

Iceland – national procedures for mutual legal assistance on laundering,  
search, seizure and confiscation of proceeds of crime (ETS No. 141)

Updated 19/05/2017

The information contained in this table should be updated on a yearly basis.

<b>Procedure for search (asset-tracing) and seizure</b>	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):	<p>The Ministry of Justice</p> <p>Sölvhólsgata 7, 101 Reykjavík</p> <p>Telephone: 545-9000</p> <p>Fax: 552-7340</p> <p>Email: postur@dmr.is</p>
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	
Channels of communication for the request for mutual legal assistance (directly, or other):	According to Article 22 (3) of the Act on on Extradition of Criminals and other Assistance in Criminal Proceedings No. 13/1984 requests of legal assistance shall be sent to the Ministry of Justice unless other arrangements are decided in an agreement with another state.
Means of communication (e.g. by post, fax, e-mail <sup>1</sup> ):	By mail or fax. It is also possible by email if the request is urgent.

<sup>1</sup> Please indicate if encryption or electronic signature is required.

Language requirements:	Requests and annexed documents not drawn up in Icelandic, Danish, English, Norwegian or Swedish shall be accompanied by a translation into Icelandic or English.
Double criminality requirement, if applicable:	According to the Extradition of Criminals and other Assistance in Criminal Proceedings Act No. 13/1984, dual criminality is generally always required. The only exception is for Nordic countries, where dual criminality is required only for requests involving political offences
Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods:	<p>Seizing assets is possible through the Act on Criminal Procedure No. 88/2008, Articles 68-72.</p> <p><b>According to article 68</b> property, including documents, shall be seized if there is reason to believe that such property, or things or information contained therein, may constitute evidence in criminal proceedings, that the property may have been obtained in a criminal manner or that the property may be confiscated. Seizure of property is not permitted if the property contains information on matters which have passed between a suspect and the suspect's legal counsel, or information falling within the scope of the second paragraph of Article 119.</p> <p>If it is possible to secure evidence for the purposes provided for in the first paragraph without need for seizure of property, a request shall be directed to the owner or possessor of the property to provide access to the property or disclose information that it contains, for example by supplying a copy of a document or other information.</p> <p><b>According to article 69</b> the police may seize property without a court order, subject to the second paragraph below.</p> <p>If property is owned by, or in the possession of, a person other than a suspect and there is no risk of its destruction or concealment, the seizure shall be decided by a court order, unless the express consent of the owner or possessor has been obtained.</p> <p>If the owner or possessor of seized property refuses to abide by such decision, the dispute may be referred to a judicial authority. However, a request for a release of seized property shall not have the effect of suspending the seizure.</p> <p><b>According to article 70</b> letters and other remissions in the possession of a postal company or carrier, including telegrams, facsimiles, electronic mail or other remissions in the possession of a telecommunications company may be seized, provided that this is done for the purposes of an investigation relating to a crime which is subject by law to a sentence of imprisonment. If the sender and</p>

	<p>recipient were not present at the seizure, they shall be notified as promptly as possible, insofar as the notification will not prejudice further investigation of the matter. Investigation of the contents of letters, messages or remissions seized pursuant to this paragraph shall only take place pursuant to a court order.</p> <p>Printed matter cannot be seized in preparation for confiscation pursuant to the provisions of the Printing Rights Act without prior ruling by a court of law.</p>
<p>Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.:</p>	<p>A MLA request is handled in the same way as an investigation that is carried out domestically.</p> <p>Competent authorities are, as described above, empowered by Articles 68, 69 and 70 of the Act on Criminal Procedure No. 88/2008, to obtain access to all necessary documents and information for use in investigations.</p> <p>Iceland's competent authorities are empowered to use a wide range of investigative techniques in their investigations according to the Act on Criminal Procedure and special rules, including: (a) undercover operations (Art. 7, Rules on Special Measures and Actions in the Investigation of Criminal Cases, No. 516/2011); (b) accessing computer systems (Rules on Electronic Surveillance No. 837/2006); and (c) controlled delivery (Ch. IV, Rules on Special Measures and Actions in the Investigation of Criminal Cases, No. 516/2011).</p> <p>Under Articles 68 and 69 of the Act on Criminal Procedure, no. 88/2008, the police are able to obtain a court order obliging a bank to issue a statement as to whether a specific individual holds an account there as well as information on bank data. According to Articles 103 and 104 of the Act on Criminal Procedure the suspect can be excluded from the court hearing.</p> <p>The Registers Iceland run a property register which contains information on real properties and their attendant rights. The Property Register contains all basic information on land, lots and strips of land, as well as the buildings on them and information on registered rights, e.g. owners, mortgages and encumbrances.</p> <p>The Property Register is a single, comprehensive register for multiple authorities.</p>

