Section 9 specifies that the victim shall be compensated even if the perpetrator is unknown or criminally irresponsible (or cannot be found). Section 19 provides for subrogation of the State Treasury of any rights of the victim against the perpetrator under the law of torts.

### Bank secrecy

existence of a legislation:	Yes
legal_provisions:	Act 80/93 on Measures against Money Laundering
remarks_and_notes	Financial institutions must notify the Public Prosecutor of any transactions where a violation of the GPC is suspected, and all necessary information deemed necessary for investigation shall be provided (Section 7). Other sections detail measures obligating financial institutions to maintain internal controls designed to prevent and expose money laundering. The Justice Minister has also issued two regulations based on the Act, 272/94 on the Role of Financial Institutions in Preventing Money Laundering and 695/94 on the Role of Certain Professions and Legal Persons in Preventing Money Laundering.

### Border control of Proceeds of Crime

existence of a legislation:	Yes
legal_provisions:	The Customs Act, 55/87
remarks_and_notes	Section 136 allows confiscation of goods that have been imported and the importation of which has been attempted, and of goods that have otherwise been handled in a manner contrary to the Act. If the offence is of large scope or the circumstances are otherwise highly aggravating, any transport conveyances used for commission may also be confiscated. Customs officials may travel anywhere on and along the coasts of Iceland. They are granted wide-ranging authority to perform searches in vehicles suspect of transporting unlawfully imported goods. They are empowered to use force in the performance of their duties if necessary, and to conduct an interrogation or deliver a criminal to police.

# Ireland

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## Substantial Provisions

### Organized Crime

- existence of a legislation: Yes
- legal\_provisions:
- remarks\_and\_notes "It is an offence at common law for two or more persons to conspire to commit an offence."

### Participation in a Criminal Organization

- existence of a legislation: Yes
- legal\_provisions: 1: Section 7 of the Criminal Law Act, 1997  
2: Section 21 of the Offences Against the State Act, 1939
- remarks\_and\_notes 1: Any person who aids, abets, counsels or procures the commission of an indictable offence is liable to be indicted, tried and punished as a principal offender.  
2: It is an offence for a person to be a member of an unlawful organisation, which includes any organisation which engages in or advocates the commission of any criminal offence.

### Confiscation and Provisional Measures

- existence of a legislation: Yes
- legal\_provisions: 1: Criminal Justice Act, 1994  
2: Proceeds of Crime Act, 1996
- remarks\_and\_notes 1: This provides for the confiscation of the proceeds of an offence upon conviction. It also provides for the restraint of property in anticipation of the making of a confiscation order. Regulations have been made adapting the restraint and confiscation provisions of the Act to enable foreign restraint and confiscation orders to be enforced against property in Ireland.  
2: This provides for the civil forfeiture of property which is the proceeds of crime.

### Money-Laundering

- existence of a legislation: Yes
- legal\_provisions: 1: Section 31 of the Criminal Justice Act, 1994  
2: Sections 32 and 57, amended by the Criminal Justice (Miscellaneous Provisions) Act, 1997
- remarks\_and\_notes 1: This provides for the offence of money laundering.  
2: This provides for measures for the prevention and detection of money laundering involving certain (mainly financial) bodies.

### Sentencing

- existence of a legislation: Yes
- legal\_provisions:
- remarks\_and\_notes In general, the law prescribes a maximum penalty for each offence, leaving the actual penalty to be imposed in each case to the discretion of the trial judge (the main exception is murder, where there is a mandatory sentence of life imprisonment).

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## Procedural Provisions

### Search and Seizure

- existence of a legislation: Yes
- legal\_provisions: 1: Criminal Justice Act, 1994  
2: Criminal Law Act, 1976
- remarks\_and\_notes 1 and 2: There are a variety of provisions enabling the Garda Síochána to seek a search warrant from a judge. There is also a general power, under section 9 of the Criminal Law Act, 1976, for a member of the Garda Síochána, in carrying out any search, to seize anything which may be evidence of an offence.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation: Yes
- legal\_provisions: 1: Council of Europe Convention on Mutual assistance in Criminal Matters, 1959, and Additional Protocol to the Convention  
2: Extradition Act, 1965  
3: Extradition (European Convention on the Suppression of Terrorism) Act, 1987  
4: Extradition (Amendment) Act, 1987 and 1994  
5: Bilateral Extradition Treaties  
6: Other conventions with extradition provisions  
7: Legislative proposals dealing with extradition

remarks\_and\_notes

2: This is the primary legislation, which provides for both the simplified arrangements Ireland operates with Britain and Northern Ireland (Part III) and our extradition arrangements with other countries (Part II). Part II is modelled on the 1957 European Convention on Extradition to which Ireland is a party.

5: Where countries are not a party to the 1957 European Convention on Extradition, as in the case of USA and Australia, Ireland has negotiated bilateral extradition treaties with those countries--with USA in 1983 and with Australia in 1985. Proposals for two further extradition treaties, between 1) Ireland and Canada, and 2) Ireland and South Africa, are under consideration.

7: Work on the preparation of the necessary legislation to enable Ireland to ratify two EU Conventions--"On Simplified Extradition Procedures" (1995) and "Relating to Extradition" (1996)--has begun in the Department of Justice, Equality, and Law Reform. This legislation will also enable Ireland to sign 1) the Agreement of 26 May 1989 between the Member States of the European Communities on the Simplification and Modernisation of Methods of Transmitting Extradition Requests (the San Sebastian Agreement, drafted within the framework of European Political Cooperation, and 2) the Second Additional Protocol to the European Convention on Extradition done at Strasbourg on 17 March 1978. It is expected that the legislation will be published in 1999.

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## Other Provisions

### Victim compensation

existence of a legislation: Yes

legal\_provisions: Section 6 of the Criminal Justice Act, 1993

remarks\_and\_notes: Upon the conviction of a person of an offence, the court may order him or her to pay compensation to the victim of the offence.

### Bank secrecy

existence of a legislation: Yes

legal\_provisions: Bankers Books Evidence Act, 1879, as amended by Sections 13 and 14 of Disclosure of Certain Information for Taxation and other Purposes Act, 1996 and Section 131 of the Central Bank Act, 1989

remarks\_and\_notes

### Reporting of Suspicious Transactions

existence of a legislation: Yes

legal\_provisions: Section 57 of the Criminal Justice Act, 1994

remarks\_and\_notes: This obliges designated bodies to report to the Garda Síochána suspicions that their business has been or is being used for the purposes of money laundering.

# Italy

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## Substantial Provisions

### Organized Crime

existence of a legislation: Yes.

legal\_provisions: 1: Article 416 of the Penal Code  
2: Article 416 bis (Law 646/82)

remarks\_and\_notes 1: "An offence committed by several subjects or requiring the complicity of a third party." The penal provision in question establishes penalties for two kinds of criminal conduct: first, the establishment, constitution or organization of an association of criminals, and, second, mere membership in such an association. The continuing nature of this association constitutes one of the features that distinguishes the offence of criminal association (organized crime) from that of the complicity of several persons in a single offence.  
2: In 1982, on the grounds that the violent trend adopted by mafia-type criminality could no longer be countered solely by the provisions of article 416, introduced the offence of "mafia-type association." The aim of the legislature was to underline the way in which victims' state of submission or obligation to keep silence affected the economy and administration of large territories, while at the same time preventing the proper functioning of services assigned to the prevention and prosecution of criminal offenses. Mafia-type associations represent the "anti-State," or the tangible manifestation of criminal power opposed to the public authorities.

### Participation in a Criminal Organization

existence of a legislation: Yes.

legal\_provisions: 1: Article 406 of the Penal Code  
2: Article 406 bis  
3: Article 270  
4: Article 270 bis  
5: Article 305  
6: Article 306  
7: Article 73 of Presidential Decree 309/90  
8: Article 74 of Presidential Decree 309/90

remarks\_and\_notes 1: The offence of criminal association is committed when a) a connection exists between an association's members that does not cease after the association has committed the offences it planned, b) this connection is not confined to one or more specific offences, but relates to a broader criminal strategy, and c) the association is equipped with a structure suited to its purposes. The perpetration of planned offences is not necessary for the commission of the offence of association (which is characterized by the act of placing under threat).  
2: An association is considered to be "mafia-type" if a) the members of the group exploit their power of intimidation, derived from the link existing between the members, and the state of submission and obligation to keep silence arising from that power, and b) the aim of the association is to engage in activities in the public and private sectors detrimental to the proper functioning of the economy and the public authorities. A mafia-type offence is committed as soon as the link between members is established; it is not necessary that any other offences be committed.  
3: Subversive association.  
4: Association for purposes of terrorism and subversion of the democratic system.  
5: Political conspiracy through associations.  
6: Armed gangsterism.  
7: Association for purposes of illicit trafficking in narcotic drugs or psychotropic substances.  
8: association for purposes of committing offences covered by the Compendium of Narcotic Drugs Laws.

### Confiscation and Provisional Measures

existence of a legislation: Yes

legal\_provisions: 1: Law 575/1965  
2: Law 246/1982  
3: Law 629/1982, supplemented by Law 486/1988  
4: Law 55/1990  
5: Law 410/1991, supplemented by Law 356/1992  
6: Article 1 quinquies of Law 726/1982, confirmed by ministerial order of 23 December 1992 and incorporated by order of 30 November 1993  
7: Article 2 bis of Law 575/1965

remarks\_and\_notes 1: This legislation extended the provisions of Law 1423/1956 (as modified by Law 327/1988), which allow for the imposition on persons suspected of belonging to mafia-type associations of the precautionary measures already established for "persons posing a threat to public safety and morality."

