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How to put confiscated criminal assets to good use?

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr André VALLINI, France, Socialists, Democrats and Greens Group

Summary

The Committee on Legal Affairs and Human Rights considers that the impact of confiscation of illicit assets on the fight against organised crime and corruption is further enhanced by the proper use of confiscated financial assets or other objects, such as buildings or vehicles, in the form of their use for the good of society ("social re-use"). This can take the form of financing concrete projects aimed at strengthening the State's capacity to fight organised crime and confiscate more illicit assets, or at repairing the damage caused by criminals to a given population, neighbourhood, city or region.

Based on the experience of several countries, it recommends "good practices" to optimise the social re-use of confiscated assets.

In international confiscation cases, the States concerned should agree on an equitable sharing of these funds, taking into account the principle of their social re-use and avoiding the risk of further misappropriation of the returned funds.

The committee also recommends the social re-use of the assets of Russian oligarchs subject to sanctions due to the Russian Federation war of aggression against Ukraine, for the benefit of Ukrainian refugees and victims of Russian bombing.

1. Reference to committee: Doc. 14841, Reference 4443 of 12 April 2019.

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A. Draft resolution[2]

1. The Parliamentary Assembly reaffirms its full and wholehearted support for fighting organised crime and corruption. This requires confiscating illicit profits and other criminal assets as widely as possible. In Resolutions 2218 (2018) and 2365 (2021), the Assembly called for non-conviction-based confiscation and the reversal of the burden of proof, with appropriate safeguards, as well as for the strengthening of financial intelligence units.

2. The Assembly considers that the impact of confiscating illegal assets on the fight against organised crime and corruption is further enhanced by making good use of confiscated financial assets and any other confiscated property, such as buildings or vehicles, in a way that is beneficial for society as a whole (in what is known as “social re-use”). This can be achieved by financing specific projects aimed at strengthening the State’s capacity to tackle organised crime and confiscate more illegal assets or at repairing the damage done by criminals to particular population groups, communities, towns or regions.

3. Instead of simply channelling seized assets into the overall national budget, such projects send a clear and visible message to all that crime does not pay and that society is ready to defend itself and even use ill-gotten gains to fight crime and repair the damage it does. Such projects build afflicted communities’ resilience to crime and corruption by showing how confiscated property and assets can be put to good use, in contrast to the hardship crime brings.

4. The State must be stronger than crime and reclaim the ground occupied by the criminal underworld. The authorities must make a visible and long-term commitment to win the trust of the populations concerned, who shall not live in fear of the criminals' vengeance.

5. In international asset confiscation cases, the States where the relevant assets have been confiscated and the States from which the funds came must agree on an equitable division of these funds. This should take due account of the principle of re-using the proceeds of crime for social purposes (while avoiding the risk of any further misappropriation of returned funds) and the resources mobilised to carry out the confiscation.

6. The European Union has also called for the social re-use of confiscated criminal assets (Regulation (EU) 2018/1805). Paragraph 47 of the preamble to this Regulation states that “frozen property and confiscated property could be earmarked, as a matter of priority, for law enforcement and organised crime prevention projects and for other projects of public interest and social utility”.

7. Various forms of social re-use of confiscated criminal assets are already practised in several Council of Europe member States, notably in Italy, the United Kingdom and Spain, and to a lesser extent in Albania, Estonia, France, Georgia, Hungary, Latvia, the Republic of Moldova, Montenegro, Norway, Romania, Slovenia and Turkey.

8. The Assembly notes the following best practices:

8.1. setting up a centralised institution at national level responsible for the social use of confiscated criminal assets (financial assets and movable and immovable property) with the necessary powers and resources to administer the assets in question and make them available for social purposes, in co-operation with local public and non-governmental bodies;

8.2. giving priority to the use of confiscated funds to compensate direct and indirect victims, according to a sufficiently broad definition;

8.3. using part of the confiscated assets and items to enhance police and judicial capacity to identify, seize and confiscate as many criminal assets as possible;

8.4. “directly using” confiscated assets for public purposes for example by converting mafia-owned villas into socio-cultural centres, holiday accommodation for disadvantaged people, rehabilitation centres for drug addicts and enabling law enforcement agencies to use confiscated luxury cars;

8.5. with regard to confiscated businesses, taking all possible measures, in co-operation with business associations, trade unions and banks, to help potentially viable companies overcome the "legality shock" (payment of taxes and social security contributions, cessation of financing through money laundering), in order to avoid the impression that “the mafia gives work, the State lays off”;

2. Draft resolution adopted by the committee on 4 April 2022.

8.6. avoiding public auctions of confiscated items as far as possible, as they may open the way to put pressure on potential buyers or to the purchase of the items by front men of the criminals themselves; in cases where such a sale or the takeover of a confiscated business is necessary, strictly verifying the reliability of the buyer or the person taking over the business;

8.7. ensuring civil society participation both in decision-making processes and in designing and managing projects for the social re-use of confiscated assets;

8.8. putting in place appropriate safeguards to avoid possible conflicts of interest and ensure transparency and accountability for the use of confiscated assets at the same level as for the management of other public resources.

