

REGULATION

on Special Police Methods and Operations in Criminal Investigations

CHAPTER I

General provisions

Art. 1

Scope

These rules shall apply to special police methods and operations in criminal investigations pursuant to Art. 89 of the Code of Criminal Procedure, Act No. 88/2008.

These rules do not affect the police's authority to take action in the interests of crime prevention and state security on the basis of the Police Act, No. 90/1996.

Art. 2

Definition

The investigative measures provided for in these rules are called special police methods and operations in criminal investigations. They aim to prevent, investigate and obtain all available evidence of criminal conduct and search for persons suspected of violations, all in a way that does not alert the person being investigated.

Art. 3

Requirements

In order for the use of special police methods and operations to be authorised, all of the following conditions must be met, unless otherwise stated in these rules:

1. There is suspicion that a serious offence may be committed, or an attempt may be made to commit a serious offence, which can be liable to a minimum of eight years' imprisonment, or a violation of the provisions of Articles 93, 100 c, 108, 109, 128, 175 a, the second, third and fourth paragraphs of Art. 202, Art. 206, Art. 244, Art. 245, Art. 247, Art. 248, Art. 249, Art. 249 a, Art. 250, Art. 251, Art. 254, Art. 262, Art. 264 or Art. 264 a of the General Penal Code, Act No. 19/1940; Articles 117, 123 and 124, cf. Art. 146, of Act No. 108/2007, on Securities Transactions; Art. 41 a of the Competition Act, No. 44/2005; or the fourth paragraph of Art. 2, Art. 3, cf. Art. 4 or 4a, and Art. 5 of the Act on Habit Forming and Narcotic Substances, No. 65/1974.
2. There is reason to expect that information, which could be of major significance in the investigation of a case, will be obtained in this manner.
3. Other investigative measures are not expected to suffice to obtain such information.

Investigative measures under these rules will not be used if they would result in criminal conduct that would not otherwise have been committed. Proportionality must always be observed when applying the measures.

Art. 4

Decision

The decision to use special methods and police operations shall be made by the Chief of Police or another senior officer as decided by the Chief of Police. Possible costs resulting from the use of special methods or operations under these rules will be paid from police funds, including costs for the purchase of illegal goods or services. However, such costs may, where appropriate, be considered legal costs, as provided for in the Code of Criminal Procedure, Act No. 88/2008.

Art. 5

When a police method or operation under these rules has concluded, the police shall inform the person at whom the operation was directed of it without delay, however, in a manner that does not prejudice further investigation of the case.

Art. 6

The State Prosecutor shall supervise the use of methods and operations under these rules. Chiefs of Police shall notify the State Prosecutor of the use of methods and operations pursuant to these rules as soon as possible.

CHAPTER II

Decoys

Art. 7

Definition

A decoy is a police officer or other police employee who exercises police authority and communicates with a suspect who is suspected of intending to commit a criminal offence, and the communication leads to the offence being actually committed and/or to information being obtained about the identity of the person who has fully committed the criminal offence.

Art. 8

Narcotic drug offences

If an investigation focuses on a violation of the Act on Habit-forming and Narcotic Substances, the narcotics and addictive substances must have entered Icelandic territory in order for a decoy to be used.

CHAPTER III

Informants

Art. 9

Definitions and objectives

An informant is a person who provides the police with information about crimes or persons connected to criminal activity and who can expect anonymity. A distinction is made between informants, i.e. on the one hand, persons who are in a regular information relationship with the police, and on the other hand, informants who provide information to the police without an actual information relationship being established.

An information relationship is a two-way relationship between the police and the informant under the supervision and control of a senior police officer.

The goal of an information relationship is to prevent criminal activity, provide information about crimes, and ensure the safety of informants and police officers, and the knowledge, accountability and supervision of senior officers.

The rules of this Chapter apply to a regular relationship, as well as to other sources of information as appropriate.

Art. 10

Establishment and termination of an information relationship

An information relationship can only be established in consultation with and with the approval of a senior officer. When assessing whether to establish an information relationship, the following shall be taken into account, among other things: the age, gender, criminal record and reliability of the informant; the reasons and motives behind the willingness to provide information; what the likely outcome of providing information will be; and whether it is possible to ensure the safety of the police officer and the informant after an information relationship has been established.

The establishment of an information relationship is unauthorised unless the police officer involved is considered suitable for such in the opinion of the Chief of Police. When assessing suitability, consideration shall be given to, among other things: seniority, work experience and/or other experience, knowledge or skills that will be equated with work experience in the police. An information relationship shall be terminated if it does not yield the desired results or if its premises no longer exist.

