



# CONFISCATION OF CRIMINAL ASSETS: EUROPEAN AND NATIONAL PERSPECTIVES



[Here, the link to the Programme](#)

*The second meeting of the research project **ConfiscEU** took place in Cluj-Napoca. We firstly heard the voice of different legal actors, who gave their outstanding contribution from the perspective of different legal institutions, both European and national. In the second part, national experts introduced the national reports. This second meeting was thus the further step after the analysis of the European regime on confiscation, which was the focus of the previous meeting in Utrecht.*

## FLORIN STRETANU



The meeting was introduced by the speech of **Florin Stretanu**, *Professor of the University of Babeş-Bolyai*.

Glad to host the second meeting in his University, he underlined the importance of the Project, which has the objective of identifying best practices and legal solutions to confiscation-related matters, with particular attention to third party confiscation.

## ALESSANDRO BERNARDI



The second welcoming speech was given by **Alessandro Bernardi**, *Professor at the University of Ferrara and coordinator of the Project*.

Professor Bernardi explained again the aim and nature of the Project: a comparative research focused on the juridical and practical aspects concerning confiscation.

Then he pointed out the slight change that has occurred in the focus of the Project: in fact, more relevance is to be given to cooperation aspects, instead of investigative ones.



# 1st

In the first panel, chaired by **Professor John Vervaele and Professor Olivier Cahn**, the confiscation phenomenon was analysed under the perspective of different legal actors, working in different fields of law, such as national and European Courts, agencies of the European Union, as well as Universities.

The first speech (*Non-conviction based confiscation in the case-law of the ECtHR*) was given by **Iulia Motoc**, judge of the European Court of Human Rights, who

mainly focused on the case law of the ECtHR, also pointing out the case *G.I.E.M. and others v. Italy*, which was delivered while the Conference was ongoing.

IULIA MOTOC



AUGUSTIN LAZĂR

The second presentation (*Modern tools of international judicial cooperation in the recovery of proceeds of crime in the Romanian experience*) was given by **Augustin Lazăr**, General Public Prosecutor of Romania.

After a general overview of international cooperation in criminal matters, he focused

on the judicial cooperation for the protection of cultural and natural heritage.

Finally, he spent a few words on the future of judicial cooperation in Europe, also considering the role of the Public Prosecutor Office.



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In the third presentation (*Implementation of EU asset confiscation instruments: a practitioners' view*)

**Marcella Van Berkel**, Europol Specialist Asset Recovery, talked about the operational action plan of Europol. She explained the activities and the challenges of EU ARO

Platform, she spoke about the transposition stage of Directive 2014/42/EU and she introduced the new EU provisions on centralised bank account registries adopted in May 2018. Finally, a few words were spent on the role of EMPACT (European multidisciplinary platform against criminal threats).

**MARCELLA VAN BERKEL**



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**ANDRA ROXANA TRANDAFIR**

The fourth speech (*Confiscation and freezing of accounts: challenges in the Romanian banking case law*) was given by **Andra-Roxana Trandafir**, of the Bucharest University. She firstly introduced the role of ANABI (National Agency for the Management of Seized

Assets), established in Romania with the aim of proposing an integrated approach to asset recovery. Secondly, she pointed out some problems encountered in banking case law. Thirdly and finally, she concentrated on extended confiscation.



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**Mihail Udroi**, Judge of Oradea Court of Appeal gave the fifth speech of the morning (*Procedural impediments for extended confiscation*). He explained the rules governing confiscation

at Romanian level, focusing on the case-law of the Supreme Courts, with particular regard to the procedural obstacles for extended confiscation.

**MIHAIL UDROIU**





# 2nd

In the second panel, chaired by Professores **Florin Streteanu** (Babeş-Bolyai University) and **Yves Cartuyvels** (Saint-Louis University), the national reports were introduced. The national experts analysed confiscation and freezing in their legal systems, under two different perspectives: *mutual recognition aspects* on the one hand; *management and disposal aspects* on the other.

In the presentation of the **Belgian legal system**, **Thibaut Slingenever** firstly focused on general aspects related to freezing, confiscation and freezing of third-parties (such as legal framework, authorities and rights and guarantees of the person addressed by the foreign order in the execution phase), and, secondly, he focused on the authorities,

activities, remedies and other peculiarities related to the management of frozen and confiscated assets. Finally, underlining the problems of the actual framework, the presentation emphasized how the new law (4/2/18) should provide for a computerized database, which could resolve this situation.

THIBAUT  
SLINGENEVER



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OLIVIER  
CAHN

In the presentation of the **French report**, Olivier Cahn showed the legislative and case-law novelties occurred in the French legal system. After a preliminary analysis on traditional confiscation, he subsequently gave an

overview on third party and extended confiscation and the main focused was placed upon mutual recognition acts.



In the presentation of the **German report**, Vera Weyer summarised the main peculiarities related to ordinary, extended, non-conviction based and third-party confiscation, underlining both substantial and

procedural aspects. Then it focuses on the mutual recognition of freezing and confiscation orders and on the management and disposal of the assets.

VERA WEYER



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NIKOLETTA  
KARALIOTA

In the presentation of the **Greek report**, Nikoletta Karaliota analysed the basic features of confiscation in terms of substantive criminal law, under the double perspectives of ancillary penalty and security measure. Then, she focused on the hypothesis of extended

and non-conviction-based confiscation, providing critical observations on the transposition of Directive 2014/42/EU and the compatibility with fundamental rights and basic principles of criminal law.



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In the presentation of the **Italian report**, **Francesco Diamanti**, firstly focused on traditional confiscation and he subsequently pointed out the problematic issues which have lead up to the introduction of new

types of confiscation. Particularly, he focused on the peculiarities of the Italian legal system.

**FRANCESCO  
DIAMANTI**



**WOUTER DE  
ZANGER**

In the presentation of the **Dutch report**, **Wouter de Zanger**, focusing on substantial, procedural, mutual recognition management and disposal aspects of the different typologies of confiscation,

gives a short brief of the legal framework and the legal practice in The Netherlands.



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In the presentation of the **Romanian report**, **Dan Moroşan** firstly focuses on both substantive and procedural aspects of ordinary, extended, non-conviction based and third-party and other types of confiscation.

Secondly, it summaries the general procedural aspects of the freezing of assets national regulation, also providing data and statistics.

**DAN MOROSAN**



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