8.9. reporting at regular intervals to parliament by the competent authorities;

8.10. regular updating of legislation and administrative practice to counter avoidance strategies used by mafia-type criminal groups.

9. The Assembly invites all member and observer States of the Council of Europe and States whose parliaments enjoy observer or partner for democracy status to the Assembly to:

9.1. introduce, or further promote, the possibility of socially re-using confiscated illegal assets;

9.2. take due account in the preparation of the relevant texts of the best practices identified in various member States above mentioned;

9.3. as a requested State having confiscated illegal assets coming from a foreign requesting State, share the funds in an equitable manner, taking into account the principle of social re-use in the requesting State, but also the resources used to confiscate the assets, and the risk of any further misappropriation of the funds in the requesting State;

9.4. as a State requesting the return of funds seized by a requested State, provide the latter with precise assurances as to the social re-use of the returned funds;

9.5. make foreign bribery a criminal offence if it is not already and provide in the relevant texts for the possibility of using any fines incurred for social re-use projects in the victim countries in accordance with the same principles as those applicable to confiscated criminal assets.

9.6. concerning the assets of Russian oligarchs subject to targeted sanctions for their responsibilities in the war of aggression launched against Ukraine by the Russian Federation:

9.6.1. identify and freeze as many of these assets as possible, without delay;

9.6.2. provide for the use of suitable assets, in particular houses and apartments, for the reception of Ukrainian refugees;

9.6.3. reflect on the final usage that could be made of these assets once they will be confiscated definitively, taking into account three elements: 1) these assets were stolen from the Russian people and should be returned to them; 2) as long as the current regime is in place, the risk of renewed misappropriation of these assets is high; 3) the Russian Federation will be bound to compensate Ukraine for the damage caused by its war of aggression; this would open the way for using these assets for partly offsetting the financial debt of the Russian Federation vis-à-vis Ukraine.

B. Draft recommendation[3]

1. The Parliamentary Assembly refers to its Resolution... (2022) and reaffirms its full and wholehearted support for fighting organised crime and corruption, including through the systematic confiscation of assets of illegal origin.

2. It refers to its previous work aimed at facilitating the confiscation of illegal assets by authorising their confiscation without prior conviction and by reversing the burden of proof, with adequate safeguards (Resolution 2218 (2018)), as well as by strengthening financial intelligence units and intensifying international co-operation (Resolution 2279 (2019) and Resolution 2365 (2021)).

3. It also recalls the important work accomplished in this sense by the Group of States against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and stresses the importance of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) and of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198).

4. As a follow-up to this work, the Assembly invites the Committee of Ministers to consider preparing a recommendation to member States aimed at promoting the social re-use of confiscated illegal assets.

5. It considers that having a recommendation based on an in-depth study of the best practices already put in place by several member States would send a powerful message to the communities affected by criminal and corrupt practices that crime does not pay and that the rule of law is capable of defending them by using those ill-gotten gains to fight crime and repair the damage it does.

3. Draft recommendation unanimously adopted by the committee on 4 April 2022.

C. Explanatory memorandum by Mr André Vallini, rapporteur

1. Introduction

1.1. Previous work by the Assembly

1. In Resolution 2218 (2018), "Fighting organised crime by facilitating the confiscation of illegal assets", the Parliamentary Assembly invited all member States to facilitate the confiscation of criminal assets by allowing for non-conviction-based confiscation and by reversing the burden of proof with regard to the illegal origin of assets, while at the same time establishing appropriate safeguards.

2. In Resolution 2279 (2019), "Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering", the Assembly called attention to the enormous amounts of illicit funds laundered using various arrangements.

3. Lastly, in Resolution 2365 (2021), "Urgent need to strengthen financial intelligence units – Sharper tools needed to improve confiscation of illegal assets", the Assembly proposed practical measures to strengthen the bodies set up to identify, seize and confiscate as many stolen assets as possible.

4. The authors of a motion for a resolution on "Follow-up to the Azerbaijani Laundromat investigation" proposed that "the profit that Danske Bank has made by being an instrument in the Laundromat must be channelled to Azerbaijani civil society with the aim to address corruption, promote human rights and democracy in Azerbaijan".

1.2. Subject and aims of the current report

5. To avoid duplication with the previous adopted resolutions and giving the impression that only one country is affected by problems of grand corruption and money laundering, the committee did not appoint a rapporteur for the motion referred to above, which had initially been referred to it for report. Instead, it called the Bureau to ask it to prepare a report on the more general question in the above-mentioned reports by Mart van de Ven (Netherlands, ALDE) and Sunna Ævarsdóttir (Iceland, SOC) which had not yet been answered. The new motion for a resolution,[4] tabled by the committee itself, entitled "How to put confiscated criminal assets to good use?" was referred to the committee for report. The committee appointed me as rapporteur at its meeting on 28-29 May 2019.

