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Non-Criminal Asset Recovery Measures in the Fight against Transnational and Global Organised Crime: The Bulgarian Example

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Abstract

In criminal cases involving organised crime, traditional criminal law measures are often hindered by the need to prove a link between the property and the offence for which confiscation/forfeiture is sought, based on the standard of proof applicable in a criminal trial. However, the Anglo-Saxon common law countries have developed unique instruments to identify and confiscate organised criminal groups' property, making it extremely difficult to provide sufficiently strong and sophisticated evidence. These measures are often civil or a specific Prana regime of a sui generis nature. What's particularly interesting is the increasing adoption of these instruments by continental European states with a civil law tradition. This global trend has provided an opportunity to engage the European Court of Human Rights in its jurisprudence on these new measures, which sets essential limits on their applicability in a democratic state under the rule of law. In my presentation, I would like to take a closer look at the problem of Bulgaria, which has been using such instruments to fight corruption and organised crime for many years. In this context, I will discuss key judgments of the ECtHR concerning the Bulgarian legal instruments of non-criminal confiscation and the extent to which these instruments can be useful in the fight against corruption and organised crime.

Keywords: non-criminal based confiscation, presumption of guilt, fair trial, standard of proof, criminal assets