2: This law defined the characteristics of "mafia-type association" (to enable a better application of the above legislation), as well as introducing precautionary measures relating to property, such as seizure. Special investigatory powers were conferred on the Public Prosecutor and Questore (Chief of Police).

3: This law established the Office of High Commissioner for Mafia-type Crime Control, assigning it particular functions and powers; the supplementary law conferred new powers, such as individual crime control measures pertaining to property.

4: This allowed the Public Prosecutor and the Questore the option of requesting the intervention of the Financial Crime Branch or the criminal investigation service to carry out investigations relating to property, and furnished new means of prosecuting the illicit activities of mafia-type organizations within the realm of public contracts and their relations with political circles and the public authorities.

5: This established the Organized Crime Control Board and the Anti-Mafia Investigation Directorate (DIA), and abolished the Office of the High Commissioner, whose powers were transferred to the Minister of the Interior, who in turn transferred those powers to various bodies, including the DIA.

6: This afforded to the DIA Director (originally the Office of the High Commissioner) the ability to forward proposals for the imposition of precautionary measures pertaining to persons or property.

7: This provides that property investigations carried out during preliminary inquiries should be directed toward examining the standard of living, financial means and overall wealth of the person in question, as well as the suspect's business activities (for the purpose of identifying the source of his or her income). Following the investigation, the court may order the preventive seizure of property derived from illicit activities, as well as the suspension of licenses, authorizations, registrations, funding, and preferential-rate loans and subsidies granted by the State, local authorities and international bodies. Such investigations also relate to individuals, corporate bodies, companies and associations whose property appears to be at the partial disposal of suspects.

## Money-Laundering

existence of a legislation: Yes

legal\_provisions: 1: Article 648 bis of the Penal Code, established by Law 191/78  
 2: Law 55/90  
 3: Law 328/93  
 4: Law 197/1991, modified by Legislative Decree 153/1997  
 5: Law 413/1991  
 6: Law 310/1993  
 7: Ministry of Finance Circular No. 1, 20 January 1995

remarks\_and\_notes 1: The term "money-laundering" is understood to mean any act or conduct aimed at "concealing or masking" the illicit origin of money, property or proceeds. This provision came into being under different conditions from those at present and was seldom imposed until redrafted by Law 55/90 (see below).

2: This contained a redrafted version of Article 648, which became Article 648 ter, making the simple use of money, property or other illicitly acquired proceeds a punishable offence. Apart from improvements made in the theoretical definition of the offence, one of the factors responsible for the failure of the previous article was not changed at all: the "predicate offenses" continued to be too limited, disregarding a number of criminal activities used by criminal organizations to obtain funds (such as smuggling, usury and arms trafficking).

3: Ratified the Strasbourg Convention of 1990, further redrafting of Articles 648 bis and ter. Particular attention should be paid to the phrase "except for cases of complicity in the offence," used in the introduction to the two provisions. The legislature sought to avoid the accountability of the accomplice to the predicate offence for acts relating to the subsequent money-laundering, to eliminate obstacles to the identification of the criminal origin of the property in question. The perpetrators of money-laundering may thus only be third parties to the predicate offence, and for the purpose of bringing charges it is merely necessary that the perpetrator be aware of the illicit origin of the money/property with which he deals.

4: This, and the following three measures, were adopted at the behest of the Financial Action Task Force (FATF). This provision establishes rules for limiting the use of cash and bearer instruments for various transactions and for preventing the use of the banking system for money-laundering purposes. The DIA is now involved in the monitoring of suspect transactions.

5: This requires companies, financial institutions, and the postal administration and all financial intermediaries to keep records of and provide access to information about their clients, subject to personal data protection guarantees.

6: This concerns transparency with regard to transfers of company shares, commercial premises and land titles.

7: This lays down the procedure for establishing a single computerized register for the identification of clients of specific financial intermediaries.

## Sentencing

existence of a legislation:	Yes
legal_provisions:	1: Article 416 of the Penal Code 2: Article 648 bis 3: Article 41 bis of Law 354/1975, amended by Article 19 of Law 356/1992 4: Article 4 bis of the prison regulations
remarks_and_notes	1: Those convicted of belonging to a mafia-type organization face three to six years' imprisonment. 2: Those convicted of money-laundering face four to twelve years' imprisonment. 3: This concerns emergency situations which can be applied to persons arrested on the charge of belonging to a mafia-type association and in cases of prison revolt; the Minister of Justice has the power to suspend the application of the ordinary rules in the prison in question. 4: This defines cases which preclude entitlement to special conditions (community service, furlough, alternative non-custodial measures) and the checks required to determine the degree of social threat posed by offenders convicted of mafia-type association or any other offence committed for the purpose of terrorism. "What we have, therefore, is a differentiated prison regime."

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## Procedural Provisions

### Search and Seizure

existence of a legislation:	Yes
legal_provisions:	Code of Criminal Procedure, supplemented by Law 152/1975, Law 55/1990, Law 356/1992, several Presidential Decrees.
remarks_and_notes	Searches of premises in connection with criminal matters are not necessarily regarded as a precondition for seizure. Article 352 empowers investigators to undertake searches in the following cases: flagrante delicto (caught in the act), escape, good reason to believe evidence of an offence is being hidden on the person or the premises. Anti-mafia legislation has incorporated other extrajudicial means of gathering evidence; in the course of policing operations, the use of these powers is possible even if no crime has been reported. Given the exceptional nature of certain procedures, the investigators are required to inform a judge within 12 hours (and not 48 as required in other circumstances). Other special rules apply under narcotic drugs legislation. In general, seizures make it possible to obtain and exhibit before a judge the corpus delicti, or documents relating to the offence which have been discovered in the prior search. The Code provides for several type of seizure: for evidentiary purposes (Art. 253), conservatory attachment (Art. 316) and preventive attachment (Art. 321).

### Electronic surveillance

existence of a legislation:	Yes
legal_provisions:	Code of Criminal Procedure, Art. 266, supplemented by Art. 25 ter of Law 356/1992.
remarks_and_notes	Criminal procedure provides for the use of "bugging" in connection with various offences, including "bugging for preventive purposes" in anti-mafia operations (though the resulting information cannot be used as evidence in court). Preventive bugging is carried out at the request of the Interior Minister or the Director of the DIA. Bugging operations may not exceed 40 days, though a period of 20 additional days may be granted.

### Undercover information

existence of a legislation:	Yes
legal_provisions:	1: Article 97 of Presidential Decree 309/1990 2: Article 12 quarter of Law 356/92 3: Law 328/93
remarks_and_notes	1: The Compendium of Narcotic drug Laws authorizes the undercover purchase of drugs. 2: Eliminates penalties to investigators for making undercover purchases or engaging in similar activities to combat money-laundering or arms trafficking. 3: This extended the range of predicate offences (to money-laundering) referred to in the Penal Code. Simulated operations may be arranged by mutual arrangement with the judicial authority, which, at the request of the investigators, may issue a warrant delaying the seizure of money/property and firearms/ammunition, until the investigation is completed.

### Witness protection

existence of a legislation:	Yes
legal_provisions:	1: Law 82/91 and successive amendments 2: Interministerial Decree of 24 November 1994
remarks_and_notes	1: New measures with regard to kidnapping for ransom and the protection of witnesses. 2: Rules for determining criteria relating to the formulation of the witness protection programme and its implementation. This programme, which ultimately serves the interests of the justice authorities, is of predominantly administrative nature. The adoption of a particular protective measure is not subject to the initiation of criminal proceedings to which the person benefiting from the measure is a party. Protection of

witnesses comes within the purview of the Central Protection Service (SCP), an ad hoc body set up within the Department of Public Security, Central Directorate for Criminal Investigation, in the Interior Ministry.

### **International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation**

- existence of a legislation:** Yes
- legal\_provisions:** 1: The DIA  
2: Agreement with the Russian Interior Ministry (11 September 1993)
- remarks\_and\_notes** 1: The DIA has a dual function: a) to expand preventive knowledge of criminal phenomena on the basis of an analysis of the unlawful acts committed on Italian territory by foreign criminal groups and of the networks of mafia-type organizations of Italian origin abroad, and b) to conduct inquiries abroad concerning previously identified and selected targets. There is a unit within the DIA whose sole task is to promote and develop international links for investigative purposes. The interlinkage, as provided for by law, which the establishment of the DIA made it possible to achieve between intelligence and investigative activity represents the most useful innovation and forms the basis of advanced operational methodologies. To this should be added the international orientation of preventive investigation activities, which have to make possible the rapid assimilation of the changing dynamics and links between criminal systems in different countries. The DIA has therefore focused its efforts on establishing a network of bilateral contacts to promote the development of intelligence and operational agreements within the international political context of the "framework accords" concluded by the Italian Interior Minister with his foreign counterparts. Considerable importance should be attached to the arrangements entered into with several states since 1992, through which the DIA has sought to "export" its new methodologies for combating mafia-type crime in those countries where members of Italian criminal organizations have a significant presence. The most significant outcome of the DIA's international activities is the development of the "preventive investigation projects," which incorporate a new procedure for crime analysis which has frequently led to judicial inquiries. The DIA has proposed the establishment of more extensive international cooperation in the field of investigations and has submitted to the authorities of foreign states two preventive analysis programmes. The first focuses on an analysis of crime abroad, while the second is concerned with an in-depth examination of laundering activities carried out by mafia-type organizations world-wide. "Future initiatives to be pursued together with the countries participating in the working group on organized crime with the G7/P8, and which have already drawn up joint prevention plans, will be examined in depth. The question of the relations between investigative bodies for the purpose of formulating targeted investigation plans will come within the purview of the above-mentioned body."  
2: Cooperation in the field of combating organised crime and illegal turnover of narcotics and psychoactive agents.