6. As Mr van de Ven pointed out in the explanatory memorandum of Resolution 2218 (2018), the enormous profits made from corruption and other criminal practices threaten our democracy and the social contract on which our societies are based, under which the people pay taxes and contributions; in return the State provides security and social protection. The power bestowed on criminals by the colossal sums they amass, which are then re-injected into the economy through various laundering techniques, undermines the ordinary functioning of our democracies and corrupts entire sectors of our economies.

7. The first step in breaking the criminal cycle is to dismantle criminal practices by confiscating criminal assets, thus removing the enormous financial power of criminal organisations, which enables them to corrupt law enforcement bodies, the judiciary and even politics. In view of the fact that in some societies, criminal practices have been seeping into the system for decades, there is an urgent need to "restore social justice".[5]

8. Secondly, the social contract broken by the criminals must be re-established using confiscated criminal assets to compensate victims and rebuild communities destroyed by organised crime and corruption.

9. More specifically, the process of recovering criminal assets can be divided into four phases:[6]

– The pre-investigative or pre-information-gathering stage, during which the investigator verifies the source of the information that prompted the investigation and determines its authenticity;

4. Document 14841.
5. See Center for the Study of Democracy (CSD). CSD Brief No 33: "Management and Disposal of Confiscated Criminal Assets", Sofia, 2012.
6. See International Centre for Asset Recovery (ICAR), "Tracing Stolen Assets: a practitioner's Handbook", Basel, 2009.

– The actual investigative phase, in which the proceeds of crime located and identified during the pre-investigative phase and evidence in respect of ownership are collated as part of more formal processes (such as financial investigations to obtain and analyse bank records); the success of the first two phases, and thus the volume of seizures, depends on the effectiveness of "financial intelligence units", the strengthening of which was addressed in Resolution 2365 (2021);

– The judicial phase, during which the decision on confiscation is finalised, if necessary following adversarial proceedings in which accused persons or defendants are required to prove that they acquired the assets lawfully. This phase may be made much more effective by adopting the principle of reversing the burden of proof regarding the legality of such assets, as the Assembly recommended in Resolution 2218 (2018);

– The disposal phase, when the confiscated assets are disposed of by the State in accordance with the law (for example, to be re-used for something of benefit to society).

10. It is this last phase, the so-called disposal phase, that is the subject of this report. The initial phases – the identification and confiscation of illegal assets and the facilitation of this through the reversal of the burden of proof and more efficient international co-operation – are covered by the above-mentioned reports.

11. My aim is to promote the most "socially beneficial" possible use of confiscated criminal assets in all the Council of Europe member States. It is crucial to show society that the States are intervening to restore justice and remove the negative role models that organised crime groups and corrupt individuals may present. It is also necessary to show that confiscated assets are returned to those who have been directly harmed by such anti-social behaviour, namely the direct and indirect victims who have been identified, as well as society as a whole. The social re-use of confiscated assets encourages favourable attitudes towards strategies to tackle organised crime. It empowers communities that have been affected by serious and organised crime to be better equipped to prevent and tackle such crimes at the local level. Other positive effects include raising awareness of preventing and combating serious and organised crime within civil society, enabling it to become self-driven and more participatory in these matters.[7]

12. To better understand the issue at stake, it is important to clarify what is meant by "social re-use". In the strictest sense, social re-use demands that the proceeds of crime are openly given back to society. Social re-use is therefore about disseminating an important cultural message to the public, promoting the so-called "social fight" against organised crime.[8]

13. In this report, I will begin by summarising the work already carried out to this effect in the international community which has been developing mechanisms intended to facilitate the confiscation of illegal assets and their use for socially beneficial purposes for some years. The United Nations Convention against Corruption (UNCAC) of 2003, in particular, includes a chapter dealing with asset recovery. It states that "the return of assets […] is a fundamental principle of this Convention". The year 2007 saw the launch of the Stolen Asset Recovery Initiative (StAR), a partnership between the World Bank and the United Nations Office on Drugs and Crime (UNODC) to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. In December 2017, the United Kingdom and the United States, with the support of StAR, co-hosted a Global Forum on Asset Recovery (GFAR). The GFAR adopted "Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases".[9] The Washington Forum dealt with the recovery of stolen assets on a world scale. The principles adopted at the global level highlight common challenges in the recovery of illegal assets both within the Council of Europe member States and in their relations with one another.

