



Bundeskriminalamt

HERBST-  
**BKA** TAGUNG 2014  
AUTUMN  
CONFERENCE

## **Organised Crime**

BKA Autumn Conference, 19 - 20 November 2014

### **Legal framework and required response**

Abstract

**Manfred Nötzel**

Senior Public Prosecutor Munich I Public Prosecutor's Office

I.

Professional occupation with the issue for more than 20 years, inter alia as OC coordinator at the Public Prosecutor General's office in Munich.

II.

Brief situation assessment regarding the Free State of Bavaria; particularly in the higher regional court district of Munich, with special focus on the Allgäu region as a "safe haven" for the Italian Mafia and as a the base of a criminal organisation of Georgian-Russian perpetrators as well as drugs and rocker crime in general.

III.

No comprehensive presentation of the "legal framework" and its foundations but a selective outline based on recent developments in the field of criminal law and criminal procedure.

1. Section 129 of the Penal Code in conjunction with section 47 a subsection 1 no. 4, second half-sentence of the German Judicature Act (jurisdiction of the state security chamber), decision by the Federal Court of Justice, 3 StR 196/11, judgement dated 13 September 2011
2. Legal problems linked to checks carried out "under a pretext" during undercover investigations
3. Federal Court of Justice decision dated 28 January 2014 (2 StR 495/12) concerning disparate elective determination with regard to organised thefts by breaking and entering and handling stolen goods

IV.

Results and possible causes of insufficient success in money laundering and financial investigations and the recovery of illegal profits (including an outlook on the new challenges in the fields of organised crime and terrorism committed through the Internet), and legal assistance problems arising in connection with a joint investigative team.

V.

Recent developments in crime suppression in these fields.

VI.

Needs for action:

1. Specialisation and better cooperation (intelligence services, police, customs and tax authorities at national and international level)
2. Full exploitation of the legal options currently available and continuous review of identified shortcomings with regard to concrete achievements or failures
3. Continuous evaluation, e.g. of Attachment E to the "Rules for criminal proceedings and administrative fine proceedings" with regard to actual changes in focus which is now placed more intensely on areas of economic criminal law, particularly on "asset tracing and recovery". The goal must be to confiscate assets and at least to weaken - if not dismantle - the criminal structures.