Art. 11

Registration of an information relationship

Once an information relationship has been established, a register must be kept in which the following information must be recorded:

1. the name, address, ID No. and telephone number of the informant;
2. their code name and number;
3. information on the establishment of and premises for the information relationship;
4. the informant's history;
5. other details which may be relevant.

For the duration of an information relationship, a record of communication shall be kept in which the following information shall be recorded:

1. meetings between the police officer and the informant, phone calls and/or other communications between them;
2. information received;

3. results from the information received;
4. new information about the informant;
5. consultation between the police officer and their superior and reassessment of the information relationship;
6. termination of the information relationship and reasons.

The anonymity of and confidentiality towards the informant shall be guaranteed at all stages of the investigation and after the investigation is concluded. Information on the name, ID No., address and other personally identifiable information shall be kept secret in research documents.

Art. 12

Communication principles

An information relationship shall be organised and controlled by the police. At the beginning of an information relationship, the informant must be given a clear explanation of the rules that apply to the communications and purpose of the relationship. The police officer shall exercise the utmost caution in all communications with informants and, among other things, report and consult with their superior regarding meetings, meeting locations and other matters that may be relevant.

The police officer shall strive to maintain fixed and regular communication with an informant and shall endeavour to verify the veracity of the information received as quickly as possible. The police officer shall not have any other communication with an informant than that which directly relates to his work and is consistent with the statutory role of the police. Establishing a sexual or emotional relationship with an informant is prohibited. As a general rule, two police officers should communicate or meet with an informant and write a report about those communications.

Art. 13

Supervision

A police officer who handles an information relationship shall consult closely with their immediate superior on all aspects concerning communication with informants. The relevant superior officer shall meet with the informant, together with the police officer handling the information relationship, if necessary to assess the grounds for the relationship or for other urgent reasons.

The Chief of Police shall ensure that information relationships are regularly monitored and shall issue detailed work instructions on the responsibility and role of superior officers, the arrangements for communications, organisation, risk analysis and training and shall assess the police officer's ability to communicate with the informant and the informant's eligibility to co-operate with the police.

Art. 14

Payments to informants and other measures

A police officer may not promise an informant concessions or benefits for reporting in a certain manner, as such promises would be unlawful or not within the power of the police officer to grant.

A police officer is entitled to draw attention to the fact that providing information to the police could lead to a reduction of punishment, cf. Point 9 of the first paragraph of Art. 70 of the General Penal Code, Act No. 19/1940, and the second paragraph of Art. 4 of the Regulation on the Legal Status of Arrested Persons, Police Interrogations etc., No. 651/2009.

An informant may be paid for information that leads to the prevention of a serious offence or to the detection of a serious offence. The amount of payment in each case shall be determined with a view to the importance of the information, the nature and seriousness of the violation, the work and costs of the informant and the risk they take.

The Chief of Police shall make the final assessment of the police's authorisation to pay an informant.

Payment shall not be made until it is clear that the provision of information has led to a successful result.

A decision to pay an informant shall be made by the Chief of Police and confirmed by their signature on a payment request.

The police officer concerned shall deliver the payment to the informant in the presence of the former's superior. The informant shall sign for receipt if possible, and the police officer and supervisor shall confirm that payment has taken place.

CHAPTER IV

Delivery under surveillance

Art. 15

Definition and objective

Delivery under surveillance involves postponing the seizure of, but keeping under constant surveillance, a shipment of narcotic drugs or other illegal or suspicious goods on the way to Iceland, in transport in the country or on the way out of Iceland.

The objective of delivery under surveillance is to discover the recipient of the shipment, methods of transport and possible distribution system, and by so doing obtain evidence of criminal conduct.

Art. 16

Decision and control

The National Commissioner of Police makes the decision on delivery under surveillance and gives instructions on the management of operations. The Commissioner may also request the co-operation of law enforcement authorities in other countries.

Before the National Commissioner of Police decides that delivery under surveillance will take place in Iceland or seeks co-operation with law enforcement authorities in other countries, the Commissioner must notify the State Prosecutor and the Director of Customs.

Art. 17

Conditions

Delivery under surveillance may be carried out at the request of a foreign state provided the following conditions are satisfied:

1. Technical equipment and manpower are available to ensure uninterrupted monitoring of the shipment during the operation.
2. An examination has been made of whether it is possible to replace completely or partially the contents of the shipment, e.g. narcotic drugs.

In the case of a shipment under surveillance that is being transported between countries and in transit in Iceland, the additional condition is set that the final destination be known, that the foreign states concerned ensure uninterrupted monitoring of the shipment, that it will be seized and that those involved will be prosecuted.