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## **Other Provisions**

### **Victim compensation**

- existence of a legislation:** Yes
- legal\_provisions:** 1: Articles 90-95, 505-11 of the Code of Criminal Procedure  
2: Law 108/96
- remarks\_and\_notes** 1: In addition, the National Commission for Corporations and the Stock Exchange (CONSOB) can assert the rights and entitlements of victims of mafia-type offences, and of organizations representing the interests of injured parties. As well, an Assistance Fund for Victims of Extortion was set up through a series of provisions dating to 1992 and 1993.  
2: Establishes: 1) Support Fund for Victims of Usury, 2) Office of the Special Government Commissioner for the Coordination of Anti-Racketeering Initiatives, 3) Fund for the Prevention of Usury at the Ministry of finance.

### **Bank secrecy**

- existence of a legislation:** Yes, but overridden by criminal investigations
- legal\_provisions:** 1: Article 248, par. 2 of the Code of Criminal Procedure  
2: Law 726/82
- remarks\_and\_notes** 1: In spite of bank secrecy, Italian law does not impose any limits on the inspections that may be carried out at banks or other credit institutions in the course of an investigation. Judicial authority, or criminal investigation officers acting on its behalf, may examine banking documents and/or search premises to trace evidence for a potential seizure. Seizures are ordered by the judicial authority and articles/documents seized do not have to belong to the accused or be registered in his name.  
2: The director of the DIA may have access to or conduct inspections or audits of premises of public authorities or bodies, in particular those of a financial nature.

### **Reporting of Suspicious Transactions**

**existence of a legislation:** Yes  
**legal\_provisions:** Legislative Decree 153/97, building on Article 3 of Law 197/91  
**remarks\_and\_notes** Investigations into transactions reported as suspicious by the financial intermediaries of the Italian Exchange Office come within the exclusive purview of the DIA and the Special Monetary Unit of the Financial Crime Branch. The latter are responsible for conducting inquiries in cooperation with the National Anti-Mafia Directorate (see Specific Governmental Institutions) and with the territorial anti-mafia directorates.

### **Specific Governmental Institutions and Administrative Structures recently created**

**existence of a legislation:** Yes  
**legal\_provisions:** 1: National register of bank deposits and accounts  
2: Anti-Mafia Investigation Directorate (DIA), created by Law 410 on 30 December 1991  
3: Special powers conferred to the DIA  
4: National Anti-Mafia Directorate, created by Law 8/92  
**remarks\_and\_notes** 1: Administered by the Ministry of Finance.  
2: The DIA's function is to carry out preventive investigations regarding organized crime and mafia-type associations and offences committed by them. Its personnel is composed of representatives of the three main police forces and Civil Service officials. Its central structure comprises a Preventive Investigation Unit, a Judicial Inquiry Unit, and an International Investigations Unit. The preventive investigations are concerned primarily with the structure, national and international links of criminal organizations, their aims and operating methods, and all offences perpetrated by them. The DIA does not normally act following the reporting of an offence, but rather analyzes the organized crime phenomenon as a whole, focusing on strategically selected objectives. The Judicial Inquiry Unit collects and processes information from the intelligence and security services concerning its area of responsibility.  
3: The Interior Minister delegated to the DIA the following powers, previously devolved upon the discontinued Office of High Commissioner for the Coordination of Mafia-type Crime Control: a) right of access to public bodies and authorities, especially those of financial nature, right to carry out audits and inspections, and right to require the cooperation of the revenue police; b) right of access to data and information in the Data Processing Centre's data file for the purpose of analyzing particulars relating to organized crime; c) right to request the court to impose precautionary measures relating to individuals suspected of belonging to mafia-type organizations; d) right to convene meetings of relevant persons and to report thereon every six months to the Interior Minister.  
4: This is attached to the Court of Cassation, operating under the authority of the National Anti-Mafia Prosecutor. The Directorate has the tasks of promoting the activities of the territorial anti-mafia directorates and coordinating inquiries into crimes involving mafia-type associations, kidnappings for ransom and drug trafficking associations. Three services have been set up within the Directorate: the Property Preservation Service, Suspicious Transactions Service and Kidnapping for Ransom Service.

### **General statements and observations on Organized Crime made by the Government**

**existence of a legislation:**  
**legal\_provisions:**  
**remarks\_and\_notes** "Criminal associations, which are being vigorously combatted by the judiciary and law enforcement agencies and by strong legislation and which, moreover, are undermined by persistent internal strife, seem to be undergoing a process of restructuring through the territorial redistribution of power, recruitment of new members and search for new leaders."  
"In Italy, most of the offences committed by organized crime groups can be laid at the door of the four major mafia organizations: Cosa Nostra, Camorra, 'Ndrangheta and Sacra Corona Unita, which have their roots in Sicily, Campania, Calabria and Puglia, respectively, with branches in the centre and north of the country and abroad. Recent developments indicate that Sardinian crime, which has hitherto been "specialized" in kidnappings for ransom, is currently taking a worrying direction. Judicial investigations carried out recently have confirmed the presence in Italy of operational cells of foreign criminal associations such as the Colombian cartels, Albanian, NigerianTurkish and Singhalese groups, the Chinese triads, and so forth."  
"We are able to confirm that the results obtained in recent years by our law enforcement services show that success has been achieved in limiting the impact of typically Italian phenomena associated with large-scale criminality. However, the largest criminal associations, which have a keen interest in the enormous profits to be derived from various criminal activities, are attempting to adjust to the current situation by taking steps as radical as changing their organizational structure and opening up increasingly to foreign criminal groups. The mafia, understood in the broadest sense, is exerting a direct influence on illicit mechanisms for the accumulation of wealth, no longer confining its operations to the realm of society and state. For a number of years now, mafia groups have been concentrating their attention on the organization of crime along entrepreneurial lines, professional diversification and specialization, and the exploitation of extremely profitable markets (such as drugs). For the mafia, the price of this transformation has been the loss of its social legitimacy and the final disappearance of what used to be termed 'the man of honour.' The

consequences of this development have been manifested in the increase in the most serious offences committed by organized crime groups, the penetration of other regions of Italy and abroad and expansion of the market.... What is emerging is a mafia which has an apparently weakened position in society but is now more cruel and sophisticated than before and is undoubtedly more powerful in economic terms."

"It is worth briefly going over some of the factors which deserve to be given particular attention because they could indicate the possible presence of the mafia in areas in which it has traditionally been absent: excessive rate of renewal of commercial licenses; frequent cash purchases of real estate or licenses; purchase of real estate and/or industrial or business concerns without any genuine activity ensuing; proliferation of financial companies and banking institutions in contrast to regional development and out of all proportion to the effects of deregulation of the banking sector in Italy and abroad; discrepancy between the purpose of a company and its declared capital; expansion of the practice of usury; great interest on the part of suspicious individuals in insolvent companies, public auctions by courts, bankruptcies and the final adjudication of estates in bankruptcy; events linked to extortion (such as arson, damage to property and assassination attempts); participation in awards of public contracts with bids far in excess of the average made by companies with little structure and few personnel; cases of sudden enrichment; every conceivable form of money-laundering."

# Japan

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## Substantial Provisions

### Organized Crime

existence of a legislation: No reponse provided

legal\_provisions:

remarks\_and\_notes

### Sentencing

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The Legislative Council of the Ministry of Justice, a consultative body to the Ministry of Justice, has submitted a report on how to improve criminal laws against organized crime. The Japanese Government is now preparing to submit a new bill to the Diet. This bill provides for, among others things, the augmentation of punishment for organized crime, the extension of predicate offenses, the expansion of confiscation and value-based confiscation as well as the introduction of warranted interception.

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## Procedural Provisions

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, but not directly linked to organized crime

legal\_provisions: Extradition Treaty

remarks\_and\_notes With the United States: signed: 03/03/1978; effective: 26/03/1980. This treaty is governed by the Extradition Law.

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## Other Provisions

### Immigration control

existence of a legislation: Yes

legal\_provisions: Immigration Control and Refugee Recognition Act. Articles 70 to 78

remarks\_and\_notes

# Kenya

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## Substantial Provisions

### Organized Crime

**existence of a legislation:** No answer provided

**legal\_provisions:**

**remarks\_and\_notes**

The Kenyan Government's definition of organized crime includes: the planned commission of criminal offences determined by the pursuit of profit and power, which, individually or as a whole, are of considerable importance; whenever more than two persons involved collaborate for a prolonged and/or indefinite period of time, each with appointed tasks; by using commercial or business-like structures; by using violence or other means suitable for intimidation or by exerting influence on politics, the media, public administration, judicial authorities or the economy; trafficking in drugs; carjackings (robbery of motor vehicles); commercial frauds involving evasion of duty and inversion of goods on transit; frauds; money laundering.

# Korea, Rep. Of

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## Substantial Provisions

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Korean Criminal Code Act on the Aggravated Punishment of Violent Activities
- remarks\_and\_notes** Includes participation in an offence, incitement, aiding, abetting and complicity to an offence. Complicity does not necessitate physical participation to be established.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** 1: 1995 Special Act Against Illicit Drug Trafficking  
2: 1995 Act on Special Procedure for the Confiscation of the Proceeds from Public-Official Related Offences
- remarks\_and\_notes** 1: Money laundering of illicit properties derived from drug related offences is criminalized as a separate offence; such illicit properties (including properties derived from such properties) are subject to confiscation. The act allows the freezing of suspected drug related properties.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** 1995 Special Act against Illicit Drug Trafficking
- remarks\_and\_notes**

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** 1: Korean Criminal Code  
2: 1990 Amendment to the 1990 Act on the Aggravated Punishment of Specified Violent Offences
- remarks\_and\_notes** 1: It includes complicity. The burden of proof can be alleviated for prosecuting serious criminals who usually do not have a direct role in the commission of an offence.  
2: The Act was amended in order to: 1) provide for the aggravated punishment upon persons who murder, inflict injury upon or make an attack upon persons having provided information with regard to the offence; 2) force persons acquainted with important facts related to the offence to make an appearance for an interview; or 3) punish those who make a display of their power as a threat.

