WORKSHOP

POLICY DEPARTMENT D
BUDGETARY AFFAIRS

PROTECTION OF THE EU’S
FINANCIAL INTERESTS
RECOVERY OF MONEY AND ASSETS
FROM THIRD COUNTRIES
IN FRAUD CASES

DATE
13 October 2016

TIME
14:00-16:30

ROOM
ALTIERO SPINELLI
BUILDING
1G3

Committee on
Budgetary Control

CHAIR:
Ingeborg GRÄSSLE

RAPPORTEUR:
Cătălin-Sorin IVAN

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WORKSHOP PROGRAMME
WORKSHOP ON

"PROTECTION OF THE EU'S FINANCIAL INTERESTS – RECOVERY OF MONEY AND ASSETS FROM THIRD COUNTRIES IN FRAUD CASES"

Rapporteur: Mr Cătălin-Sorin IVAN
Chair: Dr Inge GRÄBLE

Organised by the Policy Department D on Budgetary Affairs

Thursday, 13 October 2016, from 14:00 to 16:30
ASP 1G3
European Parliament, Brussels

DRAFT PROGRAMME
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| 14:00 - 14:05 | **Opening remarks and introduction by Dr Inge GRÄßLE,**  
               Chair of Committee on Budgetary Control                      |
| 14:05 - 14:10 | **Introduction by Mr Cătălin-Sorin IVAN,**  
               Responsible Member                                              |
|             | **---**                                                               |
| 14:10 - 14:25 | **1st Intervention, Mr Peter CSONKA,**  
               Directorate-General for Justice and Consumers, European Commission |
| 14:25 - 14:40 | **2nd Intervention, Ms Marcella van BERKEL,**  
               Manager of the Camden Assets Recovery Inter-Agency Network (CARIN) Secretariat, Europol |
| 14:40 - 14:55 | **3rd Intervention, Mr Sebastian BLEY,**  
               Coordinator Anti-Corruption, Anti-corruption and Financial Crimes (AFC), Interpol |
| 15:55 - 15:15 | **Questions and answers**                                            |
|             | **---**                                                               |
| 15:15 - 15:30 | **4th Intervention, Mr Daniel THELESKLAF,**  
               Chairman of MONEYVAL (The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, Council of Europe); Director of Financial Intelligence Unit, Principality of Liechtenstein |
| 15:30 - 15:45 | **5th Intervention, Mr Nicolae-Cătălin DAVIDESCU,**  
               Head of Division for Monitoring of International Sanctions Enforcement, Prevention of Money Laundering and Terrorist Financing at the National Bank of Romania (BNR) |
| 15:45 - 16:00 | **6th Intervention, Ms Roxana POPESCU,**  
               Managing Director of “KeysFin srl”, Romania                    |
| 16:00 - 16:20 | **Questions and answers and general debate**                          |
|             | **---**                                                               |
| 16:20 - 16:25 | **Closing remarks by Mr Cătălin-Sorin IVAN,**  
               Responsible Member                                              |
| 16:25 - 16:30 | **Closing remarks by Dr Inge GRÄßLE,**  
               Chair of Committee on Budgetary Control                          |
BACKGROUND BRIEFING
INTRODUCTION

European Parliament’s Budgetary Control Committee’s (CONT) workshop on “Protection of the EU’s financial interest – Recovery of money and assets from third-countries in fraud cases” takes place on Thursday 13 October 2016, 14.00-16.30 in EP premises in Brussels, room ASP 1G3. The responsible Member for this workshop in CONT is Mr Cătălin-Sorin Ivan.

This workshop aims to tackle the issue of recovery of assets in cases of corruption and fraud, in particular, when third countries are involved.

Recovery of assets should be one of central focuses in the fight against corruption. Certain non-EU states (tax havens or not) offer anonymity to individuals who make financial deposits. As a result, there are third countries which harbour illegally obtained wealth, make recovery by EU member states impossible, and often impede Member States’ authorities in bring the guilty to justice.

The rapporteur believes that EU institutions should raise awareness of grave effects of corruption, provide for means to deter asset transfers to non-EU countries that serve as anonymity protectors for corrupt individuals, and provide for recovery of such assets. This requires developing a coherent policy, a plan of action, and the necessary instruments.

With an intention to hear from different parties, it was decided to invite speakers representing:

- the Commission
- Europol
- Interpol
- MONEYVAL (Council of Europe)
- an expert from a MS national bank
- a financial consulting company

Sources

In the context of this workshop, the following sources could be considered for background information:

EU sources

Commission

Directorate General for Migration and Home Affairs of the European Commission explains the reasons behind the confiscation and the asset recovery (Confiscation and asset recovery):

“Organised crime activities are profit driven. The confiscation and recovery of proceeds from crime deprive criminals of what they have worked hard to acquire. Confiscation could have a deterrent effect.”

At the same time the Commission admits that:

“However, the current number of freezing and confiscation procedures in the EU and the amounts recovered from organised crime seem modest if compared to the estimated revenues of organised criminal groups.”
DG HOME further explains how it ensuring a common approach to confiscation within the EU:

“Confiscation is a strategic priority in the EU’s fight against organised crime. It is reflected in the EU Internal Security Strategy in Action, which confirmed the need to revise the existing EU legal framework on confiscation and asset recovery to hit criminals where it hurts them most.

Five EU legal instruments aim at improving confiscation and asset recovery (Framework Decisions 2001/500/JHA, 2003/577/JHA, 2005/212/JHA, 2006/783/JHA and 2007/845/JHA). However, their implementation has shown certain weaknesses. Thus, the Commission proposed in November 2008 ten strategic priorities on confiscation and asset recovery and emphasised the importance of enhancing cooperation between EU States in tracing assets.