14. On the basis of the contributions made by experts at our hearing in January 2022,[10] the analysis of the replies to the questionnaire sent to parliamentary documentation and research services via the European Centre for Parliamentary Research and Documentation (ECPRD),[11] and the experience of Italy, which I was fortunate enough to study during my fact-finding visit to Rome in March 2022, I shall make specific proposals to ensure that confiscated criminal assets are put to the best possible use in repairing at least some of the

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7. See Basel Institute on Governance, "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", 2012.
8. See CSD, "Disposal of Confiscated Assets in the EU Member States: Laws and Practices", Sofia, 2014, p. 34.
9. GFAR, "Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases", Washington DC, 2017.
10. Ms Gretta Fenner, Basel Institute on Governance, Director of ICAR (International Centre for Asset Recovery), for further information: https://www.baselgovernance.org/about-us/people/gretta-fenner.

Mr Fabrice Rizzoli, author of "La mafia de A à Z" ("An A to Z of the Mafia"), co-founder of Crim'HALT and advocate of civil society participation in the fight against organised crime, www.mafias.fr/mafias-le-blog/(in French only).

damage caused to society by organised crime and corruption. I will begin by reviewing the existing mechanisms in this area and the different approaches which are already used in some Council of Europe member States. I will then go over the principles governing the return of stolen assets at the international level and end with some conclusions and recommendations which have been encapsulated in the draft resolution and recommendation.

2. Current international regulations and how to improve them

15. Among the legal instruments currently in place is a Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, Warsaw Convention) and several legal instruments of the European Union.[12] The UNCAC, which came into force in 2005, is an important instrument at world level.[13] All these multilateral instruments are intended to harmonise the confiscation laws of their respective member States, to make for the mutual recognition of freezing and confiscation decisions and to facilitate the exchange of information between the Asset Recovery Offices of the States Parties.

2.1. Council of Europe

16. The Warsaw Convention, which came into force on 1 May 2008, is the first international treaty covering the prevention and control of money laundering and the financing of terrorism.[14]

17. The Warsaw Convention is intended to modernise and update the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141). The text addresses the fact that quick access to financial information or information on the assets of criminal organisations including terrorist groups is a key to successful preventive and repressive measures. The aim of the Warsaw Convention is to improve co-operation and assistance in investigations between States Parties and to facilitate provisional or interim measures.[15]

18. The Warsaw Convention raises the question of compensation for victims for the first time.[16] Priority was given to restoring confiscated proceeds to the requesting State Party so that it could compensate victims or restore these proceeds or property to the legitimate owner.[17] Besides the main consideration behind establishing the principle that illegal assets should be recovered – namely depriving criminal organisations of financial resources – the need to compensate the victims of crime is now taken into account.

19. However, Article 25, paragraph 2, of the Warsaw Convention merely provides that State Parties must give “priority consideration” to returning confiscated property to victims and does not therefore make it an absolute requirement for victims to be compensated. Nor does the Warsaw Convention mention the possibility of social re-use of confiscated assets, beyond compensating direct victims.

20. A new Council of Europe initiative could be useful therefore to promote compensation for victims and social re-use, thus paving the way for binding international guidelines on the social re-use of confiscated assets.

2.2. European Union

21. In 2018, the European Parliament and the Council adopted a new regulation on the mutual recognition of freezing orders and confiscation orders (Regulation (EU) 2018/1805). The regulation replaces the provisions of Framework Decision 2003/577/JHA with regard to the freezing of assets and Framework Decision 2006/783/JHA from 19 December 2020 onwards.

Ms Barbara Vettori, researcher at the Catholic University of Milan and co-author of “Disposal of confiscated assets in the EU Member States: laws and practices”; for further information: https://docenti.unicatt.it/ppd2/en/#/en/docenti/17086/barbara-vettori/profilo (in Italian only).

11. See the summary of replies to the questionnaire in the Appendix.

12. For more information, see: https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/types-judicial-cooperation/confiscation-and-freezing-assets_en.

13. United Nations Convention against Corruption (UNCAC).

14. See the summary of Convention No. 198, www.coe.int/en/web/conventions/full-list/-/conventions/treaty/198.

15. For example, Articles 2 and 15.

16. Article 25 paragraph 2.

17. Explanatory Report to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, paragraph 194.

22. Paragraph 47 of the preamble to the new Regulation states that "frozen property and confiscated property could be earmarked, as a matter of priority, for law enforcement and organised crime prevention projects and for other projects of public interest and social utility".

23. Article 30, paragraph 6(d) of this Regulation also proposes that "the property may be used for public interest or social purposes in the executing State in accordance with its law, subject to the consent of the issuing State".

24. The wording of Regulation (EU) 2018/1805 does not differ substantially from that of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. This instrument provides that "Member States shall consider taking measures allowing confiscated property to be used for public interest or social purposes".[18]

25. Although the social re-use of confiscated assets has now been raised, it is still only one of a number of options. The EU's legal framework does not set compulsory minimum standards for the disposal of confiscated assets in the Member States' national jurisdictions.