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## Procedural Provisions

### Controlled deliveries

- existence of a legislation:** Yes
- legal\_provisions:** Communications Secrecy Act
- remarks\_and\_notes**

### Witness protection

- existence of a legislation:** Yes
- legal\_provisions:** 1990 Act on the Aggravated Punishment of Specified Violent Offences
- remarks\_and\_notes** Protection of the witnesses and victims of serious specified offences (murder, robbery, formation of criminal organizations). Protection by Law Enforcement Agencies. Prohibition to publish in the press information concerning witnesses' identity. Mandatory cancellation of release on bail or suspension of detention.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:**
- legal\_provisions:** 1: 1988 Extradition Act  
2: 1990 Act of International Mutual Legal Assistance in Criminal Matters  
3: 1998 Extradition Treaty  
4: 1998 Mutual Legal Assistance Treaty
- remarks\_and\_notes** 3: With 9 countries.  
4: With 4 countries.

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## Other Provisions

### Victim compensation

existence of a legislation: Yes

legal\_provisions: Act on the Aid for Crime Victims

remarks\_and\_notes: Possibility to apply under certain circumstances, monetary compensation. Victims have the right to use the expeditious compensation procedure for claiming damages in the course of relevant criminal proceedings without undergoing the ordinary civil procedure.

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions:

remarks\_and\_notes: In order to enhance the efficiency of investigative activities against organized crime, the Korean Supreme Prosecutors' Office and the local prosecutors' offices established special investigative units in 1993. They are conducting investigative activities including intelligence collection and analysis of information.

# Kuwait

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## Other Provisions

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

It should be noted that the State of Kuwait has not been affected by the phenomenon of organized crime, whether inside or across its borders. The country is still far away from the direct influence of such criminal organizations, for a number of reasons, including the limited area and population, the high standards of living and education, the high-level of social security provided by the State and the unique social specificity of the Kuwait society. There is mutual understanding between Kuwait and number of countries with regard to the conclusion of conventions designed to combat crime, in general, and organized crime, in particular. The anti-crime services have have been active in fulfilling their functions in this connection. There are various services specialized in combating specific types of illicit activities, whether organized or not.

# Mexico

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes (see note)
- legal\_provisions:** Federal Act Against Organized Delinquency (Ley Federal contra la Delincuencia Organizada), approved by the Mexican Government in November, 1996
- remarks\_and\_notes** The legislation employs the precise term of "Organized Delinquency."

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Article 2.
- remarks\_and\_notes** Organized Delinquency is defined as follows: three or more persons agree on their organization or organize themselves, on a permanent or regular basis, in order to engage in the following illegal activities: terrorist activity, arms storing and trafficking, counterfeiting, illicit trading in human body parts, assault, illegal confinement, trafficking in minors, car theft.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** Article 3
- remarks\_and\_notes** All the objects, instruments and products of the considered crime as well as the goods owned by the criminal (if he cannot prove the legitimacy of the property) shall be confiscated.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 3.  
2: Article 5.
- remarks\_and\_notes** 1: Punishments to the members of "organized delinquency": For terrorist activities: Those individuals who have administrative, direction or supervision functions concerning organized delinquency shall be punished by imprisonment for a period between twenty and forty years, and fined between five hundred to twenty five thousand DIA. Those individuals who do not serve in the above named capacity will be imprisoned for a period of between ten and twenty years and fined between 250 - 2500 DIA. For other activities: in the first case (direction and leadership): between eight and sixteen years of imprisonment and a fine between five hundred and twenty five thousands DIAS; in the second case (simple participation) between four and eight years of imprisonment and a fine between two hundred and fifty DIAS.  
2: Those sentences shall be doubled when: the prosecuted is a civil servant (furthermore he shall be banned from public service), minors have been employed by the organized delinquency groups. Furthermore, the other laws of the Penal Code remains applicable.

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** Chapter 5 (of the Federal act Against Organized Delinquency)
- remarks\_and\_notes** Once it has been proved that a person is a member of "organized delinquency," the Federal Public Ministry is entitled, with previous judicial authorization, to seize the properties of the person under consideration (who has to prove the legal origin of the goods in order to recover them).

### Electronic surveillance

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 16  
2: Article 17  
3: Article 18  
4: Article 26
- remarks\_and\_notes** 1: If the Attorney General thinks wire-tapping of communications is necessary, he must obtain authorization from the District Judge with all the details concerning the operation (persons concerned, place, reasons). This includes all the means of communication possible; oral, written, by signs, through information systems or other devices.  
2: The District Judge must not permit interventions if it has to deal with electoral, fiscal, business, civil, work or administrative matters, nor in the case of communication between a prisoner and his lawyer.  
3: The judge has to determine the method of intervention and, if necessary, has to order public or private institutions to collaborate. The authorization and responsibility of such an operation is the Public Ministry's. If the legal procedures have not been respected, the interventions are null and void and the obtained

recording will be destroyed.

4: The owners and experts of the technical means necessary to the intervention are to cooperate with the law enforcement agencies.

### Undercover information

existence of a legislation: Yes

legal\_provisions: Article 11

remarks\_and\_notes: The General Attorney of the Republic can authorize the use of the secret services.

### Immunity

existence of a legislation: Yes

legal\_provisions: Chapter 7 of the Federal Act Against Organized Delinquency, Article 35

remarks\_and\_notes: If a member of the "organized delinquency" provides efficient help for the investigation and proceedings against other members of the same organization, he will be able to receive the following benefits/advantages: 1. When there is no previous proceedings against the person under consideration, the pieces of evidence that he brings or that can be derived from them to the proceedings initiated by his collaboration (this benefit can be given only once to the same person). 2. When there is previous proceedings in which the collaborator is implicated, and if he brings elements allowing the capture of other members of "organized delinquency" pieces of evidence, the sentence can be reduced by up to two thirds. 3. If the accused, during the legal proceedings, brings evidences permitting the sentencing of other members of the "organized delinquency" with administrative, direction or supervision functions, the accused's sentence can be reduced by up to one half. 4. If the accused brings evidence, useful enough to the judge, to sentence other members of "organized delinquency" with administrative, direction or supervision functions, the sentencing can be reduced by up to two thirds.

### Witness protection

existence of a legislation: Yes

legal\_provisions: 1: Article 14  
2: Chapter 6 of the Act; Article 34.

remarks\_and\_notes: 1: If the integrity of persons that testify against any member of the "organized delinquency" appears to be jeopardized, their identity can be kept secret by decision of the Public Ministry until the prosecution takes place.  
2: The Public Prosecutor's Department (Procuraduría General de la República) will support and protect judges, experts, victims and other persons when necessary.

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## Other Provisions

### Bank secrecy

existence of a legislation: Yes

legal\_provisions: Article 9

remarks\_and\_notes: When the Federal Public Ministry investigates activities of "organized delinquency" related to illegal operations derived from illicit sources, it will have to coordinate with the Public Credit and Treasury Secretariat. The requests of the Federal Public Ministry or of the federal judicial authorities for information or documents related to the financial and banking systems will be held through the National Commission for Banks and Valuables, the National Commission of the System of Retirement Savings, and the National Commission of Finances and Securities. For fiscal matters, through the Public Credit and Treasury Secretariat. The obtained information shall be used exclusively for the investigation or the proceedings and remain as confidential as possible.

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions: Specialized unit

remarks\_and\_notes: It is designed to investigate and prosecute crimes committed by members of "organized delinquency." It is constituted of agents from the Federal Public Ministry and from the Federal Judicial Police. It comprises a technical control corps, which is in charge of the verification of the authenticity of the results of the interventions related to private communications. It is also in charge of the use and maintenance of authorized technical devices.

# Netherlands

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## Procedural Provisions

International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: Agreement with the Russian Justice Ministry on Judicial Cooperation(1 October 1997)

remarks\_and\_notes

# Poland

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes, but not specifically for "organized crime"
- legal\_provisions:** A variety of legislation
- remarks\_and\_notes** "Organized crime" may be defined as a criminal group established in pursuit of profit and for the purpose of committing continuous and diverse offences aimed at reaching the group's goals by means of corruption, blackmail and terror, with the use of force and weapons. The Polish legislature has not yet worked out a unified legal norm including the above features, but the basic constituent elements have been penalized separately. The substantive scope of organized crime includes the following categories of offences: illegal traffic in narcotic drugs and psychotropic substances; counterfeiting money and securities; illegal traffic in arms; robbery and extortion; money laundering; offences against good morals; offences against the environment; illegal gambling; fraud to the detriment of government programs and international funds; customs, tax and currency offences; corruption.

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Article 258, Section 1 of the Penal Code
- remarks\_and\_notes** "A person who takes part in an organized group whose objective is the commission of offences shall be punishable with the penalty of deprivation of liberty for up to three years." If the group is armed the maximum period is five years, and the organizer or leader of such a group can receive up to eight years.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** Article 299 of the Penal Code
- remarks\_and\_notes** Money laundering is the turnover of money and other proceeds of criminal activity into a legal form (Section 1). There is a different offence specified for the cooperation in money laundering activities by employees of a financial institution (Section 2). There are also several types of money laundering specified (Sections 3-6).