The Commission has proposed new legislation to make it easier for EU states to confiscate assets derived from serious and organised crime and protect our economies. The proposed Directive will simplify existing rules and fill important gaps which are being exploited by organised crime groups. It will enhance the ability of EU states to confiscate assets that have been transferred to third parties, it will make it easier to confiscate criminal assets even when the suspect has fled and will ensure that competent authorities can temporarily freeze assets that risk disappearing if no action is taken.”

Also the Commissions Directorate General for Justice also has a role to play with regard to Confiscation and freezing of assets:

“Traditional judicial cooperation in criminal matters is based on a variety of international legal instruments. These are mainly characterised by the 'request' principle whereby one sovereign State makes a request to another sovereign State, which then decides whether or not to comply with it. This system can be very slow and inefficient.

Modern criminals seek to take advantage of these inefficiencies by both carrying out criminal activities across borders and by acquiring and keeping assets in foreign countries.

- EU citizens are able to move freely within Europe as well as buy property and reside abroad. The right to free movement of persons needs to be accompanied by measures making it possible to deliver justice in cases with a foreign dimension, for example whenever illegally acquired property is located abroad.
- Freezing and confiscation are effective tools used in the fight against crime as they aim to recover property derived from illegal sources. Freezing aims to temporarily retain property pending a final decision in the case. This means that assets cannot be disposed of before the case is finished. Confiscation is a final measure that stops criminals from accessing property obtained from breaking the law. It works by taking this property away permanently from the criminal or their accomplices.

Thus, an efficient and effective system of seizure and confiscation of criminal assets helps to combat crime while continuing to safeguard the interests of European citizens.

What has been done so far?

- In 2003, the EU adopted the Framework Decision on the execution in the EU of orders freezing property or evidence.
- In 2006, the EU adopted the Framework Decision on the application of the principle of mutual recognition for confiscation orders.
The aim of these instruments is to allow the freezing or confiscation of criminal property in country A where the alleged criminal is being prosecuted in country B.

The Framework Decisions allow a judicial authority in one EU country to send an order to freeze or confiscate property directly to the judicial authority in another EU country where it will be recognised and executed without any further formality. The execution of the order must take place unless one of the few grounds for non-recognition is invoked.

Again, these measures are restricted to the EU countries.

There are certain results which the Commission has been able to report as long as the situation concerns EU Member States, as we can see in the extract from Protection of the European Union’s financial interests - fight against fraud 2015 annual report - report from the Commission to the European Parliament and the Council, COM(2016)472, 14/7/2016.

Detailed information on recoveries, financial corrections and other preventive and corrective measures (interruptions and suspensions of payments) are published in the Communication from the Commission to the European Parliament, the Council and the Court of Auditors on the Protection of the EU Budget.”

This report is accompanied by several working documents from the Commission’s staff. The following working document might be of interest although it does not contain direct references to “asset recovery”: Statistical evaluation of irregularities reported for 2015 Own Resources, Natural Resources, Cohesion Policy, Pre-accession and Direct expenditure - SWD(2016)235. Part 1 and part 2. Extract:

“Recovery
The fraud and irregularity cases detected in 2015 show an established amount of EUR 390 million. EUR 199 million of this was recovered in cases where an irregularity was at stake and EUR 19 million in fraudulent cases. In total EUR 218 million was recovered by all Member States for all cases which were detected in 2015. In absolute numbers, Germany recovered the highest amount in 2015 (EUR 95 million) followed by the United Kingdom (EUR 31 million). This is a starting point for the recovery. Analysis shows that lengthy recovery procedures spread over several years are usually required due to administrative and judicial procedures in complex cases or cases with huge financial impact. In addition, Member States continued their recovery actions related to the detected cases of previous years. The EU-28 recovered EUR 94 million in 2015 which related to cases detected between 1990 and 2014.”

In addition to that, the following documents can be of interest: Protection of the EU Budget to end 2015. Communication from the Commission to the European Parliament, the Council and the Court of Auditors, COM(2016)486, 18/7/2016. This document contains information on the financial corrections and recoveries at end 2015 regarding the EU budget.

Policy Department D: Budgetary Affairs


European Parliament

The Parliament plays an important role when it comes to asset recovery. Organised Crime and Corruption: Cost of Non-Europe Report / Van Ballegooij Wouter, Zandstra Thomas, In-Depth Analysis, European Parliamentary Research Service, published on 15 March 2016, updated on 16 September 2016 with the following annexes:
- Annex I - Organised Crime
- Annex II - Corruption
- Annex III - Overall assessment of organised crime and corruption

The Parlaiments services have prepared a document on “Confiscation and recovery of criminal assets” – / YAVORSKA ANNA, Hirsh Roy, Keysources, European Parliamentary Research Service, published on 02 March 2012, updated on 05 November 2015
Also the study on “The need for new EU legislation allowing the assets confiscated from criminal organisations to be used for civil society and in particular for social purposes” / Andreas Hartmann; Basel Institute on Governance,“ study requested by the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs, 2012, touches upon the issue.
Further to that, the following parliamentary questions are to be mentioned:
Parliamentary question E-004586/2012: Enhancing cooperation between Member States in the area of confiscation and asset recovery: Measures to strengthen Asset Recovery Offices (AROs) in Member States.
Parliamentary question E-009873-12: Confiscation and reuse of assets of organised crime.
Parliamentary question E-004587/2012: Enhancing monitoring capacity in the European Union’s asset recovery regime.

Sources from other public bodies

Council of Europe

Special session on international co-operation as regards the seizure and confiscation of proceeds of crime, including the management of confiscated goods and asset sharing: Questions proposed by the moderators during the panel discussions and the workshops Reports of the discussions by the Rapporteurs / European Committee on Crime Problems (cdpc) and Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (pc-oc), 2015.
Extract: “In cases where, for example, it must be concluded that it is not possible to take over a (future) criminal judgement owing to legal obstacles, it can be decided to open a money laundering investigation in the ‘requested’ state. People will be more willing to do this if they know each other. CARIN is a very valuable network (https://www.europol.europa.eu/content/camden-asset-recovery-inter-agency-network-carin-leaflet), and so are the AROs (Asset Recovery Offices, which can be used to gain information and contact persons).”