26. An in-depth study on the re-use of confiscated assets for social purposes was commissioned and published by the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament in 2012. The abstract of this study points out "that at the EU level only limited attention has been given to the final destination of confiscated assets and that within member States using confiscated assets for social purposes is not a widely established practice".[19]

27. The authors of this study make the following recommendations:[20]

– a Directive aiming at the establishment of coherent and transparent procedures in the member States, requiring an option for socially re-using confiscated criminal assets and civil society being able to make suggestions as to specific projects of social relevance;

– the creation of a European Asset Recovery Database accumulating statistics on how confiscated assets were used on the national level;

– the creation of a European Stolen Asset Recovery Fund;

– setting up a European Asset Recovery Office.

28. Another major study financed by the EU entitled "RECAST – RE-use of Confiscated Assets for Social Purposes: towards common EU standards" distinguishes the social re-use of confiscated assets from the traditional process of transferring confiscated assets to the State budget. A report forming part of this study[21] showed that EU member States have very different mechanisms for making good use of confiscated criminal assets.

29. According to this study, there are currently two models for the social re-use of property confiscated in the European Union: firstly, an indirect or traditional approach, in which the confiscated proceeds are transferred to a State budget or a victim compensation fund to be used later. Secondly, a direct re-use approach, which implies that once the assets become State property, funds are directly allocated to social or institutional re-use.

30. When confiscated assets are merged into the State budget, they are of course used for public purposes, but the public cannot make the link between their public re-use and the criminal origin of the confiscated assets. The thing that distinguishes social re-use of confiscated assets from their traditional transfer to the State budget is the visibility of confiscated criminal assets for the citizens that benefit from them and for society as a whole.[22] The importance of this visibility was also stressed by all of the experts at our hearing in January 2022.

31. This EU study also presents the various institutional approaches in the member States, identifying three models: a centralised approach with specialised central institutions, a centralised approach with non-specialised institutions and a decentralised approach. The study, co-authored by one of the experts at our

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18. Directive 2014/42/EU, Article 10, paragraph 3.
19. See Basel Institute on Governance, "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", 2012, op. cit., p. 1.
20. Ibid. pages 54-55.
21. See CSD, "Disposal of Confiscated Assets in the EU Member States: Laws and Practices", 2014, op. cit.
22. Ibid. page 33.

hearing, Ms Vettori, recommends adopting a centralised approach with a specialised institution for the management of confiscated assets and their social re-use. The study's other recommendations to Member States include ensuring civil society participation, both in the decision-making process regarding the social re-use of confiscated assets and as beneficiaries of the assets in question.

2.3. The United Nations Convention against Corruption and the StAR Initiative

32. The UNCAC introduced a new framework to facilitate the search, freezing, seizure, confiscation and return of assets stolen by means of corruption and hidden in foreign jurisdictions. The confiscation of the proceeds of criminal activities is regarded as a vital tool in the fight against criminal organisations.

33. The UNCAC is the most comprehensive instrument for international co-operation in the recovery of stolen assets. It includes a specific chapter (Chapter V) on asset recovery, whose aim is to return property to its legitimate owners, including countries cheated by their own corrupt leaders. Article 51 of the Convention stipulates that "the return of assets pursuant to this chapter is a fundamental principle of this Convention" and Article 57 states explicitly that States Parties must give priority consideration to "returning such property to its prior legitimate owners or compensating the victims of the crime".

34. Although this convention was regarded as a major step in the right direction, it still does not make express reference to the subsequent use of confiscated funds. At no point, in fact, does it mention the re-use of confiscated criminal assets for social or community projects.

35. The UNODC and the World Bank have launched both the Stolen Asset Recovery Initiative or StAR Initiative and other measures relating to the confiscation and recovery of assets. The StAR Initiative supports international efforts to put an end to tax havens for the proceeds of corruption and offers platforms for dialogue and co-operation. Accordingly, it facilitates contacts between the various authorities involved in illegal asset recovery.

36. The StAR initiative works with world organisations, particularly the Conference of States Parties to the UNCAC, the G8, the G20 and the Financial Action Task Force (FATF), to win over decision makers and liaise with them.

37. The role of civil society in the process of illegal asset recovery was discussed in depth at the GFAR. The principles adopted at this forum follow on from the work of the UNODC and the appeal launched in the Addis Ababa Action Agenda (AAAA) for the international community to devise good practices in the area of confiscated illegal asset recovery.

38. The GFAR principles not only point to the need for international co-operation on transfrontier illegal asset recovery,[23] but also place particular emphasis on transparency and accountability in the return and disposition of recovered assets.[24] Information on the transfer and administration of returned assets should be made public and made available to the companies concerned. To ensure that criminals do not benefit any further from their ill-gotten gains, it is important to establish clearly who will be the beneficiaries of the recovery process.[25]

39. Lastly, and very importantly, the GFAR principles talk of the inclusion of non-government stakeholders. Consequently, "civil society, non-governmental organizations and community-based organizations should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied".[26] It is also specified that this inclusion must be provided for and permitted by law, which is only the case in some Council of Europe member States, as highlighted above.