### Sentencing

- existence of a legislation:** Yes (see previous section)
- legal\_provisions:**
- remarks\_and\_notes**

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## Procedural Provisions

### Search and Seizure

- existence of a legislation:** Yes
- legal\_provisions:** Articles 217-20 of the Code of Criminal Procedure
- remarks\_and\_notes** A search is an evidence-seeking action that constitutes a coercive measure enabling lawful infringement of the sphere of personal rights and freedoms. It may be carried out only for the purpose of locating a suspect, detaining him and coercing him to appear in court, finding things which may constitute evidence in a case, or finding things subject to retention in criminal proceedings.

### Electronic surveillance

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 10, Paragraph 1 of the Act on the State Security Office  
2: Article 19, Paragraph 1 of the Police Act  
3: Articles 237-41 of the Code of Criminal Proceedings
- remarks\_and\_notes** 1 and 2: Operational/intelligence actions include not only phone tapping but also control of correspondence.  
3: Polish law also provides for the institution of controlling and recording conversations during criminal proceedings. The right to play the recordings is vested in the court, the public prosecutor and--in urgent cases--in the police.

### Controlled deliveries

- existence of a legislation:** Yes
- legal\_provisions:** 1: Article 19 of the Police Act  
2: Article 10 of the Act on State Security Office
- remarks\_and\_notes** "Clandestinely supervised delivery" consists in purchasing or taking over in a secret manner objects originating from crime (which are subject to forfeiture), or those whose production, possession,

transportation and turnover is prohibited by law.

## Immunity

**existence of a legislation:** Yes, but only diplomatic immunity specified  
**legal\_provisions:** Articles 581-82 of the Code of Criminal Procedure  
**remarks\_and\_notes**

## Witness protection

**existence of a legislation:** Yes  
**legal\_provisions:** 1: Article 191, Section 3 of the Code of Criminal Procedure  
2: Article 184 of the Code of Criminal Procedure  
3: Act on the Accomplice Witness (25 June 1997)  
**remarks\_and\_notes** 1: This stipulates the first definition of the anonymous witness, which withholds data on his place of residence.  
2: This describes the second category of the anonymous witness, which withholds all personal information (and identity). The witness may testify in the presence of the accused or his counsel in this case only if this can be done without identifying the witness.  
3: This formalizes the procedure for changing the identity and residence of a witness in a protection program.

## International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

**existence of a legislation:** Yes  
**legal\_provisions:** 1: European Convention on Mutual assistance in Criminal Matters  
2: Bilateral agreements on legal assistance  
3: Code of Criminal Procedure  
**remarks\_and\_notes** The granting of legal assistance will be refused if the requested action is found to be contrary to the principles of the Polish legal order or if it violates Poland's sovereignty. Extradition is covered in Chpaters 64 and 65, as well as in international agreements such as the European Convention on Extradition (1957). Extradition is also dealt with in the constitution, which stipulates in Article 55 that extradition of a Polish citizen is prohibited.

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## Other Provisions

### Victim compensation

**existence of a legislation:** Yes, but not in legislation specifically for this purpose  
**legal\_provisions:** 1: Article 2 of the Code of Criminal Procedure  
2: Article 43 of the Executive Penal Code  
**remarks\_and\_notes** 1: Criminal proceedings must be conducted in a way that "the victim's interests by law are taken into account." Crime victims may pursue their claims in a criminal trial using the "adhesion claim." The title to the claim has to result from the provisions of civil law and, depending on the norms, covers compensation only or restitution as well.  
2: The post-penitentiary aid fund has been established, and in exceptional circumstances resources from that fund may be used to help injured persons and their families.

### Bank secrecy

**existence of a legislation:** Yes  
**legal\_provisions:** Articles 104 and 105 of the Banking Law (29 August 1997)  
**remarks\_and\_notes** The circumstances in which a bank is obliged to provide information covered by bank secrecy include a request by the court submitted in connection with criminal proceedings, or proceedings involving an offence committed in connection with the activities of a corporate body--within the scope of the accounts and banking transactions carried out by the accused.

### Reporting of Suspicious Transactions

**existence of a legislation:** Yes  
**legal\_provisions:** Section 3 of Article 299 of the Penal Code  
**remarks\_and\_notes** Failure by an employee of a financial institution to submit notification of a suspicious transaction is a punishable offence.

### Border control of Proceeds of Crime

**existence of a legislation:** Yes  
**legal\_provisions:** Act on the Border Guard (12 October 1990)  
**remarks\_and\_notes** This law, in addition to the illegal immigration law described below, forms the bulk of Polish legislation on border control, and includes all operational and intelligence powers of the Bopdrer Guard, regarding

persons, objects, and documents.

### **Immigration control**

existence of a legislation: Yes

legal\_provisions: Article 264 of the Penal Code

remarks\_and\_notes: This stipulates criminal responsibility for illegal crossing of the state border of Poland and for organizing such crossings for other persons. Since 1990, the number of illegal border crossings has increased rapidly, and at present is around 10,000 per year. In 1996, the majority of perpetrators were citizens of Romania, Moldova, Armenia, Afghanistan, the Czech Republic, Ukraine, and Iraq.

### **Specific Governmental Institutions and Administrative Structures recently created**

existence of a legislation: Yes

legal\_provisions: 1: "Project Octopus"  
2: The Task Force for Organized Crime in the Baltic Sea Region (started May 1996)

remarks\_and\_notes: 1: This is a program to combat organized crime in Central and Eastern Europe, and is conducted jointly by the Council of Europe and the European Commission. Work conducted includes the identification of the organized crime phenomenon and the assessment of the effectiveness of countermeasures.  
2: The tasks of the team include: securing the cooperation of governmental organs and organizational units, making analyses and assessments of organized crime, instituting legislation by submitting draft legal acts to the relevant authorities, organizing cooperation among countries in combating organized crime.

### **General statements and observations on Organized Crime made by the Government**

existence of a legislation:

legal\_provisions:

remarks\_and\_notes: In the first half of 1998, the police reported 195 international criminal groups in Poland. Among 3800 identified criminal group members, 941 are foreigners: 194 Germans, 164 Russians, 128 Belorussians, 123 Ukrainians, 44 Vietnamese, and 22 Lithuanians. Polish nationals most often function as guides, carriers and organizers of local criminal groups acting on the orders of larger international groups. The Asians usually coordinate the transfer of illegal immigrants to Western Europe. The most active are Russian-speaking groups, considered to be the most ruthless and disciplined illegal organizations in the world. Italian mafia groups have also focused on Poland for the past several years, and Turkish criminal associations smuggle heroine through Poland to Western Europe. Close ties can also be reported with Colombian drug smugglers and German car thieves and smugglers. International organized crime is perceived as coming from ethnic criminal groups, with criminal activity paralleling economic development. The share of Polish criminal groups in the organization and smuggling of narcotics and high-duty goods, the "white slave trade," as well as the arms and explosives trade, is on the rise. In the economic sphere, international organized crime makes attempts to invest its capital in different sectors of the economy in order to legalize revenues. There has also been increasing interest in financial institutions and the insurance market, which were made open to foreigners as of 1 January 1999.

# Qatar

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## Substantial Provisions

### Organized Crime

existence of a legislation: Yes, unspecified

legal\_provisions:

remarks\_and\_notes

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## Procedural Provisions

**International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation**

existence of a legislation: Yes

legal\_provisions: 1: Various United Nations Conventions  
2: Arab Convention against Terrorism (1998)  
3: Convention on Security and Judicial Cooperation

remarks\_and\_notes 2: With the other members of the League of Arab States. The Convention constitutes a mechanism for regional Arab cooperation in combating transnational organized crime.  
3: This is a mechanism shared by other States in the region to contribute to the counteraction against cross-border crimes. A number of agreements of understanding and cooperation in security matters have also been signed with several States in the region.

# Saudi Arabia

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## Substantial Provisions

### Organized Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The notion of "Organized Crime" is not yet defined in the legislation.

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions: 1: Permanent Committee  
2: A new division within the Department of Public Security

remarks\_and\_notes 1: The committee is composed of security personnel and researchers from the Crime Research Centre. It is designed to study organized crime and follow the new developments in this respect at the local, regional and international level.  
2: A division concerned with organized crime in order to study organized crime and to collect information through investigations and co-operation with other states.

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes The Kingdom of Saudi Arabia does not have an organized crime problem. A relation has, however, been noticed between smugglers of drugs to the Kingdom and organized crime, which has prompted the Kingdom to take a series of measures (see above). At the international level, the Kingdom has always called for a constructive dialogue at the regional and security levels which would lead to the elaboration of bilateral and regional and international conventions to check the dangers of organized crime. The Kingdom has extended and will continue to extend its hand in cooperation with all governmental or non-governmental organizations working in this field. This unconditional cooperation aims at advancing all human efforts and utilizing all available possibilities to come up with a clear concept, international cooperation, and a forward-looking attitude in order to achieve justice and stability.

# Senegal

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Yes
- legal\_provisions:** Penal Code. Section V, Par. 1, Article 238
- remarks\_and\_notes** The law refers to the term "criminal conspiracy" (association de malfaiteurs) defined as an association, whatever its duration and the number of its members, an agreement set up with the aim of preparing or committing one or several crimes against persons or properties. This constitutes a crime against public peace.