Reference documents made available on the website of the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL):

StAR Other Report 2013 – Nine Key Principles of Asset Recovery
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

FATF Best Practices 2012 – Best Practices on Confiscation (Recommendations 4 and 38) and a Framework for Ongoing Work on Asset Recovery

FATF Guidance 2012 – Operational Issues Financial Investigations Guidance


Egmont Group Other report 2012 – The Role of FIUs in Fighting Corruption and Recovering Stolen Assets

StAR Other report 2011 – Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action


StAR Guidance 2009 – Stolen Asset Recovery: Management of Returned Assets: Policy Considerations


World Bank

Few and far: the hard facts on stolen asset recovery / Larissa Gray, Kjetil Hansen, Pranvera Recica-Kirkbride, Linnea Mills.

StAR Initiative - StAR is an initiative of the World Bank and UNODC (United Nations Office on Drugs and Crime). This webpage contains an overview of the publications - see also further down under UNODC.

Europol


Interpol

Website: International asset recovery

New INTERPOL notice could provide global link in targeting criminal assets / Interpol, news item, 13/5/2015.

“BKA Vice-President Peter Henzler also emphasized the need for international law enforcement cooperation. “The asset recovery offices within the European Union have made excellent progress in cross-border cooperation. I appreciate INTERPOL’s initiative to also improve the worldwide cooperation to locate and seize illegal profits. It is only in this way that criminals around the world can be dispossessed of what is most important to them, their criminal assets.” said Mr Henzler”
United Nations Office on Drugs and Crime UNODC

Asset Recovery. The United Nations Convention against Corruption provides in its Chapter V a framework for the identification, tracing, freezing, seizure, confiscation and final disposal of proceeds of corruption. The webpage furthermore contains a reference to the publications of UNODC and StAR, the Country Guides for Asset Recovery and the UNCAC Legal Library on Asset Recovery. The Legal library contains laws, jurisprudence and information on anti-corruption authorities from over 175 States worldwide, indexed and searchable according to each provision of the Convention.

United States - Department of State

U.S. asset recovery. Tools and procedures: a practical guide for international cooperation.

Other sources

ICC FraudNet - international network of independent lawyers specialised in civil asset recovery. The publications presented, most on aspects of civil asset recovery, are not freely available.
U4 Anti-Corruption Resource Centre - from the Chr. Michelsen institute in Norway (development research institute). See the overview of Documents related to asset recovery.

Academic literature

The confiscation and recovery of criminal property: a European Union state of the art / Michaël Fernandez-Bertier in ERA Forum, September 2016, pp 1-20
Abstract: “Since the late twentieth century, new criminal policies have emerged which have substantially restructured the global effort to fight crime. These anti-crime strategies eschew traditional approaches to fighting illicit behaviours in favour of a new paradigmatic shift towards the asset recovery strategy. The newly established mechanisms aim at tackling the criminals where it hurts the most, i.e. their property, with a view to ensuring that crime does not pay. This contribution succinctly analyses the birth and evolution of modern confiscation mechanisms, the prevailing models for efficient recovery of criminal property, and the European Union state of the art on the matter.”

Abstract: “Based on an institutional and legal mapping of the field across Europe, this article explores the different barriers to the effectiveness of the EU’s regime on the recovery and confiscation of proceeds of crime. The aim is to provide a better understanding of the challenges that arise in this field and suggest possible areas of legal or policy intervention. But it is also — using the example of asset confiscation — to contribute to debates about the effectiveness of the EU’s legal strategy in building a genuine area of freedom, security and justice. The article argues that, despite the adoption of new legislation in this field and the stronger institutional framework introduced by the Treaty of Lisbon, the effectiveness of the EU’s action is unlikely to significantly improve. The legal rules still present a number of deficiencies and the emphasis on formal legal solutions has come at the expense of broader questions of transposition and utilisation, which are however crucial to ensuring effective recovery.”

“The European Parliament should make sure that the accountability mechanisms applicable to EU JHA agencies include a proper follow-up and assessment of the added value of the functioning of EU networks, such as AROs and FIUs. A recommendation is to carry out an exhaustive mapping exercise, identifying ‘who is who’ among the EU’s national contact points in criminal justice, police and networks. This would also allow for a proper understanding of who is doing what and under which rules and conditions/checks and balances, and the purpose or domain for which are they actually responsible.”

Non-conviction Based Confiscation: Why the EU Directive is a Missed Opportunity / Federico Alagna in European Journal on Criminal Policy and Research, vol. 21, issue 4, 2015, pp 447-461. Abstract: “Moving from the spread of organized crime within the European Union and the need for a common response by Member States, in this article the author addresses the use of non-conviction based confiscation in the European Union as a tool to fight crime. In particular, after defining and understanding the peculiarities of this provision, its dissemination among national legislations is considered, as well as the attempts at harmonising them at a European level. Following on from this, numerous other issues are taken into consideration and discussed: the legitimacy of non-conviction based confiscation, its usefulness and the problems arising from the legislative divergences within the European Union among others. With this preliminary background, the author finally considers the Directive 2014/42/EU of 3 April 2014 on the freezing and confiscation of proceeds of crime. Not only is the final text analysed, but also the previous legislative steps, including the original proposal of the European Commission, launched in March, 2012, the amendments suggested by the European Parliament and the Compromise Text agreed upon, at the end of the discussions (the ‘trilogues’) between Parliament, Council and Commission.”

Vermögensabschöpfung bei Korruptionsstraftaten in Deutschland - Asset recovery and administrative fines in connection with corruption and bribery offences in Germany / Markus Rübenstahl in ERA Forum, vol. 16, issue 3, 2015, pp 309-329. Abstract: “This article outlines the details concerning the recovery of assets which have been gained or acquired through an illegal act. The preventative effect of the removal of advantages arising from crimes is evident, however asset recovery is, compared to other white-collar-crimes, mostly seen in corruption-based crimes. The particular importance of this sanction in cases involving corruption or bribery is examined, along with the relevant differences between active and passive corruption offences. Where companies have gained or acquired assets from bribery, there is also the legal possibility to recover those assets through an administrative fine.”

