

# INTERNATIONAL ANTI-CORRUPTION CONFERENCE 2024

Vilnius, Lithuania

18-21 June 2024

## SESSION REPORT

*Please know you may design the structure of this report to better suit the session.  
It's important to capture the key outcomes and solutions proposed for the future.*

### **Session Title: Asset Recovery Speed Dating: 18 Countries in One Hour**

**Date:** 18 June 2024

**Time:** 17:00 PM - 18:30 PM (GMT +3)

#### **Report prepared by:**

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#### **Moderated by:**

Anita Ramasastry

Professor of Law and Special Representative on Combatting Corruption to the OSCE

University of Washington School of Law

#### **Panellists:**

- Ralf Ernst  
Deputy Co-Ordinator/Head, Economic Activities  
Organization for Security and Co-operation in Europe (OSCE)
- Andrew Dornbierer  
Senior Asset Recovery Specialist  
Basel Institute on Governance
- Alberto Perduca  
Former Chief Prosecutor, Turin  
Italy
- Radu Nicolae  
President  
Association for Cooperation and Sustainable Development
- María José Veramendi Villa  
Human Rights and Anti-Corruption Officer  
OHCHR- United Nations Office of the High Commissioner for Human Rights

## **Share the thematic focus of the session, its purpose and corruption risks?**

The workshop focused on the findings from a comprehensive study prepared by the Basel Institute on Governance of 18 jurisdictions that are also OSCE participating States. The study examines asset recovery legislation with the aim of 1) outlining established good practices 2) identifying any innovative legal provisions that may serve as inspiration for other states in advancing their asset recovery mechanisms. The findings are critical to addressing kleptocrats, oligarchs and the recovery of illicit assets of the rich and powerful. From civil forfeiture laws to social reuse, this study has tools and lessons relevant to multiple stakeholders.

The full text of the study can be accessed under the following link:

<https://www.osce.org/secretariat/566329>

## **Summary of panelists' contributions & discussion points (please be as detailed as possible)**

**Ralf Ernst** is the Deputy Co-Ordinator/Head, Economic Activities at the Office of the OSCE Co-ordinator for Economic and Environmental Activities. In his opening remark, Ralf highlighted that anti-corruption is high on the OSCE agenda, and provided an overview of the OSCE's comprehensive project on asset recovery titled "Strengthening Asset Recovery Efforts in the OSCE Region".

**Andrew Dornbierer** is a Senior Asset Recovery Specialist at the Basel Institute on Governance and author of the comparative study. His contribution focused on the methodology of study and its key findings.

The study first examined whether the countries in question have traditional confiscation-based legislation as standard baseline which allows states to confiscate proceeds of crime. A further step was to determine the existence of extended confiscation, which allows to target additional assets held by a convicted person that are not demonstrably derived from legitimate sources.

The study finds that beyond these basic good practices some states have implemented less traditional laws that expand the reach to target a broader range of assets. These generally are:

- Classic non-conviction based confiscation mechanisms: based on the pre-existence of a criminal case that however cannot be completed (the person dies, runs away, etc.);
- Civil recovery mechanisms: not dependent on the pre-existence of the criminal proceeding.

A step further on the scale of innovative asset recovery legal provisions are broader legal provisions enacted by states with the aim of enhancing their asset recovery efforts. These include in particular:

- Criminal and civil illicit enrichment mechanisms: targeting "unexplained wealth" and enabling the confiscation of those assets whose legal source cannot be proven;
- Information-gathering unexplained wealth orders, which complement the civil confiscation proceedings by requiring an explanation of the source of the property;

While all countries examined in the study have broad extended confiscation laws, which have been recommended at the international level for more than 20 years, only 3 / 4 had non-

confiscation based laws, although recommended by the European Union Directive and the United Nations Convention Against Corruption (UNCAC). In addition, very few countries have civil recovery laws, and while criminal illicit enrichment laws are recommended at the international level, only few countries have such mechanisms in place. As some of these laws are not connected to a criminal proceeding, a key challenge in implementing them is connected with concerns of potential violation of human rights.

States that have not implemented such laws should consider if their integration could be conducive to achieving enhanced asset recovery efforts.

The study also emphasizes the importance of adequate legislation regulating the effective and cost-efficient management of criminal assets and the growing tendency to repurpose confiscated criminal assets for community and social re-use.

**Alberto Perduca** is a Former Chief Prosecutor from Italy. His contribution highlighted the importance of fighting profit-driven crimes not only by bringing those responsible to justice, but also by depriving them of their financial power. However, the alerting statistics that only 1% of proceeds of crimes are confiscated at the EU level remains a cause of concern, indicating that most of illegally accumulated wealth remains in the pockets of the criminals.