Limitation of use of evidence obtained:	No limitations
<p>Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p>	<p>See Articles 68 and 69 of the Act on Criminal Procedure above regarding seizing.</p> <p>According to Article 88 of the Act on Criminal Procedure it is possible to freeze assets.</p> <p><b>Article 88</b> As security for the payment of a fine, cost of legal proceedings and confiscation of gains realised by a criminal act, the police may call for the arrest of a suspect's property if a risk is perceived of assets otherwise being concealed or lost or their value significantly reduced.</p> <p>The implementation and effect of arrest pursuant to this Article are subject to the same rules as the arrest of assets in general, with the exception that security need not be posted, legal proceedings need not be initiated for confirmation of the arrest, and no charges shall be paid for the actions.</p> <p>Arrest under this Article shall be terminated if the accused person has been acquitted by a final judgment of payment of a fine or cost of proceedings or subsection to confiscation of gains. The same shall apply if criminal prosecution has been discontinued or if an investigation does not lead to prosecution. The suspect then has the right to cancellation of any measures taken to secure the arrest. Arrest shall also be terminated if a suspect makes the payments that the arrest is intended to secure.</p> <p>No time limits apply.</p>
Available asset management system including preservative measures, ,(for example prejudgment selling), concerning the seized goods:	<p><b>According to article 71 of the Act on Criminal Procedure No. 88/2008</b> Seized property shall be inventoried and preserved in a secure manner. If requested by the owner or the person surrendering the property, a copy shall be supplied of the inventory.</p> <p><b>According to article 72</b> Seized property shall be released when it is no longer needed, and at the latest when a case is closed, except in the case of:</p>

	<p>a. property confiscated by a judgment of a court of law;</p> <p>b. property that was obtained by criminal means and has been delivered to persons entitled to the property;</p> <p>c. property which has been seized as evidence in a case, unless the person requesting the surrender of the property is in need of an item for the purpose of securing his or her rights or avoiding a loss of rights.</p> <p>When seized property has been released pursuant to the first paragraph above, the police shall take steps to return the property to the person is rightfully entitled to it.</p>
<p><b>Procedure for confiscation/</b> Recognition of foreign decisions. Recovery of confiscated assets.</p>	
<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/measures:</p>	<p>The Ministry of Justice</p> <p>Sölvhólgata 7, 101 Reykjavík</p> <p>Telephone: 545-9000</p> <p>Fax: 552-7340</p> <p>Email: postur@dmr.is</p>
<p>If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):</p>	
<p>Channels of communication for the request for mutual legal assistance (directly, or other):</p>	<p>According to Article 22 (3) of the Act on on Extradition of Criminals and other Assistance in Criminal Proceedings No. 13/1984 requests of legal assistance shall be sent to the Ministry of Justice unless other arrangements are decided in an agreement with another state.</p>

Means of communication (e.g. by post, fax, e-mail <sup>2</sup> ):	By mail or fax. It is also possible by email if the request is urgent.
Language requirements:	Requests and annexed documents not drawn up in Icelandic, Danish, English, Norwegian or Swedish shall be accompanied by a translation into Icelandic or English.
Document requirements and modalities/requirements for the procedure of confiscation:	Chapter VII A of the General Penal Code No. 19/1940, Articles 69-69 g cover confiscation.
<p>Other requirements, if applicable:</p> <p>For example: a link between the proceeds and the criminal offence.</p> <p>In case of money laundering, what are the requirements for the predicate offence(s):</p>	<p>According to Article <b>69</b> of the General Penal Code No. 19/1940 the gains derived from an offence, or a sum of money partly or fully equivalent to them, may be confiscated. The same applies to items that are purchased with the gains or that have replaced them. Where it is not possible to prove in detail the monetary value of the gains, it may be estimated. Costs incurred in the commission of an offence are not deducted from the monetary amount of the gains</p> <p>According to Article <b>69 a</b> the following may be confiscated by a court judgment:</p> <ol style="list-style-type: none"> <li>1. Items that have been used, or are intended to be used, in the commission of an offence, or regarding which there is thought to be a danger that they will be used for this purpose.</li> <li>2. Items that have come into being through an offence.</li> <li>3. Items that are connected in another manner with the commission of an offence. Instead of the confiscation of items as provided for in the first paragraph, a sum of money partly or fully equivalent to them may be confiscated.</li> </ol> <p>If a company is dissolved by a court judgment, its assets, books, documents and other possessions may be confiscated.</p> <p>According to Article <b>69 b</b> items of value belonging to</p>

---

<sup>2</sup> Please indicate if encryption or electronic signature is required.