### Participation in a Criminal Organization

- existence of a legislation:** Yes
- legal\_provisions:** Penal Code. Section V, Par. 1, Article 238-40
- remarks\_and\_notes** Members of criminal conspiracy. Person that knowingly and purposely aided the offenders committing crimes provided in the article 238 (criminal conspiracy), supplying them with instruments of crime, means of communication, housing or a meeting place.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** Penal Code. Section V, Par. 1, Articles 239 and 240
- remarks\_and\_notes** Persons affiliated with an established criminal association or having participated in a criminal arrangement will be sentenced to hard labour for a period of between ten and twenty years. A person that knowingly and purposely aided the offenders committing crimes described in Article 238, supplying them with instruments of crime, means of communication, housing or a meeting place shall be sentenced to hard labour for a period of between ten and twenty years. The convicted person is likely to be denied the right of residence for a period of between five and ten years.

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## Procedural Provisions

### Immunity

- existence of a legislation:** Yes
- legal\_provisions:** Penal Code. Section V, Par. 1, Article 239.
- remarks\_and\_notes** Persons convicted of organized crime will be exempt from punishment if, before legal proceedings start, they have revealed to the legal authorities the organized crime arrangement or made the existence of the criminal association public.

# South Africa

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## Substantial Provisions

### Organized Crime

**existence of a legislation:** No response provided

**legal\_provisions:**

**remarks\_and\_notes**

### Confiscation and Provisional Measures

**existence of a legislation:** Yes

**legal\_provisions:** 1: Drugs and Drug Trafficking Act, 1992  
2: The Proceeds of Crime Act, 1996

**remarks\_and\_notes** 1: The South African courts are unable to confiscate money or property on the basis that it forms part of the proceeds of crime, except where such money or property is derived from drug trafficking as contemplated in this law.  
2: This law provides for the procedures in terms of which the proceeds of crime may be confiscated by means of confiscation orders. It enables the courts to make orders for the payment of an amount equal to the value of offender's proceeds of crime. A confiscation order has the effect of a civil judgment for the amount of the order and failure to comply with the order constitutes a separate offence.

### Money-Laundering

**existence of a legislation:** Yes, but not explicitly linked to organized crime

**legal\_provisions:** Proceeds of Crime Act, 1996

**remarks\_and\_notes** The Act creates the offence of money-laundering, which is aimed at all activities by means of which the proceeds of crime are manipulated to conceal or disguise their illegitimate source. To support this offence, the offences of assisting another to benefit from the proceeds of crime and the acquisition, possession or use of the proceeds of crime are introduced.

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## Procedural Provisions

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

**existence of a legislation:** Yes, but not directly related to organized crime

**legal\_provisions:** 1: SADC Protocol on Combatting Illicit Drug Trafficking  
2: The Extradition Act, 1962  
3: International Co-Operation in Criminal Matters Act, 1996 (Act 75 of 1996)  
4: The Extradition Amendment Act, 1996 (Act 77 of 1996)  
5: Agreement with the Republic of Namibia (1994)  
6: Agreement with the Republic of Zimbabwe (1994)

**remarks\_and\_notes** 1: The Southern African Development Community (SADC) and the European Union (EU) agreed to cooperate in combatting illicit cross border drug trafficking in the SADC region within the context of the SADC/EU Berlin Initiative. As a result of this co-operation a Protocol on Combating Illicit Drug Trafficking was signed by SADC Heads of State on 24 August 1996. Its goals: to reduce and eventually eliminate drug trafficking, money-laundering, corruption and the illicit use and abuse of drugs through cooperation among enforcement agencies and coordinated programmes in the region; to eliminate the production of illicit drugs; to protect the region from being used as a conduit for drugs destined for international markets.

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## Other Provisions

### Reporting of Suspicious Transactions

**existence of a legislation:** Yes, but not directly linked to organized crime

**legal\_provisions:** Proceeds of Crime Act, 1996.

**remarks\_and\_notes** Concerning the offence of money-laundering, the Act provides for a reporting duty, which applies to persons carrying on business undertakings as well as to certain persons in government institutions. These persons must report any suspicion that property may form part of the proceeds of crime.

### Specific Governmental Institutions and Administrative Structures recently created

**existence of a legislation:** Yes, but not directly linked to organized crime

**legal\_provisions:** Special Investigating Unit and Special Tribunals Act, 1996

**remarks\_and\_notes** The Unit and the Act particularly address corruption, maladministration and misappropriation of state funds. The object of this act is to provide a mechanism through which serious allegations can be comprehensively, swiftly and efficiently investigated. There is an urgent need to assist in the elimination of corruption rapidly, whilst there may be areas of overlap between the current mechanisms and this

legislation. A special investigating unit will be headed by a judge of the Supreme Court. These Investigating Units will be given wide powers of investigation within the framework of the fundamental rights enshrined in the Constitution. Whenever a Special investigating Unit has been appointed, a Special Tribunal may also be appointed in order to adjudicate disputes emanating from the Investigation Units.

# Spain

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## Substantial Provisions

### Organized Crime

existence of a legislation: No response provided

legal\_provisions:

remarks\_and\_notes The notion of "Organized Crime" has still to be defined with reference to the expression of "for a long or undetermined period of time" or for a similar expression which will allow distinction between organized crime and a criminal conspiracy or a criminal association set up for a determined period of time or for a particular operation.

### Money-Laundering

existence of a legislation: Yes, but not directly related to organized crime

legal\_provisions: Penal Code (Articles 127, 301, 374, 385 and 341).

remarks\_and\_notes

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## Procedural Provisions

### Witness protection

existence of a legislation: Yes

legal\_provisions:

remarks\_and\_notes Not detailed in report.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, but not directly related to organized crime

legal\_provisions: Series of agreements with Russia relating to "judicial assistance in civil matters" (1990-96)

remarks\_and\_notes Spanish legislation allows international co-operation for drug-trafficking-related crime, money-laundering, terrorist activities, trafficking in stolen vehicles, and witness protection.

# Sri Lanka

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## Other Provisions

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

The Government of Sri Lanka sent the following response: " In reference to the General Assembly's resolution (at its 52nd Session) our Government has initiated the process of drafting legislation on money laundering, especially vis-à-vis drug trafficking."

# Sweden

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## Substantial Provisions

### Organized Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes In Sweden, there is no legal definition of the term "organized crime," nor are there any laws concerning organized crime.

### Participation in a Criminal Organization

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A current investigation on the prohibition against active participation in organizations engaged in criminal activities is being made.

### Confiscation and Provisional Measures

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A current investigation is aimed at realizing efficiency in the regulatory structure for forfeiture of the proceeds of organized crime.

### Money-Laundering

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A bill has been presented to the Swedish Parliament on the the criminalization of and preconditions for combating money laundering.

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## Procedural Provisions

### Electronic surveillance

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A bill has been presented to the Swedish Parliament; it is designed to extend the use of surveillance cameras in combating crime. An investigation on secret technical surveillance, secret wire-tapping and secret telecommunications surveillance is currently made. Other current investigations concerns: the relationship of information technology to criminal law and the law of criminal procedure; the use of powers to search premises; the legal issues arising with the use of electronic means of payment.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, but not directly related to organized crime.

legal\_provisions:

- 1: Bill pending
- 2: Police Co-Operation Agreements
- 3: Series of Agreements with Russia (incl. Justice Ministry, Interior Min., FSB, Police) (1994-97)

remarks\_and\_notes

- 1: A bill has been presented to the Swedish Parliament on a revision of the legislation relating to mutual legal assistance. An investigation on the review of extradition legislation is currently made.
- 2: Sweden has concluded police co-operation agreements with Russia and Hungary.
- 3: On mutual assistance in police, customs, financial crimes, and other judicial matters.

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions:

International Task Force on Organized Crime

remarks\_and\_notes

At the summit meeting in Visby in May 1996, the Heads of Government decided to appoint a special task force against organized crime. This task force consists of the personal representatives of Heads of the Government. The task force is to prepare measures and immediately begin implementation of these measures and other concrete proposals to reinforce regional co-operation in the area.

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes

Organized crime is not regarded as a significant problem in Sweden. Only a small number of organizations have their base in Sweden. Organized crime based in Sweden involves mainly economic crime, organized smuggling of human beings, criminal motorcycle (MC) gangs, as well as the smuggling and sale of narcotic substances, anabolic substances and alcohol. Organized crime gives a somewhat fragmented impression. There are different groups with their own niches, but few organizations with verifiable members. The only examples of this in Sweden are the criminal MC clubs. Most of the criminal groups are engaged in money-laundering for the purpose of concealing the profit of their other activities. Structure of Organized crime in Sweden: MC groups are the only criminal organizations with an actual body of members. In addition, there is a small number of large criminal networks: they include principally Turks, Albanians and Vietnamese. According to the definition of Enfopol 161, organized crime in Sweden is first and foremost a question of small groups based on individuals (i.e., which could be destroyed if the leaders were arrested.) Cooperation is strong between criminal groups engaged in the smuggling of human beings. The MC gangs cooperate to a large extent with other criminals (especially with economic criminals), but not with competing MC gangs. There is cooperation between the Hells Angels and criminal Yugoslavians in Sweden. Criminal organizations originating from Eastern European countries have demonstrated their ability to establish cooperation and reach agreements with local as well as international criminal groups. Nevertheless, organized crime in Sweden is characterized by little regular contacts between groups and the absence of large networks, making the phenomena of organized crime a rather small threat against society. Drugs and economic crime are the most worrying activities carried on by organized groups. Concerning drugs, Sweden is principally a consumer country. In recent years, Sweden has become a transit country for the transfer of stolen cars from the Continent towards Eastern European countries. Also, anabolic substances have been smuggled through Sweden to Norway and Denmark. Many small businesses are involved in the laundering of the proceeds of crime. Classical frauds conducted by off-shore companies are also existing. Organized crime has very little influence on the political establishment and on licit business. From time to time, the Motor Cycle clubs have had a certain influence on the media (intimidation) and on legal procedures (witnesses intimidation). Nevertheless, organized crime has no influence on the political system and there is very little corruption in Sweden.