Directive 2014/42/EU and non-conviction based confiscation: a step forward on asset recovery? / Michele Simonato in New Journal of European Criminal Law, vol. 6, issue 2, 2015, p. 213 Abstract: “Depriving criminals of the control over the proceeds of crime has for several reasons become a priority on the national and international agenda. In the last decade, the European Union has adopted several legal instruments on asset recovery. However, due to their scarce success, the EU policy makers recently endeavoured to improve the legal framework: their efforts led to the recent Directive 2014/42/EU on the freezing and confiscation of proceeds of crime in the EU of 3 April 2014. One aspect is central in the debate on asset recovery: the possibility to introduce common rules on ‘non-conviction based confiscation’, i.e. confiscation orders independent from a prior conviction. This was much discussed during the legislative process for the adoption of the Directive, from which it eventually emerged containing a provision with a limited scope. His article elucidates the approach of the EU to fostering non-conviction based confiscation in the Member States, aiming to assess the potential impact of the non-conviction based confiscation provision in the Directive on the asset recovery process, and its compliance with fundamental rights.”

Extract: “The AROs are part of international networks, the oldest of which is the Camden Asset Recovery Interagency Network (CARIN). Set up under the auspices of Europol in The Hague in 2004, it originally included only a few EU Member States, but under the influence of decision 2007/845/JHA, it has been expanded to include all of them. In addition, the European network has created contact points in numerous third countries such that today it links more than fifty countries and covers a sizable portion of the planet. This network also includes nine international organisations as either observers or partners: the Egmont Group, Eurojust, Europol (which runs the secretariat), the International Criminal Court, the International Monetary Fund, INTERPOL, OLAF, the United Nations Office on Drugs and Crime (UNODC), and the World Bank. Given this international context, the World Bank and UNODC teamed up to publish a Guide for Practitioners. Setting up the AROs was a decisive step toward implementing the policy of confiscating criminal assets.”

Measures for asset recovery: a multiactor global fund for recovered stolen assets / Stephen Kingah in The World Bank legal review. Vol. 6. Improving delivery in development: the role of voice, social contract and accountability / Jan Wouters, Alberto Ninio, Teresa Doherty, Hassane Cissé, IBRD, World Bank, 2015. Extract: “In the European Union, the Treaty on the Functioning of the European Union (TFEU) addresses issues of fraud in Article 325. In the specific area of asset recovery, an important communication in 2003 from the EU Commission on corruption included topics such as confiscation but did not include asset recovery. Council Framework Decision on Asset Recovery Cooperation, backed mainly by Austria, Belgium, and Finland, does cover aspects of asset recovery. In 2011, the EU Commission adopted an important communication on antifraud, which states that the foal of the text is to improve prevention, detection, conditions of investigation, and reparation and deterrence. Swift recovery of money that has been the subject of fraud and paid from the EU budget is an important component of the strategy.”


- Tracking and Tracing Stolen Assets in Foreign Jurisdictions / Charlie Monteith, Andrew Dornbierer
- The Financial Execution Inquiry – a Bridge too Far? / Francis Desterbeck
- Fighting Corruption in Malta and at European Union Levels / Kevin Aquilina
- First Experiences in Germany with Mutual Recognition of Financial Penalties / Christian Johnson


Abstract: “This article outlines the details concerning the recovery of assets which have been gained or acquired through an illegal act. The preventative effect of the removal of advantages arising from crimes is evident, however asset recovery is, compared to other white-collar-crimes, mostly seen in corruption-based crimes. The particular importance of this sanction in cases involving corruption or bribery is examined, along with the relevant differences between active and passive corruption..."
Protection of the EU’s financial interests – recovery of money and assets from third countries in fraud cases

Offences. Where companies have gained or acquired assets from bribery, there is also the legal possibility to recover those assets through an administrative fine.”

European Union’s measures to combat fraud and corruption in order to break the link between European Union’s funding and organized crime / Marilena Verbari, Academic thesis, Faculty of Law, Ghent University 2012, 66 p.

"This paper will go through an overview of the relevant measures and instruments adopted by the European Union in order to counter fraud and corruption and to avoid the exploitation of public funding by organized crime. The first chapter will analyze the concept of fraud, it will consider the measures adopted to counter it and will take in consideration the issues arising from the implementation of public funding through the shared management system. It will also describe the activity of OLAF and Eurojust, taking in consideration the cooperation between these two bodies and the future European Public Prosecutor to be established from Eurojust. The second chapter will describe the concept of corruption and will go through an overview of all the European, Regional and International measures adopted to fight it especially in the field of public funding. The third chapter will outline the concept of organized crime, it will give an overview of the measures adopted to combat this phenomenon and it will take in consideration the preoccupying aspects of the link between organized crime and public funding.”


Finally, the chapter 2 of following recent book deals with Data exchanges for law enforcement purposes between the EU and a third state: Global data protection in the field of law enforcement: an EU perspective / Christina Blasi Casagran, Routledge, 2017.

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BIOGRAPHIES OF SPEAKERS
Ms. Marcella van BERKEL,
Manager of the Camden Assets Recovery Inter-Agency Network (CARIN) Secretariat, Europol

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1994 – 2014 Dutch Fiscal and Economical Investigation Service (FIOD)

2000 – 2003 Financial investigator in Dutch Antilles
2004 – 2009 Liaison Officer for the Special Law Enforcement Agencies at the Dutch desk in Europol

2013 -2014 Financial investigator in a multidisciplinary project to fight crime in an innovative way with a focus on proceeds of crime

2014 - Europol Financial Intelligence Group, Specialist Asset Recovery

Within the Dutch Tax Authorities I have worked as an auditor related to both taxation and recovery.