One of the key challenges in the confiscation of criminal assets starts from the financial investigations, which remain limited in the scope to traditional confiscation, i.e. focusing on instrumentalities and direct proceeds of crime. This means that more innovative measures, including extended confiscation, are less commonly applied, and even more so when the assets in question are located abroad.

In Italy, the non-conviction based confiscation measure has made it possible to extend the scope of the recovery of criminal assets. Three conditions have to be met in order to make use of this legal instrument: 1. the owner of the assets is considered socially dangerous, i.e. there are grounds to believe that the person is leaving on the proceeds of crime; 2. the value of the assets should be disproportionate to the legal income of the owner; 3. there is no indication that these assets have a legal origin.

Thanks to this legal tool, a large number of assets have been confiscated. And although Italy has a successful track record in the social re-use of confiscated assets, the management of such a large number of criminal assets poses challenges in terms of their administration. It is therefore crucial that state consider all steps of the asset recovery process, including management, in order to ensure its full efficiency.

**Radu Nicolae** is the President of the Association for Cooperation and Sustainable Development, a civil society organization in Romania. His presentation focused on the importance of involving the civil society throughout the asset recovery process.

In co-operation with civil society organizations, Romania adopted a new law on the management and disposal of criminal assets in 2015. The innovative element of this law is that 50% of the confiscated funds are to be allocated to government agencies and civil society organizations to support victims of organized crime and for general community re-use. In 2024, three grant programmes were launched for community support and the prevention of organized crime and corruption.

The base of such initiatives is a solid legal framework and the civil society sector plays a crucial role in its development and implementation. The Association for Cooperation and Sustainable Development in Romania has long been advocating for prevention of corruption among young people, implementing educational programs on deglorification of organized crime, familiarization with asset recovery and the work of government institutions and the awareness raising and promotion of the social re-use practices at the EU level and in South-Eastern Europe, in co-operation with the OSCE project on Asset Recovery<sup>1</sup>.

**María José Veramendi Villa** is the Human Rights and Anti-Corruption Officer at the United Nations Office of the High Commissioner for Human Rights. Her intervention highlighted the negative impact that corruption and illicit financial flows have on human rights. It was also emphasized that the non-repatriation of funds of illicit origin to the countries of origin has a negative impact on the enjoyment of human rights, including economic, social and cultural rights.

Maria also presented the Recommended Principles on Human Rights and Asset Recovery<sup>2</sup>, which first and foremost recognize that corruption and asset recovery are human right issues because they impede the realization of human rights, including the right of development. These recommendations are designed to support international co-operation through a human rights-oriented approach. However, states must ensure that the application of anti-corruption and asset recovery measures is consistent with human rights obligations.

### **Main outcomes of the session & key recommendations (include quotes/highlights and interesting questions from the floor)**

- In order to respond to an evolving criminal landscape where criminals can distance themselves from their crimes and hide the origin of their assets, it is critical that states consider designing asset recovery mechanisms that allow for a broader implementation of asset recovery. Existing innovative tools that some states have put in place foresee either 1) easing the standard of proof on establishing the link between criminal activity and assets, or 2) reversing the burden of proof on the accused to prove that assets possessed assets are of legal origin.
- In developing such asset recovery mechanisms, states need to ensure their compatibility with human rights, including the repatriation of stolen assets or funds in a manner that contributes to the realization of human rights.
- Financial investigations should consider of all areas of potential reinvestment of illicit funds, including real estate, luxury goods, business structures, crypto, with due attention to assets located abroad. For the latter, international co-operation is crucial.
- Asset recovery legal framework should not neglect the key role of the efficient management and disposal of criminal assets. States should have mechanisms in place that allow for a cost-effective, transparent and accountable management of assets, while preventing the possible reappropriation of confiscated assets by criminal groups.
- Civil society organizations are important actors throughout the entire asset recovery process. Collaboration between government institutions and civil society organizations can be conducive to reflect and respond to community needs at various asset recovery stages: from developing strategies to implementing initiatives that support the prevention of crime and corruption at the community level and the social re-use of criminal assets.

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<sup>1</sup> [Strengthening Asset Recovery Efforts in the OSCE Region | OSCE](#)

<sup>2</sup> [OHCHR Recommended Principles on Human Rights and Asset Recovery \(2022\) | OHCHR](#)

**Rapporteur's name**

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**Date submitted**

19 June 2024

**Action!** This report needs to be emailed to [iacc-av@transparency.org](mailto:iacc-av@transparency.org) within 24 hours of the session. If you wish to update the report, please do so by 21 July. Thank you.