



JUDICIAL FORUM for Bosnia and Herzegovina

Confiscation of Crime Proceeds

CONCLUSIONS

- In the proceedings related to confiscation of crime proceeds there is a well-established case law of the European Court of Human Rights and the Constitutional Court which should be followed with respect to the application of Article 1 of Protocol No. 1 to the European Convention and Article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This means that in the fight of the State against organised crime, we must secure respect for basic human rights and a balance between the public interest and individual rights.
- Every action of judicial authorities must be provided for by law, be in accordance with the general principles of international law, have a legitimate aim or be in the public interest. In addition, it must respect the principle of proportionality. At the same time, the justified public interest cannot justify deficiencies in the procedure, nor can it replace clearly established standards of fair proceedings and protection of the legitimate expectations of the owner.
- Confiscation of crime proceeds has a restrictive effect on the perpetrator and preventive on all others, which indicates the importance of conducting such proceedings.

- When confiscating crime proceeds, it is necessary to coordinate the actions of all institutions, police, prosecutors, anti-corruption offices, asset recovery offices, banking systems and all agencies.
- Bosnia and Herzegovina must align with the trends within the EU in order to contribute to the overall fight against organised crime in the European Union.
- As far as the legislative framework is concerned, the Court of Bosnia and Herzegovina is faced with the problems of the lack of law and a state-level agency which, following the adoption of a legally binding decision, would take over the jurisdiction regarding the recovery of such assets. This is where the action of the competent authorities is necessary.
- Legislative frameworks should be improved, but all authorities must also try to act within the framework of the existing laws, mindful of the principle of legal certainty.
- It is necessary to improve cooperation with land registry offices and cadastres, and, if possible, create a single database that would contribute to faster action of the competent authorities.
- It is necessary to work on constant improvement of the capacities of all those who work on such cases, especially bearing in mind the different ways of perpetration of criminal offences.