1. Sweden-based groups:

- a) MC groups are engaged in organized drug trafficking and debt collection activities and, to an increasing extent, in economic crime. There are about 20 MC clubs in Sweden. Among these are four Hells Angels clubs with one hangaround club, and one Bandidos Club.
- b) Swedish, as well as Yugoslavian and Polish groups import and sell anabolic substances. Several Norwegians are involved in these organized activities.
- c) Swedish and foreign groups are engaged in different forms of computer crime (software and hardware copying, stealing and misuse of computer information, etc.).
- d) Swedish groups are engaged in organized economic crime, i.e. mainly fraud (VAT, post-offices and banks).

2. Foreign organizations acting in Sweden:

- a) organizations from the former Soviet Union use Sweden for money laundering.
- b) Several ethnically based organized criminal groups are engaged in the smuggling of human beings to Sweden, or use Sweden as a transit country for this purpose.
- c) Groups based in Lithuania are behind the smuggling of cigarettes to Sweden. Swedish groups also smuggle cigarettes.
- d) International criminal actors (Canadians and Nigerians) are engaged in investment frauds.
- e) Several Dutch citizens smuggle cannabis with Swedes.

3. Divided organizations settled in two different countries:

- a) Turkish groups smuggle and retail heroin through the Netherlands, Belgium, Germany, or through the Balkan route.
- b) Organized Swedish groups steal cars in Sweden and transport them to eastern European countries.
- c) Polish, Dutch, Belgian and Swedish organizations (of which the last three collaborate one with another) smuggle amphetamine for the Swedish market. Albanian groups smuggle narcotics to Sweden, principally heroin. A group of Vietnamese is trafficking cannabis, ecstasy and heroin.
- d) The smuggling of alcohol (vodka, whisky) is organized by groups that include Swedes, Norwegians, Germans, Poles and Russians. Money laundering: in 1996, 502 cases were reported to the Financial Intelligence Service, compared to 395 cases in 1995, which is an increase of about 30%. Money originating from organized crime in Eastern European states is laundered in Sweden. Most of it comes from Russia, Estonia and Lithuania. It has not been ascertained whether the money is, in the end, invested in Sweden.

# Tunisia

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## Substantial Provisions

### Organized Crime

existence of a legislation: No (see note)

legal\_provisions:

remarks\_and\_notes The term in the Penal Code is criminal conspiracy (association de malfaiteurs). Furthermore, the Code makes provision for various crimes that are related to organized crime (act 92-52: Illicit drug and psychotropic substances; act of the 12 June, 1969: arm trafficking; environmental crimes; acts 93-112 and 93-113 and article 52 bis of the Penal Code: violent crimes related to religious and racial motives). The term Organized Criminality appears in the articles 19 and 20 of the act 95-92 concerning the protection of children (it refers explicitly to fanaticism and hatred). The Penal Code deals with robbery, illicit trading in human body parts, environmental crimes, corruption and bribery of public officials, fraudulent bankruptcies, insurance fraud, theft of intellectual property, aircraft hijacking, illicit trafficking in arms that might apply to organised crime. Law 90-67 (July 24, 1990) might apply.

### Participation in a Criminal Organization

existence of a legislation: Yes

legal\_provisions: Articles 131, 132, 133 and 135 of the Penal Code

remarks\_and\_notes Creation of a criminal conspiracy.

### Money-Laundering

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A draft act is in preparation.

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## Procedural Provisions

### Electronic surveillance

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A draft act is in preparation.

### Immunity

existence of a legislation: Yes

legal\_provisions: Act 92-52 (May 18, 1992)

remarks\_and\_notes It is applicable only to the members of groups that traffic in drugs. This law makes provision for incentives and appropriate protection to the members of drug trafficking groups that decide to cooperate with Law Enforcement Agencies.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes, but not directly related to organized crime.

legal\_provisions: Many (see below)

remarks\_and\_notes Algeria (signed: 16/03/1966); Belgium (26/02/1992); Bulgaria (02/03/1979); Cote d'Ivoire (23/03/1979); Egypt (27/11/1976); France (30/11/1973); Germany (11/02/1970); Greece (02/11/1995); Hungary (25/10/1984); Italy (18/02/1972); Jordan (-); Kuwait (15/12/1980); Lebanon (30/01/1970); Lybia (24/08/1963); Marocco (20/03/1973); Mauritania (21/04/1967); Poland (11/11/1986); Romania (06/02/1974); Senegal (07/09 and 08/11/1971); Syria (-); Czechoslovakia (22/01/1981); Turkey (17/05/1983).

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: yYs

legal\_provisions:

remarks\_and\_notes A special Customs Service specialized in drug issues was created in 1990.

# Turkey

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## Substantial Provisions

### Organized Crime

- existence of a legislation:** Pending
- legal\_provisions:** Draft Law on Combating Organized Crime
- remarks\_and\_notes** Adopted by the Commission of Justice of the Turkish Grand Assembly, will soon be negotiated by the General assembly.

### Confiscation and Provisional Measures

- existence of a legislation:** Yes
- legal\_provisions:** Article 9 of Law 4208
- remarks\_and\_notes** Bank accounts can be frozen under certain conditions.

### Money-Laundering

- existence of a legislation:** Yes
- legal\_provisions:** Law 4208 on Prevention of Money Laundering (19 November 1996)
- remarks\_and\_notes** "Dirty money" is defined as money and monetary instruments, property and proceeds derived from [activities that violate various laws]. "Money laundering offence" is defined as making use of the proceeds of crimes acquired through the [aforementioned activities] in order to legitimise them; by knowing that it is dirty money, changing or hiding its source, nature, possessor or owner; concealing it or making it subject matter of cross-border transactions; laundering it by way of transferring in order to help the offender to evade the legal consequences of the crimes specified above.

### Sentencing

- existence of a legislation:** Yes
- legal\_provisions:** Articles 7-8 of Law 4208 (see previous provisions)
- remarks\_and\_notes** The basic penalty for money laundering is two to five years' imprisonment and a heavy fine, with increased penalties for aggravating circumstances such as violence and terrorism.

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## Procedural Provisions

### Controlled deliveries

- existence of a legislation:** Yes
- legal\_provisions:** Law 4208 on Prevention of Money Laundering
- remarks\_and\_notes** "Controlled delivery" is defined as consignments, within the knowledge and under the supervision of the competent authorities, of narcotic drugs and psychotropic substances, the funds or dirty money related to those substances, for the purposes of identifying the perpetrators, find out and collect all kinds of evidence and confiscate the smuggled (or suspected to be smuggled) goods and funds.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

- existence of a legislation:** Yes
- legal\_provisions:** 1: Agreement Among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organized Forms  
2: Cooperation Agreement Among the Government of the Republic of Turkey, the Government of the Republic of Bulgaria, the Government of Romania on Combating Terrorism, Organised Crime, Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, Money Laundering, Arms and Human Trafficking and Other Major Crimes (16 April 1998)
- remarks\_and\_notes** 1: Signatories are Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russian Federation, Turkey, Ukraine.

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## Other Provisions

### Bank secrecy

- existence of a legislation:** Yes
- legal\_provisions:** Article 5 of Law 4208 (see previous provisions)
- remarks\_and\_notes** Public institutions and establishments are obliged to submit information and documents requested by the Presidency and other authorities and provide them with adequate support. Natural persons and corporate bodies from whom information and documents are requested may not refrain from submitting them by claiming the protection provided by privacy provisions in special laws, provided that the provisions related to the right of defence are reserved.

### **Specific Governmental Institutions and Administrative Structures recently created**

existence of a legislation: Yes

legal\_provisions: Board for Investigating Financial Crimes

remarks\_and\_notes: Created by Law 4208 on the Prevention of Money Laundering (19 November 1996).

# Ukraine

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## Substantial Provisions

### Organized Crime

existence of a legislation: Yes

legal\_provisions: Article 27 of the Criminal Code

remarks\_and\_notes "Commission of an offence by a group of persons, by a group of persons by prior agreement, by an organized group or by a criminal organization." "Organized crime" means the group activity of three or more individuals within the framework of a criminal organization/association which is characterized by hierarchical links or personal relations and permits the deriving of revenue or control of territory, commercial entities or markets (both foreign and national) through the use of violence, intimidation or corruption, both for the purpose of maintaining the criminal activity and for that of penetrating the licit economy. This concept also includes bribery of public officials and exerting influence over the media.