	<p>an individual who has been convicted of an offence may be confiscated, in part or in their entirety, when:</p> <ol style="list-style-type: none"> <li>1. the offence is of a nature to entail substantial gains and</li> <li>2. it is punishable by at least 6 year's imprisonment.</li> </ol> <p>Subject to the same conditions as are stated in the first paragraph, items of value acquired by the current or former spouse of the offender, or by his/her cohabiting partner, may be confiscated, in part or in their entirety, unless:</p> <ol style="list-style-type: none"> <li>1. the items of value were acquired more than 5 years prior to the commission of the offence or</li> <li>2. the individuals in question were not married or cohabiting at the time when the items of value were acquired.</li> </ol> <p>Subject to the same conditions as are stated in the first paragraph, items of value that have come into the possession of a legal person in which the individual in question, alone or together with his or her closest relations, is in a controlling position, may be confiscated, in part or in their entirety. The same applies if a substantial part of the revenues of the legal person are channelled to the individual in question. However, confiscation shall not be permitted if the items of value were acquired by the legal person more than 5 years prior to the commission of the offence.</p> <p>If the person in question demonstrates that the items of value were acquired in a lawful manner, they shall not be confiscated.</p> <p>Instead of the confiscation of items as provided for in the first, second and third paragraphs, a sum of money partly or fully equivalent to them may be confiscated.</p> <p>According to Article 69 c if gains derived from an offence have been mixed with possessions that were acquired lawfully, those possessions may be confiscated to the extent of the estimated value of the gains that were mixed with them.</p> <p>All offences covered by the General Penal Code No. 19/1940 are predicate offences. Article 264 of the General Penal Code no. 19/1940, on money laundering stipulates that it is an offence to accept, make use of or acquire for himself, herself or another person gains derived from <b>any offence in the Code or other statutes</b> or, among other things, to convert such gains, transport, send or store them, to assist in delivering them or concealing them or information regarding their original, nature, location or disposal This also applies to acts or omissions taking</p>
--	---

	<p>place outside of Iceland. The overall maximum penalty for the money-laundering offence is six years imprisonment, but can be up to 12 years imprisonment in the case of gains from an offence under article 173 a in the General Penal Code. That article applies to serious drug offences, such as supplying addictive drugs and narcotics to many persons or selling them for a substantial payment or in another particularly criminal manner.</p> <p>It should also be noted that a person can be convicted of both the offence of money-laundering as well as the underlying offence. The General Penal Code also has provisions on the aiding and abetting and attempting to commit money laundering, or terrorist financing.</p>
<p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p>	<p>Same as in domestic cases.</p>
<p>Procedure for sharing of assets, if applicable:</p>	<p>According to Article 69.g. of the General Penal Code No. 19/1940 what is confiscated shall be the possession of the Icelandic Treasury unless other provisions are expressly made in law. This shall not apply, however, when the equivalent value is used to pay a compensation claim by a person who suffered loss or injury when the offence was committed. According to this Article the ministry may decide that that which is confiscated is to be divided between the Icelandic state and another state or states. When such a decision is taken, it shall be based on consideration including the expenses resulting from the case in the various states, whether loss or damage was suffered there due to the case and the provenance of the items of value confiscated. Division under this paragraph may not result in reductions of compensation payments to injured parties.</p>
<p>Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to</p>	<p><b>It can be requested in a MLA request to serve judicial documents directly upon person. No special limitations regarding that other than the dual criminality requirement.</b></p> <p>According to Article 23a of the Act on on Extradition of Criminals and other Assistance in Criminal Proceedings No. 13/1984 authorities</p>