3. Examples of best practices in re-using confiscated assets in the Council of Europe member States

40. A majority of the EU member States covered by the two studies outlined above (paragraphs 21-31) have not, or not yet, adopted rules to enable or promote the social re-use of confiscated criminal assets. The replies to my ECPRD questionnaire show that this is also true for most of the Council of Europe member

23. GFAR, "Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases", Washington DC, 2017, Principles 1, 2, 3 and 8.
24. Ibid., GFAR Principle 4.
25. Ibid., GFAR Principle 5.
26. Ibid., GFAR Principle 6.

countries that are not part of the European Union. Nevertheless, some European countries have well-established systems to re-use confiscated assets for social purposes, which may be linked to their long history of combating organised crime.

3.1. Italy

41. In Italy, various projects linked to the good use of confiscated assets (*beni confiscati*) have already been set up.[27] The idea of social re-use of confiscated assets arose in the mid-1990s, when Law No. 109/1996 (LEGGE 7 marzo 1996, n. 109) allowed the use of assets confiscated from the mafia for social purposes. This legislation has made it possible, for example, to transfer confiscated property belonging to a mafioso or obtained by corruption to a social co-operative.[28]

42. The body responsible for the allocation of confiscated assets is the National Agency for the Administration and Allocation of Assets Seized and Confiscated from Organised Crime (*Agenzia Nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità*, ANBSC), as set up by Decree-Law No. 4 of 4 February 2010.[29] During my information visit, I have had an in-depth discussion with its director, the prefect Bruno Corda. A good number of the "best practices" recommended in the draft resolution are the result of this meeting.

43. Fifteen years after the adoption of Law No. 109/1996, the effects are tangible. Houses formerly owned by the mafia have been transformed into police stations, cultural or apprenticeship centres, drug user support centres or accommodation centres for refugees and migrants.[30] According to figures from the ANBSC (as of 22 March 2022), 33 098 buildings have been confiscated, of which 13 479 are still managed by the ANBSC and 19 616 have been permanently assigned (including 8% of the State and 92% to the regions and local authorities).

44. During my information visit to Rome, I had the opportunity to visit a particularly impressive project, which is part of the "Talento & Tenacia" initiative of the region of Lazio and the city of Rome – a finalist in a competition organised by the European Union. An entire neighbourhood had been "colonized" by a powerful mafia clan. The State succeeded in reconquering this territory by knocking down a gigantic villa (built without permit) and replacing it by a "parc of legality" complete with sports fields, library etc. Other villas in this neighbourhood which belonged to the same clan were transformed into a reception centre for young people in difficulty (including young unaccompanied migrants), a social centre for autistic children and in premises for different social and sports clubs. I was able to speak freely with the association activists and the young people concerned, who obviously enjoyed this beautiful living space. Most importantly, the inhabitants of the neighbourhood were not, or not any longer, afraid of the clan's vengeance. The State has visibly earned the trust of the local population by making a long-term commitment.

45. Another famous example is the Libera Terra project,[31] which was set up to promote development in historically "problematic" regions. This organisation fosters the social and productive rehabilitation of property confiscated from mafia groups, particularly agricultural land. In this way, Libera Terra promotes respect for the environment and the dignity of its workers and for organic farming.

46. Another noteworthy example is the "Café de Paris" in Rome, which used to belong to the crime families of the Calabrian 'Ndrangheta and was confiscated in 2008. The café opened up again in November 2011 and is managed now by the ANBSC. It sells agricultural produce farmed by the organisation Libera Terra referred to above.

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27. Some websites give a very good overview of these projects, but also of other statistics and figures; unfortunately most information is available only in Italian. For more information, please consult:
www.confiscatibene.it/openregio/immobilidestinati.
www.libera.it/.
www.liberaterra.it/it/.
www.benisequestraticonfiscati.it/statistiche_4.html.

28. See Niccolò Mignemi, Fabrice Rizzoli, FLARE France, "Social redistribution of confiscated mafia assets in Italy: from mafia informal to civil formal", 2014.

29. Transformed into law, with amendments, by Law No. 50 of 31 March 2010 and now implemented by Legislative Decree No. 159 of 6 September 2011 (the Anti-Mafia Code).