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## Procedural Provisions

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: Many (see below for international law instruments concluded by Ukraine in the area of crime control in which Interior Ministry is a subject; agreement on cooperation among international ministries of the interior where parties or details unspecified)

remarks\_and\_notes 1: Fight against crime in the Newly Independent States, 1992; 2: Information exchange, 1992; 3: Provision of physical infrastructure and specialized technology, 1992; 4: Fight against illicit trafficking in narcotic drugs and psychotropic substances, 1992; 5: Hungary, 1992; 6: Russian Federation, 1992; 7: Belarus, 1992; 8: Poland, 1992; 9: Militia of Ukraine and Police force of the State of Bavaria, 1992; 10: Romania, 1992; 11: Latvia, 1992; 12: Lithuania, 1992; 13: Estonia, 1992; 14: Kyrgyzstan, 1992; 15: Austria, re: fight against illicit drug trafficking and organized crime, 1992; 16: Azerbaijan, 1992; 17: Armenia, 1992; 18: Georgia, 1992; 19: Latvia, re: fight against illicit trafficking in narcotic drugs and psychotropic substances, 1992; 20: Tajikistan, 1992; 21: Uzbekistan, 1992; 22: Moldova, 1992; 23: Provision of criminological infrastructure and technology for office-based and operational activities, 1993; 24: Traffic safety, 1993; 25: Repatriation of minors to their countries of residence, 1993; 26: Declaration with Land of Saxony-Anhalt, re: fight against crime and protection of public safety, 1993; 27: Croatia, 1993; 28: Italy, re: fight against illicit trafficking in narcotic drugs and psychotropic substances and against organized crime, 1993; 29: Slovakia, 1993; 30: Croatia, re: fight against terrorism, smuggling, drug abuse, and organized and other crime, 1993; 31: Belarus and Russian Federation, protocol on the principles and forms of cooperation among services engaged in combating economic crime, 1993; 32: Programme of joint measures against organized crime and other dangerous types of criminal offence on the territory of CIS Member States, 1993; 33: Czech Republic; 34: Fight against organized crime, 1994; 35: Escort and protection by internal affairs (police) organs of valuable and special cargoes transported across the territory of other states, 1994; 36: Procedures for the transfer and transportation in transit of persons taken into custody; 37: Kazakhstan, 1994; 38: Turkmenistan, 1994; 39: Turkey, 1994; 40: Bulgaria, 1994; 41: Governments of Ukraine and Israel, re: Crime prevention and law enforcement activities, 1994; 42: People's Republic of China, 1994; 43: Cooperation in the border regions, 1995; 44: Germany, re: fight against organized crime, terrorism and serious offences, 1995; 45: Vietnam, 1995; 46: Egypt, re: fight against crime, 1995; 47: Hungary, re: fight against organized crime, 1995; 48: Uzbekistan, re: fight against crime, 1995; 49: Declaration between militia of Ukraine and police force of the Land of Rhineland-Palatinate of Germany, 1995; 50: Latvia, re: fight against organized crime; 51: Latvia, re: procedures for the transfer and transportation in transit of persons taken into custody; 52: Declaration of intent regarding bilateral cooperation among militia and police forces between Ukraine and the Department of Justice and Police of Switzerland, 1995; 53: Egypt, re: fight against crime, 1995; 54: Fight against crime on means of public transport, 1995; 55: CIS Member States, re: fight against economic crime, 1996; 56: CIS Member States, re: inter-state programme for the period up to the year 2000 of joint measures to combat organized crime and other dangerous types of criminal offence, 1996; 57: Governments of Ukraine and Great Britain, re: seizure and confiscation of the proceeds from and instrumentalities connected with criminal activity, with the exception of illicit drug trafficking, 1996; 58: Germany, re: provision of technical assistance for the period 1996-2000, 1996; 59: People's Republic of China, 1996; 60: Joint declaration of the ministers of the interior of the member States of the Black Sea Economic Cooperation, 1996; 61: Belarus, re: internal affairs authorities of the border regions, 1997; 62: Memorandum on mutual understanding between the Ministry of the Interior, Office of the Prosecutor-General, Security Service, State Customs Service and State Tax Administration of Ukraine and the Association of Chief Police Officers, Crown Prosecution Service of England and Wales, HM Customs and excise, and the national criminal investigation service concerning cooperation in the fight against serious offences, organized crime, illicit drugs, illicit drug trafficking and other matters of mutual interest, 1998; 63: Cabinet ministers of Ukraine and Government of France, re: cooperation among law enforcement agencies, 1998; 64: Governments of the Member States of the Black Sea Economic Cooperation, re: fight against crime, in particular organized crime, 1998. In addition, six European conventions came into force for Ukraine in the area of penal law and criminal justice: 1: European convention on Mutual assistance in Criminal Matters, 1959; 2: European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, 1964; 3: European Convention on the Transfer of Proceedings in Criminal Matters, 1972; 4: Convention on the Transfer of Sentenced Persons, 1983; 5: Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, 1990; 6: European Convention on Extradition, 1957.

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## Other Provisions

### Specific Governmental Institutions and Administrative Structures recently created

existence of a legislation: Yes

legal\_provisions: 1: Central Office for Action against Organized Crime (Interior Ministry)  
2: Law 3341-XII (30 June 1993)

remarks\_and\_notes 2: "On the organizational and legal bases of the fight against organized crime." Article 5 establishes the system of agencies engaged in the fight against organized crime: a) Coordination Committee for Corruption and Organized Crime Control (attached to the Office of the President of the Ukraine); b) special units for combating organized crime within the Interior Ministry; c) special units for combating corruption and organized crime within the Security Service. Under Article 8, the Coordination Committee performs the following functions: coordination of the activities of all State authorities assigned functions related to the control of corruption and organized crime; elaboration of a strategy and tactical recommendations for the fight against organized crime; organization of cooperation with counterpart agencies in other countries and with international organizations in matters relating to the fight against organized crime.

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes "Analysis of the international crime situation emerging in the wake of the collapse of the Soviet Union indicates a rise in the illicit activity of criminal groups composed of citizens of the former USSR, which are jostling for position among the world's criminal organizations. The difficulty with the fight against crime, especially its organized forms, derives from the fact that it has penetrated all spheres of life and taken on a transnational character."  
"In terms of dynamics and structure, organized crime in Ukraine continues to show negative trends, which are partly due to the modern socio-economic development of the country, as well as being the product of causes and conditions general to all countries. The expansion of the private sector of the economy has reinforced the mercenary motivation behind criminal conduct and radically changed the general tendency of criminal offences. The main focus of criminal activity, especially serious crime, is now substantial material and financial gain. At the same time, criminals are becoming ever more persistent in their attempts to 'enrol' in commercial activities, take possession of the means of organizing official business or parasitically tap business revenue."  
"The fragile state of the Ukrainian economy and the struggle between international criminal clans to win spheres of influence and sales markets has adversely affected the national crime situation. There has been a rise in the number of offences related to blackmail and the physical elimination of competitors. There has also been an increase in the number of criminal groups whose members travel abroad for the purpose of committing serious crimes. At the same time, unlike traditional mafia-like structures, the criminal groups composed of citizens of the former Soviet Union are more open and thus exposed to foreign influence. This, in turn, enables them to rapidly assimilate what are for them new forms and methods of criminal activity. As experience has shown, law enforcement agencies of western countries proved to be ill-equipped to deal with an influx of criminal groups from behind the newly collapsed Iron Curtain. For the purpose of combating such groups, many countries have now been setting up special units within their law enforcement agencies, carrying out the necessary analytical research and establishing a network of contacts with law enforcement agencies in the Commonwealth of Independent States (CIS)."

# United Kingdom

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## Procedural Provisions

International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: Yes

legal\_provisions: Series of agreements with Russia (1994-98) dealing with cooperation in fighting crime and drugs

remarks\_and\_notes

# Zambia

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## Substantial Provisions

### Organized Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes

### Participation in a Criminal Organization

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes

### Confiscation and Provisional Measures

existence of a legislation: Yes

legal\_provisions: 1: The Drugs and Psychotropic Substances Act  
2: Theft of Motor-Vehicle Act

remarks\_and\_notes 1: It empowers the Drug Enforcement Commission to confiscate any asset or assets used in the commission of a drug related crime.  
2: The Act empowers the Police to confiscate assets from trafficking in motor-vehicles.

### Money-Laundering

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes A Money-Laundering Bill is being considered by Parliament.

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## Procedural Provisions

### Search and Seizure

existence of a legislation: Yes

legal\_provisions: 1:Criminal Procedure Code  
2:The Zambia Police Act

remarks\_and\_notes See also various Acts establishing specialized enforcement agencies.

### Electronic surveillance

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The Zambia Police Service has no legal power to conduct electronic surveillance.

### Undercover information

existence of a legislation:

legal\_provisions:

remarks\_and\_notes Carried out when resources are available.

### Immunity

existence of a legislation: Yes

legal\_provisions:

remarks\_and\_notes May be granted by the Director of Public Prosecutions.

### Witness protection

existence of a legislation: Yes

legal\_provisions:

remarks\_and\_notes May be granted by the Police.

### International cooperation in criminal matters (extradition, mutual assistance, transfer of proceedings, transfer of prisoners) pursuant to bilateral or multilateral agreements or arrangements or on the basis of national legislation

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Currently no formal treaties have been signed with any country. Plans are under way to co-operate with neighbouring countries at regional level within the ambit of the Southern African Development Co-operation

(SADC) level. To this extent a forum called Southern African Police Chiefs-Co-operation Organization (SARPCO) has been established. In addition, Zambia has a number of bilateral Joint Security Commissions established with neighbouring countries such as Zimbabwe, Botswana, Namibia, Democratic Republic of Congo, Angola, Tanzania, Malawi and Mozambique.

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## Other Provisions

### Victim compensation

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes

### Bank secrecy

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes The proposed Money-laundering Bill before Parliament has provisions for excluding Bank Secrecy in reporting of suspicious transaction.

### Reporting of Suspicious Transactions

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Covered under the proposed Money-laundering Bill.

### Border control of Proceeds of Crime

existence of a legislation: No

legal\_provisions:

remarks\_and\_notes Covered under the proposed Money-laundering Bill.

### Immigration control

existence of a legislation: Yes, but not specifically noting organized crime

legal\_provisions: Immigration and Deportation Act

remarks\_and\_notes

### General statements and observations on Organized Crime made by the Government

existence of a legislation:

legal\_provisions:

remarks\_and\_notes With the liberalization of the economy of Zambia, there are manifestations of organized crime as evidence by an increase in drug trafficking cases, cross border thefts of motor-vehicles, money-laundering and trafficking in military firearms for criminal purposes (such as robberies and the poaching of wild game).