In FIOD I have worked as financial investigator in a large variety of national and international criminal cases within multi-disciplinary teams both in the Netherlands and Dutch Antilles, Curacao.

The Europol Financial Intelligence Group (FIG) is responsible for support and advise on Money Laundering, Asset Recovery and Terrorism Financing in criminal investigation under the Europol Mandate.

One of my tasks as specialist Asset Recovery in the Europol Criminal Assets Bureau is taking care of the CARIN secretariat. CARIN, launched in 2004, is an informal network of practitioners in Asset Recovery.
Mr Sebastian BLEY,
Coordinator Anti-Corruption, Anti-corruption and Financial Crimes (AFC), Interpol

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March 2016  Commenced service with INTERPOL SG. Currently serving as Coordinator of the Anti-Corruption Unit

2012 – 2016  Coordinator and Assistant to the Head of the Economic and Financial Crimes Sub-Directorate

2008 – 2012  Investigator within a unit at the Economic and Financial Crimes Sub-Directorate

2004 – 2008  Criminal Intelligence Officer within a unit for international communication at the Serious and Organized Crime Directorate of the BKA

2001 – 2004  University of Applied Sciences for Public Administration of the Federal Ministry of Interior (3-year study program on Public Security and Administration)

October 2001  Commenced service with the Federal Criminal Police Office of Germany (BKA)
Daniel Thelesklaf, a Swiss national and a lawyer by profession, is the Director of the Financial Intelligence Unit (FIU) of Liechtenstein since 2012. In this capacity, he also chairs the national AML/CFT working group. He has 25 years of experience in Anti-Money Laundering (AML), Combating the Financing of Terrorism (CFT) and Anti-Corruption work.

After a career in the private sector as Head of Legal and Compliance in a bank, he joined the Federal Office for Police in 1998 to become the first Director of the Swiss FIU. After that, he worked as consultant in various anti-money laundering, anti-terrorist financing and anti-corruption projects and technical assistance missions - mainly in the Caribbean, Eastern and Central Europe and in various Central Asian countries - for the Council of Europe, the IMF, the UN and the OECD. From 2008-2011, he was Executive Director of the Basel Institute on Governance and supervised the activities of the International Centre for Asset Recovery. From 2005-2015, he acted as Chair of the Anti-Corruption Network (ACN) of the OECD. From 2012-2015, he was also the Chair of the Egmont Training Working Group and a member of the Egmont Committee.

Since December 2015, Daniel is Chair of Moneyval after having served nearly 3 years as Vice-Chair.
Mr Nicolae-Cătălin DAVIDESCU,
Head of Division for Monitoring of International Sanctions Enforcement, Prevention of Money Laundering and Terrorist Financing at the National Bank of Romania (BNR)

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2016 - present  Head of Division
The National Bank of Romania – Supervision Department
• Monitoring of international sanctions enforcement, evaluation of internal regulations in place regarding anti-money laundering, prevention of operations having to do with terrorism financing, analysis of indicators and limits imposed by the prudential regulations in force, systematic analysis based on the reports and data submitted by credit institutions and branches of foreign credit institutions, as well as on-site evaluations and reports.

2008 - 2016  Principal Supervisor
The National Bank of Romania – Supervision Department
• Evaluating the management framework of credit institutions, their financial position, risk profile and internal process for assessing capital adequacy; coordinating supervisory actions carried out at credit institutions (on-site) and also evaluation missions conducted off-site; coordinating working groups with responsibilities along the line of credit institutions’ off-site supervision.

2003 - 2008  Supervisor
The National Bank of Romania – Supervision Department
• Supervising the banks’ compliance with the indicators and limits imposed by the prudential regulations in force, systematic analysis based on the reports and data submitted by credit institutions and branches of foreign credit institutions, coordinating and preparing on-site supervision reports and analysis based on the credit institutions’ financial position, risk profile and activities conducted.

2002 - 2003  Supervisor
The National Bank of Romania – Dolj Branch
• Assessing the way that the prudential regulations in force, as well as the internal procedures developed are implemented and followed across the territorial units of credit institutions.
Ms. Roxana POPESCU,
Managing Director of “KeysFin srl”, Romania

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Apr 2014-Present  Managing Director
Keysfin, Bucharest (Romania)

Keysfin Romania started its current activity in 2013, specializing in providing Credit Risk services and helping companies and banking-financial institutions to identify and better manage the risk involved in commercial transactions. The company became over the past years, one of the largest players on the business information market in Romania. Keysfin provides: studies and analysis regarding Romanian companies and industries, credit information reports, geobiz analysis, company monitoring, financial analysis.

• Connection of operations, sales and marketing,
• Collaborates and coordinates with Research and Development Team,
• Monitoring and improving processes in order to ensure a smooth operational environment,
• Promotes Company Image. Develop and maintain relationships with clients and potential customers,
• Improving existing and introducing new services/products,
• Supervision of 15 in house employees and also other outsourced collaborators,
• Substantial increase in profitability and market share of the company,
• Project manager of internal development project: new software developments, new products etc.

Jan 2012-2014  Sales and Project Manager
Starbyte, Bucharest (Romania)

• Project manager on the software implementations or developments requested by the current clients,
• Responsible for sales and new projects growth,
• Promote Company Image. Develop and maintain relationships with clients and potential customers,
• Coordinate efficiently resources involving all teams from software development department in order to accomplish projects in time, at a high quality standard and in agreed budget,
• Follow up financial plan for projects, registering monthly development of incomes and expenses. Take measures accordingly,
- Develop relationships with clients, monitor customer satisfaction and increase customer focus within team,
- Promote company's products and image,
- Constant up sales activities covering business proposals and presentations, guiding customers in optimizing processes, increasing productivity and control, reducing time to yes,
- Propose solutions, estimate and negotiate budgets,
- Organize and support strong project teams,
- Increase competencies and performance of team and each individual in order to achieve professional and personal goals,
- Monitor KPI's including chargeability, revenue, team productivity, compliance with assigned deadlines.