30. See Niccolò Mignemi, Fabrice Rizzoli, FLARE France, op.cit.

31. See www.ess-europe.eu/fr/bonnepratique/libera-terra-mediterraneo (in French only).

47. Such direct use of confiscated mafia items was considered preferable to selling them at public auction, which carries the risk that the assets will end up being bought back by the criminals themselves or by front men and women. In addition, many potential buyers would not dare to defy the power of a crime syndicate by buying "their" property.[32]

48. During my fact-finding visit to Rome, I also met key persons from the Ministry of Justice[33] who explained to me the Italian system of confiscation, which involves several stages, and of the social reuse of confiscated assets. Legislation and administrative practice need to be adapted regularly to deal with changing criminal activities and to take advantage of experience gained over time. The percentage of cases in which the seized property must be returned to the person concerned at the end of the legal proceedings is very low (2-3%), hence the interest of making good use of the confiscated property from the start, even if in very rare cases the necessary investments are lost or the person concerned must be compensated. New support measures for local authorities are being prepared, as well as improvements to the system of temporary administration of confiscated businesses designed to help them overcome the "legality shock" (see para. 67 below). A key case in point is that of the port of Ostia, subject to a seizure of a volume of more than € 250 million, which must of course continue to operate.

3.2. Spain

49. The Spanish system provides for the social re-use of confiscated assets only if they derive from offences linked to drug trafficking.[34] The Confiscated Assets Fund (*Fondo de bienes decomisados por tráfico ilícito de drogas y otros delitos relacionados*[35]) was set up by Law No. 17/2003. The law provides for the sale of assets deriving from drug trafficking and the laundering of the proceeds of such trafficking and the allocation of the proceeds of such sales to a public fund. The fund then divides up the money between the beneficiaries. Under Article 3 of the Law, the beneficiaries of the fund may be the law enforcement authorities and the prosecution services tasked with combating drug trafficking. Among the other beneficiaries are NGOs and other non-profit-making organisations working in the area of substance abuse, regional and local authorities and governments, the government delegation for the National Anti-Drug Plan or international organisations and institutions.[36]

3.3. United Kingdom/Scotland

50. The Scottish Government has set up a unique programme, which takes funds recovered through the Proceeds of Crime Act 2002 and invests them in community programmes, facilities and activities for young people.[37]

51. Since 2008, £110 million have been committed to community initiatives run by partner organisations in Scotland's 32 local authorities. Organisations which make a funding request must have proved that they can offer activities and opportunities to the young people, families and communities most affected by crime.[38]

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32. See Niccolò Mignemi, Fabrice Rizzoli, FLARE France, op.cit.
33. Raffaele Piccirillo, Capo di Gabinetto della Ministra della Giustizia;
Nicola Selvaggi, Vice-Capo di Gabinetto della Ministra della Giustizia;
Francesco Menditto, Procuratore della Repubblica di Tivoli e membro del Consiglio Direttivo dell'Agenzia Nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata;
Margherita Cardona Albini, Vice-Capo del Dipartimento per gli Affari di Giustizia, Ministero della Giustizia;
Vincenzo Picciotti, Magistrato addetto all'Ufficio Legislativo, Ministero della Giustizia;
Isabella Confortini, Magistrato addetto alla Direzione Generale Affari Interni del Dipartimento per gli Affari di Giustizia, Ministero della Giustizia;
Cristina Lucchini, Magistrato addetto alla Direzione Generale Affari Internazionali del Dipartimento per gli Affari di Giustizia, Ministero della Giustizia;
Federica Fiorillo e Antonio Pastore, Magistrati addetti al Servizio Affari Internazionali del Gabinetto della Ministra della Giustizia.
34. See Basel Institute on Governance, "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", 2012, op. cit., p. 41.
35. For more information see www.pnsd.mscbs.gob.es/en/delegacionGobiernoPNSD/fondoBienesDecomisados/home.htm (in Spanish only).
36. See CSD, "Disposal of Confiscated Assets in the EU Member States: Laws and Practices", op. cit., p.100.
37. Cashback for Communities, see the Scottish Government website www2.gov.scot/cashback.
38. See https://cashbackforcommunities.org/about/.

3.4. France

52. A law of 2010 (Law No. 2010-768 of 9 July 2010) is intended to facilitate the seizure and confiscation of the proceeds of crime. To improve the management of confiscated assets, this law also set up the Agency for the Management and Collection of Seized and Confiscated Assets (AGRASC).

53. AGRASC sees both to the good management of confiscated assets and, once the final decision has been taken, their transfer to the general State budget or, in the case of a conviction for a drug-related offence, to a special fund managed by the Inter-Ministerial Task Force on Drug Use and Addiction (MILDECA). MILDECA was set up in 1982 as a specialised body tasked with co-ordinating ministerial work to combat drug addiction.[39] It manages a Support Fund, set up in 1995.[40] The fund is financed by criminal assets confiscated in drug cases and is allocated to the anti-drug trafficking services and prevention activities. The Fund's receipts are allocated to the Ministry of the Interior, the Ministry of Justice, the Ministry of Finance and the Ministry of Social Affairs.[41]

54. In 2016, an amendment was made to the Law on Equality and Citizenship (Law No. 2017-86 of 27 January 2017) whose aim was for confiscated immovable property to be used for public-interest or social purposes.[42] The amendment was declared unconstitutional and set aside by Constitutional Court decision No. 2016-745 of 26 January 2017. The Constitutional Court's reasoning that this provision was "manifestly without any prescriptive effect", does not, however, preclude the introduction of a new law with a more precisely defined operational scope.

