



# ON NARCOTICS

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on for future of the proceeds of drug crime

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UNITED NATIONS

DIVISION OF NARCOTIC DRUGS  
Vienna

**BULLETIN  
ON  
NARCOTICS**

Volume XXXV, No. 2  
April—June 1983

*Special issue on forfeiture of the proceeds of drug crimes*



**UNITED NATIONS**  
New York, 1983

UNITED NATIONS PUBLICATION  
00600P

U.S. Department of Justice  
National Institute of Justice

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# **Egyptian law on the sequestration and confiscation of property acquired through smuggling and trafficking in drugs**

M. S. ZAKI

*Director, Anti-Narcotics General Administration, Cairo, Egypt*

## **ABSTRACT**

Drug control legislation in Egypt provides for the confiscation of objects and vehicles used in the commission of drug-related crime, and for these to be handed over for the use of the law-enforcement bodies if such objects and vehicles are considered essential to law enforcement. The legislation also provides for the sequestration of property illegally acquired through illicit drug traffic.

## **Introduction**

In its determination to combat drug-related problems, government authorities in Egypt were quick to grasp the important role played by illegally acquired assets through drug smuggling and trafficking, as well as the relationship between the amount of assets and the extent of drug-related illegal activities. It was thus realized that depriving traffickers and smugglers of the disposal of illicitly acquired property would undoubtedly remove one of their most effective weapons.

## **Legislation**

Successive enactments of legislation on drugs and, in particular, the latest Narcotic Drugs Act, No. 182/1960, have provided that any person trafficking in drugs is liable to a fine of not less than LE 3,000 and not more than LE 10,000.

The legislation also provides for the confiscation of drugs seized and of objects and vehicles used in the commission of the criminal offence, and for these objects and vehicles to be handed over for the use of the law-enforcement bodies if they are considered essential to law enforcement. These bodies have thus been able to strike at the offenders with their own weapons, and to use their own powerful cars to pursue and arrest them.

To crown these efforts, Act No. 34/1971, promulgated on 10 June 1971 and amended by Act No. 95/1980, lays down rules for the sequestration of illicitly acquired property. Article 3, paragraph 3, of this Act authorizes the sequestration of all or part of a person's property if it is established that such property has increased as a result of activities performed either by that person or through someone else in smuggling or trafficking in drugs, even if such property is registered in the name of the person's spouse or minor or major children or of any other person.

This Act was promulgated under the Constitution, which prohibits all forms of exploitation and makes it unlawful to use capital for purposes contrary to the public good of the country. It empowers the Attorney General to institute the examination procedure in proceedings for the sequestration and confiscation of property.

Sequestration cases are heard by the Court of Ethics, which is presided over by a deputy of the President of the Court of Cassation and composed of three judges of that Court or of the Court of Appeal and three citizens.

The measures adopted and the results obtained in this field are summarized below.

### *Sequestration*

The Anti-Narcotics General Administration made a list of large-scale traffickers who had made vast profits out of this prohibited trade and set up a group of its officers to inquire into the sources and extent of the property involved and to establish whether it belonged to the offenders and whether it had been acquired illegally through drug smuggling and traffic. The procedure leading to the sequestration of illegally acquired property is as follows:

(a) Where appropriate, The General Administration prepares a report for submission to the Attorney General who, after examination, may forbid the person concerned to dispose of or administer his property and may adopt any other appropriate preventive measure;

(b) In the order of prohibition, the Attorney General appoints an agent to administer the property, with instructions to take charge of it and prepare an inventory;

(c) The Attorney General fixes a sum of money for the expenses of the trafficker who has been forbidden to dispose of or administer his property until the court has ruled on the application for sequestration;

(d) When the examination is completed, the Attorney General prosecutes the trafficker within 60 days from the date of the order of prohibition; otherwise that order becomes null and void;

(e) Within 60 days from the date on which the order of prohibition is referred to it, the court decides either to rescind it or to maintain it in force for a period not exceeding one year from the date of issue of the order. The Attorney General may, before the period expires, request the court to renew the order of prohibition for further periods totalling not more than five years. The order of prohibition ceases to have effect *ipso jure* after five years or on the expiry of the term of sequestration;

(f) A sentence of sequestration has the effect of preventing the trafficker so sentenced from administering or disposing of the property sequestered. Any disposal by the trafficker during the specified period is null and void and renders him liable to imprisonment for a term not exceeding one year and/or to a fine not exceeding LE 500;

(g) An appeal from a sentence of sequestration lies to the Higher Court of Ethics within 30 days from the date of delivery of the sentence. The Higher Court may confirm or set aside the sentence or vary it in or against the interest of the person so sentenced. If the appeal is lodged by that person, the court may only confirm or set aside the sentence or vary it in his interest only. The Act provides for application for review of final judgements imposing sentence in specific cases;

(h) The General Administration follows the successive stages of prosecution and furnishes to the Attorney General the results of its investigations together with any information corroborating the evidence given in the proceedings;

(i) The sequestration ends five years after the delivery of the sentence or on the death of the person sentenced if this occurs before the expiry of the above-mentioned period.

### *Confiscation*

If the Attorney General considers that the sentence ordering sequestration of a drug trafficker's property is an insufficient measure of deterrence, he may refer the matter to the court within five years from the date of delivery of the sentence and demand the confiscation, for the benefit of the nation, of all or part of the property acquired through drug smuggling and traffic by the person subject to sequestration.

The President of the Republic is empowered by the Act to set aside the sentence to confiscation if circumstances warrant such action.

### **Results obtained**

The following results are noteworthy:

(a) Seven drug traffickers have been forbidden to dispose of their movable and immovable property and of the property of their spouses and their minor or major children;

(b) The property of 17 drug traffickers has been sequestered;

(c) The property of one drug traffickers was placed under a sentence of confiscation which became final after confirmation by the Higher Court of Ethics.

The total value of property confiscated and sequestered is estimated at nearly LE 20 million.

When the amount of money seized from drug traffickers is not sufficient to warrant proceedings for sequestration, the General Administration undertakes to notify the tax authorities, who apply to the traffickers the provisions of the Act on Trading Profits Tax.