**Apr 2010-Jan 2012**
Private Banking Advisor  
Millennium Bank, Bucharest (Romania)

- Responsible for bank's image in relation with Private clients,
- Developing good relations with the existing clients to increase cross selling objectives: investment funds, insurances and loans,
- Acquisition of new quality high net-worth customers to meet established sales target,
- Advising bank's clients for the best solution regarding their savings plan,
- Keeping abreast of the latest marketing, economic, financial and other trends in order to guide customers to understand how these happenings can impact financial needs and opportunities.

**Sep 2008-Apr 2010**
Morgage Specialist, Strategic Partners Manager, Call Center Coordinator  
Perfect Finance, Bucharest (Romania)
PRESENTATIONS
Second intervention:

Presentation by Ms Marcella van BERKEL
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

The Camden Asset Recovery (CARIN) Inter-Agency Network

CARIN Secretariat, Europol Financial Intelligence Group
CARIN@europol.europa.eu
+31 6 28262127 mobile

EP Workshop
Protection of the EU's financial interests – Recovery of money and assets from third countries in fraud cases

Tool in targeting organised crime

13 October 2016
Marcella van Berkel
Specialist Asset Recovery
CARIN Secretariat
Financial Intelligence Group
0031628262127
marcella.van-berkel@europol.europa.eu
CARIN is an informal network of English speaking judicial and law enforcement practitioners, who are expert in the field of asset tracing, freezing, seizure and confiscation.
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

55 jurisdictions, 9 organisations and 5 regional networks are members of CARIN.
71 jurisdictions are members of the regional ARIN’s in the rest of the world.
• **New jurisdictions**
  - CARIN 2015 : Thailand
  - ARIN-AP 2015/16 : India, Malaysia, Pakistan, Tonga
  - ARINSA 2016 : Mozambique, Angola, Seychelles en Madagascar
  - RRAG 2016 : Temporary members Dominican Republic, El Salvador, Venezuela

• Possible new members CARIN : Egypt, Gulf Cooperation Council/ Kazachstan

• **Initiatives for an Asset Recovery Network in the Caribbean (November 2016)**

The aim of CARIN is to increase the effectiveness of members’ efforts, on a multi-agency basis, in depriving criminals of their illicit profits.
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

• Improving mutual knowledge on methodologies and techniques in the area of cross-border identification, freezing, seizure and confiscation of the proceeds of crime
• Improve international co-operation amongst law enforcement and judicial agencies

2 contacts from each member jurisdiction or organisation

Steering Group – 9 members

Presidency - Annual

Europol - permanent Secretariat

Eurojust - SG observer
- Provide general information on asset recovery possibilities in their own jurisdictions

- Facilitate the effective exchange of information and intelligence

- Advise on Mutual Legal Assistance

- Share good practice, knowledge and experiences

- Meet at an Annual Conference and (in workshops) make recommendations to overcome barriers and problems
• Facilitate, where possible, e.g. training in all aspects of asset recovery

• Facilitate the exchange of operational requests between investigators and prosecutors in other CARIN member jurisdictions

• Best practices CARIN:

• CARIN contact Italy:
• Identified assets in Brazil, U.S.A., Switzerland, Monaco
• Result through Asset recovery network requests:

• 1 apartment in Switzerland (purchased for CHF 1.063.000);
• 3 apartments in USA (purchased for USD 3.522.187)
• + 4 companies.
• Real Estate in Brazil, waiting for result of MLA
Third intervention:

Presentation by Mr Sebastien BLEY
Global Focal Point Platform for Asset Recovery

European Parliament Workshop ‘Protection of the EU’s financial interests – Recovery of money and assets from third countries in fraud cases’

13 October 2016

Worldwide presence

190 Member Countries: A Global Presence
Protection of the EU’s financial interests – recovery of money and assets from third countries in fraud cases

Covering all 4 core functions

Communication System “1-24/7”
Databases
Operational Support
Training

The Global Focal Point Platform

WHAT?
WHO?
WHY?
HOW?

216 FPs/120 Countries
Focal Point Eligibility Criteria

From INTERPOL member country
Authenticated by the Head of their Agency

Senior Public Official Responsible for investigation/prosecution on asset recovery, anti-corruption, anti money-laundering

FOCAL POINTS shall be:

Authorized from their INTERPOL National Central Bureau

Registration Process

DOC 1
GFPP Access Instruction

DOC 2
Registration Form

DOC 3
Anti-Corruption, Anti-Money Laundering and Asset Recovery Framework Survey

Unique user ID and password
Protection of the EU’s financial interests – recovery of money and assets from third countries in fraud cases

How to Access to the Platform

**STEP 1**
• Go to https://secure.interpol.int

**STEP 2**
• Enter the **Username** and **Password**

**STEP 3**
• Click on **My Profile**
• Click on **Global Focal Point Network (GFPN) on Asset Recovery**
Annual Conferences as Real Platform

1st Global Focal Point Conference
(Vienna, Austria: 14-15 December 2010)

2nd Global Focal Point Conference *(IPSJ Lyon, France: 11-13 July 2011)*

3rd Global Focal Point Conference
(Amman, Jordan: 16-18 July 2012)

4th Global Focal Point Conference
(Bangkok, Thailand: 3-5 July 2013)

5th Global Focal Point Conference
(Vienna, Austria: 9-10 September 2014)

6th Global Focal Point Conference
(New Delhi, India: 17-19 November 2015)

Why do we need this Platform?