<p>the persons concerned:</p>	<p>may negotiate an agreement to the effect that the authorities in the foreign state may send notification or documentation relating to an investigation or criminal proceedings by mail to a person in Iceland.</p> <p>In the event that it is assumed that the recipient does not understand the language in which the document is written, the document or its substance must be translated into Icelandic or another language that the foreign authorities know that the recipient understands.</p> <p>Notifications or documents pertaining to the case must be accompanied by information stating that the recipient can obtain information on his rights and obligations pursuant to the documents from the authorities who issued such documentation or other authorities in the state in question. The provisions of the second paragraph apply to such instructions.]<sup>1)</sup></p>
<p><b>Other particularly relevant information on special types of assistance</b></p>	
<p>Non Conviction Based Confiscation:</p>	<p>Not possible according to Icelandic law, only conviction based confiscation,</p>
<p>MLA regarding liability of legal persons (criminal, civil or administrative):</p>	<p>Under Icelandic law a confiscation order can be directed against a legal person under certain circumstances in <b>criminal proceedings</b>, see Article 69 b, paragraph 3 of the General Penal Code No. 19/1940:</p> <p><b>Art. 69 b</b></p> <p>Items of value belonging to an individual who has been convicted of an offence may be confiscated, in part or in their entirety, when:</p> <ol style="list-style-type: none"> <li>1. the offence is of a nature to entail substantial gains and</li> <li>2. it is punishable by at least 6 year's imprisonment.</li> </ol> <p>Subject to the same conditions as are stated in the first paragraph, items of value acquired by the current or former spouse of the</p>

	<p>offender, or by his/her cohabiting partner, may be confiscated, in part or in their entirety, unless:</p> <ol style="list-style-type: none"> <li>1. the items of value were acquired more than 5 years prior to the commission of the offence or</li> <li>2. the individuals in question were not married or cohabiting at the time when the items of value were acquired.</li> </ol> <p>Subject to the same conditions as are stated in the first paragraph, items of value that have come into the possession of a legal person in which the individual in question, alone or together with his or her closest relations, is in a controlling position, may be confiscated, in part or in their entirety. The same applies if a substantial part of the revenues of the legal person are channelled to the individual in question. However, confiscation shall not be permitted if the items of value were acquired by the legal person more than 5 years prior to the commission of the offence.</p> <p>If the person in question demonstrates that the items of value were acquired in a lawful manner, they shall not be confiscated.</p> <p>Instead of the confiscation of items as provided for in the first, second and third paragraphs, a sum of money partly or fully equivalent to them may be confiscated.</p>
<p>Other information (for example, extended confiscation, confiscation for the purpose of victims):</p>	<p>Victims of a crime are not party of criminal proceedings in Iceland, but can raise a claim for compensation for a crime during criminal proceedings, and as such they can have a legal representative during the trial.</p> <p>In Article 69 e of the General Penal Code No. 19/1940, it is specially pointed out that the value of confiscated items can be used to pay a compensation claim from the victim of the crime. See below:</p> <p><b>Art. 69 e</b></p> <p>If any person suffers loss or damage when the offence is committed, it may be determined in the judgment that the value of the items confiscated is to be used to pay a compensation claim from the person concerned.</p> <p>Where the person convicted of the offence pays compensation to the offended party in such a case following the delivery of the judgment, then the amount to be confiscated shall be correspondingly reduced.</p> <p><b>Art. 69 g</b></p> <p>That which is confiscated shall be the possession of the Treasury unless other provisions are expressly made in law. This shall not apply, however, when the equivalent value is used to pay a compensation claim by a person who suffered loss or injury when the offence was committed (cf. Article 69 e).</p> <p>The ministry may decide that that which is confiscated is to be divided between the Icelandic state and another state or states. When</p>

	<p>such a decision is taken, it shall be based on consideration including the expenses resulting from the case in the various states, whether loss or damage was suffered there due to the case and the provenance of the items of value confiscated. Division under this paragraph may not result in reductions of compensation payments to injured parties.</p>
<p><b>Links to national legislation, national guides on procedure:</b></p>	<p><a href="https://eng.innanrikisraduneyti.is/laws-and-regulations/english/extradition-and-other-assistance/">https://eng.innanrikisraduneyti.is/laws-and-regulations/english/extradition-and-other-assistance/</a></p> <p><a href="https://eng.innanrikisraduneyti.is/media/Log_og_reglugerdir/AH1.pdf">https://eng.innanrikisraduneyti.is/media/Log_og_reglugerdir/AH1.pdf</a></p> <p><a href="https://eng.innanrikisraduneyti.is/laws-and-regulations/english/procedural-law/nr/1339">https://eng.innanrikisraduneyti.is/laws-and-regulations/english/procedural-law/nr/1339</a></p>