Art. 18

Request for an operation

A request from foreign authorities for assistance in connection with delivery under surveillance shall be sent to the National Commissioner of Police and include the following:

1. which authority requests the operation and confirmation that it is competent to make such a request;
2. justification of the need for the operation to be undertaken;
3. from what law enforcement agency in the relevant state information about the shipment was received.
4. Detailed information must be available as far as possible on:
 - a. the contents and size of the shipment;
 - b. the transportation route, transportation method and time schedule;
 - c. personal information about suspects and connections to other offenders;
 - d. other details which may be relevant for the operation;
5. what assistance is requested;
6. which law enforcement agencies of the relevant state are participating in the operation, the names and positions of those managing it, and how it will be ensured that they can always be contacted during the operation;
7. how surveillance will be carried out;
8. whether other states through which the shipment will pass have approved the operation.

A request may be made by telephone if the operation cannot be delayed, provided that it is ensured that a written request will be sent immediately thereafter that satisfies the conditions of the first paragraph.

The National Commissioner of Police assesses whether a request meets the conditions of the first and second paragraphs.

Art. 19

Work of law enforcement officers outside their home state

The National Commissioner of Police may authorise law enforcement officers from other states to monitor deliveries under surveillance on Icelandic territory, provided that they have the required permission from the authorities in their home state. However, they do not exercise police powers.

The National Commissioner of Police may authorise Icelandic police officers to monitor delivery under surveillance outside Icelandic territory and to work under the control of foreign law enforcement authorities during the operation.

Art. 20

Suspension of an operation

A delivery under surveillance must be stopped immediately, the shipment seized and the suspects arrested in the following cases:

1. the parties suspected have learned that the shipment is under surveillance;
2. there is a risk to police officers, customs officers, crews of Icelandic Coast Guard vessels and aircraft or others participating in the operation;
3. there is a risk that the surveillance of the shipment will be interrupted, so that it cannot be seized.

Art. 21

Recording of an operation

The entire process of an operation must be recorded, describing its beginning and conclusion, what authorities were involved, and other relevant details.

Following an operation, the National Commissioner of Police shall prepare a report stating, among other things, the results of the operation, information about the suspects and those arrested, and about the objects seized. The report shall be submitted to the State Prosecutor.

Art. 22

Domestic operations

The National Commissioner of Police may, with the approval of the State Prosecutor, arrange for the surveillance of shipments between two or more police districts within Iceland. The provisions of these rules shall then apply as appropriate.

CHAPTER V

Shadowing

Art. 23

Definition and objective

Shadowing is an investigative measure that involves continuously monitoring the movements of people around premises or other designated area or in public by monitoring the movements of a person suspected of committing an offence.

The goal of shadowing is to identify who is suspected of having committed a criminal offence, obtain information about movements and communications, and thus obtain evidence of criminal conduct.

Art. 24

Implementation

Surveillance shall generally consist of a police officer guarding premises or other designated area or monitoring the movements of a person suspected of committing a crime, including following in an automobile or other vehicle. The provisions of traffic rules on emergency driving shall apply as appropriate.

The recording of images and sound at locations other than those listed in the second paragraph of Art. 82 of the Code of Criminal Procedure, Act No. 88/2008, is prohibited except pursuant to a court order. The same applies if other special technology is used to monitor human movements at locations not covered by the second paragraph of Art. 82 of the Act.

Art. 25

Undercover agents

An undercover agent is a police officer or other police employee who exercises police authority, Icelandic or foreign, and joins a group of people suspected of involvement in serious criminal activity to provide the police with information

about that activity and the persons associated with it. The rules on informants shall apply to undercover agents as appropriate. A decision to use this investigative method is subject to the approval of the State Prosecutor.

CHAPTER VI

Other investigative methods

Art. 26

Disguise

The police are authorised, with the consent of a representative of a company or institution, to use work clothing, vehicles or other identifiable items of a company or institution as a disguise for the purpose of investigating a criminal case. The police are authorised, under the same conditions, to have a police officer in disguise stand guard on the premises of a company or institution, including participating in the activities of a company or organisation as if they were an employee, without the knowledge of other employees or the person being investigated.

Art. 27

Websites

The police are authorised to monitor and record information about what is published on websites that are open to the public in whole or in part, including websites for communication and networking. For this purpose, the police are authorised to create a username and e-mail address, without revealing this as a police identity, and to send and receive messages via e-mail or other comparable means.

CHAPTER VII

Art. 28

Entry into force

These rules, which are issued with reference to the authorisation in Art. 89 of the Code of Criminal Procedure, Act No. 88/2008, shall enter into force immediately.

Disclaimer

Regulations are published in Section B of the Official Journal of Iceland (*Stjórnartíðindi*) as provided for in Art. 3 of the Act on the Official Journal of Iceland and Legal Gazette, No. 15/2005, cf. the Regulation on the Publication of the Official Journal of Iceland, No. 958/2005.

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