- Attempt for timely exchange of sensitive information
- Directly reach out to the practitioners
- Operational support which only INTERPOL is capable of delivering

⚠️ The GFPP is NOT a substitute for formal MLA between countries, but serves to facilitate the countries efforts to recover stolen assets that might have been hidden in foreign jurisdictions
Global Programmes on Anti-Corruption, Financial Crime and Asset Recovery

- Ongoing exercises of regional training courses and workshops;
- Since 2012, 16 workshops have been completed in Asia, Africa and South America;
- Objective to build up the capacity of local law enforcement organizations to effectively combat the various forms of corruption within a domestic context.
Our Partners

Thank You

Sebastian BLEY
Anti-Corruption Coordinator
INTERPOL Anti-Corruption & Financial Crimes Sub-Directorate
s.bley@interpol.int
Fourth intervention:

Presentation by Mr Daniel THELESKLF
Protection of the EU’s Financial Interest – Recovery of Money and Assets from Third Countries in Fraud Cases – What can Moneyval do?

Brussels, 13 Oct 2016, European Parliament
Daniel Thelesklaf, Chairman, MONEYVAL

The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is entrusted with the task of assessing compliance with the international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation.

Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.
Areas of monitoring relevant for asset recovery:

1. **Risk Assessment** (e.g. what is the significance of fraud cases and how are these risks mitigated)
2. **Criminal Law and its implementation** (e.g. is fraud a predicate offence to money laundering?)
3. **Provisional measures and confiscation** (legal framework and effective implementation)
4. **Capacities of competent authorities** (e.g. are Police forces adequately resourced?)
5. **International Cooperation** (administrative, FIU-FIU, Police, judicial)

Moneyval has the necessary **tools to enforce compliance**: 

1. Full transparency of evaluation reports
2. Compliance Enhancement Procedures (including “black listing” of countries)
3. Participation in FATF Global network

But: Moneyval needs the resources to do its job properly!
The Experience of Liechtenstein in Asset Recovery
The necessity to collect financial intelligence

- International asset recovery does not work satisfactorily, although
  - the necessary legal framework is/should be in place (FATF, Council of Europe, EU, UNCAC)
  - political will has been declared at many occasions

- The first stage in a asset recovery process is the phase of tracing and detecting possible proceeds of crime

- Formal MLA is not necessarily a useful tool to trace/detect proceeds of crime

- More emphasis should be placed on the instruments set up to fight money laundering

Conclusions

- Establishment of an FIU
- Membership in Egmont Group
- Capability of FIUs to trace assets across jurisdictions
- Tracing of assets has to be done speedily
- Powers of FIUs to obtain information
- Powers of FIU to suspend transactions and/or freeze assets
- Capabilities of FIUs to instigate criminal investigations
- Collect intelligence before entering into formal MLA
- Use powers of FIUs to freeze assets, as available
Fifth intervention:

Presentation by
Mr Nicolae-Cătălin DAVIDESCU
National Bank of Romania

- NBR is competent authority in Romania for the prudential supervision of:
  - credit institutions
  - non-bank financial institutions
  - electronic money institutions
  - and payment institutions

- The entities under our supervision counts for about 70% of the assets of the financial sector

- NBR assesses the compliance of the entities under its supervision with the international, European and national AML/CFT standards
National Bank of Romania

- NBR contributes to ensuring the integrity, stability and preservation of the reputation of the financial sector

- NBR develops a strong cooperation and coordination with the competent authorities in Romania engaged in combating money laundering and terrorism financing

- NBR makes promptly available to the Financial Intelligence Unit (the FIU) or other relevant counterparts all appropriate information related to AML/CFT threats and vulnerabilities detected during the supervisory actions

Our Approach

- Supervision activity is conducted on a risk basis
  - allowing us a better allocation of resources while ensuring their focus on those areas that pose an increased risk
  - identifying the most appropriate measures to address and mitigate those risks
Our Approach

- this approach imposes adequate knowledge of the organization and of the functioning of a financial institution and the mechanisms that it has developed and implemented to manage ML/FT risks

- pays a special attention to threats arising from the promotion of new products and banking/financial services involving a significant degree of technological innovation/digitization

Our Approach

- NBR is making sure that all entities:
  - have in place procedures and regulations in line with the applicable law and tailored to the customers’ risk profile
  - have implemented effective internal control mechanisms to mitigate the AML/CFT risks
  - have the capacity to trace all financial movements and prevent the misuse of the financial system for illegal purposes
Our Approach

- pays particular attention to assessing *operational risk* across all business lines of a credit institution
- risk of fraud is an important component of operational risk
- institution’s policies and practices should be adequate to avoid associating with individuals/groups involved in fraudulent activities and other criminal activities

Our Approach

- Banks must have in place effective systems to detect suspicious transactions
- Banks must have the capacity to analyze the connections between suspicious transactions and potential criminal activities in order to prevent and combat money laundering and terrorist financing
- suspicious transaction reports underlie the system for combating money laundering and terrorism financing
**Our Approach**

- the number of the suspicious transaction reports increased by 30 percent in 2015 versus the previous year *(According to the 2015 Annual report of the Romanian FIU)*

- 84% of these reports were filled in by banks

- adopting more effective countermeasures and a higher engagement of the banking system within the national system of combating money laundering and terrorism financing

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**Our Approach**

- when a credit institution is authorized or in case of takeover of an institution already authorized, in addition to financial soundness, the NBR assesses the quality of the significant shareholders in terms of reputation and risk of money laundering

- NBR evaluates and approves the mid-managers of the credit institutions whose activities are of significance, out of which the head of compliance/AML/CFT division is part of
The need to undertake more effective measures to combat ML/FT risks, in the context of recent evolutions

- NBR proactively took measures to evaluate the exposure of the banks to the risks deriving from the business relationships conducted with off-shore residing customers or customers having beneficial owners/shareholders or other connections with off-shore jurisdictions.

- NBR drew the financial institutions’ attention on the need to review their portfolio and consequently to apply appropriate, enhanced due diligence measures to this category of clients.

The need to undertake more effective measures to combat ML/FT risks, in the context of recent evolutions

- the on-site supervision activities aimed at assessing the obliged entities' understanding of the vulnerabilities of this sector and thus enhanced attention was given to this type of business relationships.

