犯罪物沒收
—以關聯客體之沒收為中心

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摘　要

2016 年沒收新制上路後，立法者並未針對犯罪物沒收有特別重大之修正，就犯罪物沒收的種類而言，仍沿用舊法概念。然而，最高法院透過判決，自行創設「關聯客體」之犯罪物種類，揭示此類標的「除有特別規定外，原則上不

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得沒收」之定性。本文擬透過近年抽砂船案之沒收案例與立法動向為例，參照德國法上對一般犯罪物沒收的理解，比對我國沒收新制下的一般犯罪物沒收制度，指出最高法院對關聯客體的錯誤定義與此等錯誤定義引發的實務問題。

Confiscation of Criminal Objects: Centering on Confiscation of Related Objects

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Abstract

The amendment to the Taiwanese criminal law confiscation system commenced in 2016 did not feature major changes in the confiscation of criminal objects. Concerning the classification of criminal objects subjected to confiscation, the new legislation continues to adapt the existing concepts in the original law. However, the Supreme Court created the category of “related objects” in its judgement, revealing such type of criminal objects “cannot be subject to confiscation in principle unless there are special provisions”. By introducing the confiscation in the Sand Dredger Case (Taiwan Penghu District Court Jian-Zi Judgment No. 12 (2018)), reviewing the legislative trends in the 2016 Amendment, and comparing the new confiscation system in Taiwan with the understanding of the general criminal objects under German law, this article intends to point out how the Court has falsely defined “related objects” and address the issues then arose in practice.