- the exchange of information with other relevant authorities in the country, like as the FIU and the Romanian Intelligence Services.
The need to undertake more effective measures to combat ML/FT risks, in the context of recent evolutions

- money laundering, terrorism financing and organized crime remain significant issues which should be addressed in a convergent way at the European Union level

- Commission’s plan for strengthening the fight against terrorist financing that focuses on two main strands of action:
  - tracing terrorists through financial movements and preventing them from moving funds or other assets
  - disrupting the sources of revenue used by terrorist organizations, by targeting their capacity to raise funds

The need to undertake more effective measures to combat ML/FT risks, in the context of recent evolutions

- the recent events (Panama Papers) reveal that measures undertaken at the national level or even at the European Union level cannot be effective without international cooperation and exchange of information between the interested states and bodies

- the new products, the new delivery channels and the new technologies in the banking activity pose new additional risks, new challenges for the institutions engaged in combating money laundering and terrorism financing
Cicero: “In a disordered mind, as well as in a disordered body, soundness of health is impossible”

Thank you for your attention
Sixth intervention:

Presentation by Ms Roxana POPESCU
Romanian Business Connected to Offshores

Introduction

I. Turnover of active enterprises in Romania by the main activity

- Manufacturing: 47.99%
- Wholesale and retail trade: 23.06%
- Electricity, gas, steam and air conditioning: 6.28%
- Information and communication: 5.19%
- Professional, scientific and technical activities: 2.36%
- Transportation and storage: 2.33%
- Construction: 2.03%
- Real estate activities: 1.41%
- Administrative and support services: 1.32%
- Mining and quarrying: 0.87%
- Agriculture, forestry and fishing: 0.51%
- Accommodation and food services: 0.39%

% Turnover &

- Companies related with country from European Union (% of Romania offshores)
  - Cyprus, Ireland, Luxembourg, Malta
- Companies related with country from NON European Union (% of Romania offshores)
  - Cayman Islands, Switzerland, Gibraltar Island, Virgin Islands, Panama, Monaco, The Bahamas, Belize, Hong Kong, Marshall Islands, Liberia, Bermuda, Nauru, Barbados, Vanuatu, Andorra, The Netherlands Antilles
Number of Enterprises in Romania

II. Dynamic of active enterprises in Romania

III. Structure of active enterprises in Romania – EU vs Non EU

IV. Number of active enterprises in Romania by the main activity
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

Evolution of Industries in 2015 Compared to 2010

Turnover Analysis

<table>
<thead>
<tr>
<th>Year</th>
<th>Turnover</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>48 bn. EUR</td>
<td>18.40%</td>
</tr>
<tr>
<td>2014</td>
<td>48 bn. EUR</td>
<td>19.69%</td>
</tr>
<tr>
<td>2013</td>
<td>45 bn. EUR</td>
<td>19.71%</td>
</tr>
<tr>
<td>2012</td>
<td>41 bn. EUR</td>
<td>19.70%</td>
</tr>
<tr>
<td>2011</td>
<td>38 bn. EUR</td>
<td>19.45%</td>
</tr>
<tr>
<td>2010</td>
<td>34 bn. EUR</td>
<td>19.85%</td>
</tr>
</tbody>
</table>
Net Profit(Loss) and Operating Margin Analysis

V. Dynamic of net profit [loss] of active enterprises in Romania

VI. Dynamic of operating margin of active enterprises in Romania

Number of Employees Analysis

271 k employees
- Total number of employees: 8.7%
- Total number of employees: 8.6%
- Total number of employees: 8.5%
- Total number of employees: 8.9%

281 k employees
- Total number of employees: 8.6%
- Total number of employees: 8.5%
- Total number of employees: 8.9%

316 k employees
- Total number of employees: 8.9%

339 k employees
- Total number of employees: 9.2%
- Total number of employees: 9%

341 k employees
- Total number of employees: 9%

EU 85%
Non EU 15%
Protection of the EU’s financial interests – recovery of money and assets from third countries in fraud cases

Amounts Owed to Shareholders

Conclusions

01 The offshore activities are an increasingly component in the Romanian economy.

02 About 20% of businesses in Romania are related to tax havens.

03 The practice is more common among multinationals.

04 Tax optimization through offshore companies is widely spread among property developers (malls, residential) and importers (food retail networks, fashion retail etc.).

05 The profitability of companies is surprisingly low, considering the turnover and market situation. The percent of amounts in total debts owed to shareholders shows the strong link between Romania companies and their foreign shareholders.

06 In the absence of an additional regulatory framework, the practice of offshores is limiting the budgetary resources at national and European level.

07 The authorities need to build a legal framework to discourage these practices, which are damaging to the state budget, they also need to stimulate investment and the transparency of economic activities, which have a direct effect in increasing budget revenues.
Methodology

✓ **The analysis contains** the legal, size, activity and accounting of all registered active enterprises at the National Trade Register Office of Romania performing economic activities during 2010-2015 and having at least one of shareholders represented by offshore enterprises/businesses/legal units. The list of 22 States introduced in the research paper: Cyprus, Netherland, Luxembourg, Malta, Cayman Islands, Switzerland, Gibraltar Island, Virgin Islands, Panama, Monaco, The Bahamas, Belize, Hong Kong, Marshall Islands, Liberia, Bermuda, Nauru, Barbados, Vanuatu, Andorra, The Netherlands Antilles.

✓ **Active enterprise** is the entity which, from economic standpoint, is active during the survey period, that is, it produces goods or services, records expenditure and draws up balance sheets.

✓ **The main activity** of an enterprise is established depending on the goods or services whose production involve the largest share of human resources or which entail the highest revenues of the enterprise. Enterprises framing by activity was done based on the main activity codified according to NACE Classification Rev.2 (Statistical Classification of Economic Activities in the European Community).

✓ **Operating margin** measures how much of every dollar of a company’s sales results in profits.
Protection of the EU's financial interests – recovery of money and assets from third countries in fraud cases

NOTES