55. As we saw above, current French legislation includes some provisions which are moving towards greater public participation in illegal asset recovery. As it stands, however, French law does not yet provide for direct social re-use of confiscated assets.

4. Returning confiscated assets at international level

56. As we have seen, the existing international regulations on standards for returning confiscated assets to the States from which they were stolen are still quite vague and have little if any binding force (see paragraph 34 above). The reason why States Parties have not been able to agree on more strongly worded, clearer and binding texts is that the debate hinges on two sensitive issues: national sovereignty and corruption, including in politics.

57. Requesting States – the States seeking to recover illegal assets – rightly argue that it is their money that has been stolen and that they therefore have a sovereign right to dispose of it as they see fit. The requested States, on the other hand, say that safeguards must be put in place to prevent the money from being stolen again – particularly in countries with notoriously high levels of corruption, or where the funds in question have been stolen with the involvement of those still in power or close to it. The requesting States believe that the requested States are as much to blame for the original theft, as their financial centres harboured the stolen assets. In turn, the requested States argue that unless there is proof that the recovered assets will not be stolen again, it is difficult for them to justify the resources that must be allocated to their own criminal proceedings.

58. Both positions are understandable, but in the interests of the common goal – ensuring the greatest possible confiscation of illegal assets and their use to repair the damage caused by organised crime and grand corruption – there must be agreement that asset recovery is a shared responsibility. It is now widely accepted that countries that enable the theft of public funds and those that enable these funds to be hidden in their financial systems share responsibility for corruption. We have also made headway in recognising that the recovery of stolen assets is therefore a shared responsibility. This has not yet resulted, however, in the recognition that the countries on both sides of the equation also have a shared interest and responsibility to ensure that stolen assets are used for socially beneficial purposes.

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39. See Decree No. 82-10 of 8 January 1982 setting up the Interministerial Committee to Combat Drug Addiction and the Permanent Task Force to Combat Drug Addiction.
40. See Decree No. 95-322 of 17 March 1995 authorising the assimilation by means of a support fund of the proceeds of the disposal of property confiscated as part of the fight against drugs.
41. See the presentation of MILDECA, www.drogues.gouv.fr/page-simple/mildeca-interministerial-mission-combating-drugs-and-addictive-behaviours.
42. Article 15 of the draft Law on Equality and Citizenship, 17 June 2016, www.assemblee-nationale.fr/14/ta-commission/r3851-a0.asp (in French only).

59. We must also recognise that the purpose of recovering and socially re-using illegal assets is to deter people from committing corruption in future and to break the corruption networks which undermine our democracies and sustainable and equitable growth and threaten peace and stability.

60. How, then, can this collective responsibility be put into practice in terms of sharing and using confiscated illegal assets? Many countries choose to plough the money into their treasury. This is a simple approach, but it only works if recipient governments are now better able and willing to protect public funds from theft, which does not always seem to be the case. This practice also overlooks a second potential benefit of recovering illegal assets, the symbolic but powerful value of using them to prevent crime, break up criminal networks and repair the damage caused by corruption. Showcasing the use of recovered assets for such purposes sends a message to the public that governments are serious about tackling corruption and have successfully recovered money. Social use of this kind makes people aware of what a difference it makes when public funds are used for their benefit rather than stolen, making them less likely to accept corruption. I will make some practical suggestions on how to do this in the next and last section.

5. Conclusions and proposals

61. The idea of using confiscated criminal assets for civil society and for social purposes is not entirely new and has already been taken up by State and non-State partners. However, apart from certain initiatives that are well thought out but limited in scope, the use of ill-gotten gains for the common good is not a widespread practice in the Council of Europe member States. In truth, only limited attention has been paid to the "final destination" that confiscated assets should have.[43] This is supported not only by the extensive but decade-old studies at EU level (see above paragraphs 21-31), but also by the results of the survey I conducted at the end of 2021 via the ECPRD (see appendix).

62. Every successful recovery of stolen assets not only represents a victory in the fight against corruption and organised crime but also shows that there is no impunity for those who enrich themselves at society's expense.[44] However, for society or, better still, for the sectors most devastated by crime to be able to take full advantage of the recovery of criminal assets, we need clear criteria and guidelines. Just as the process of asset recovery must be efficient and transparent, an appropriate legal framework must also be established for the re-use of confiscated assets for social purposes. Both the experts at the hearing in January 2022 and those I spoke to during my fact-finding visit to Italy made some interesting suggestions.

63. With regard to the underlying objective of asset recovery as a means of combating organised crime and corruption, the use of confiscated assets for related purposes should be considered. Our expert Ms Fenner, from the Basel Institute on Governance, provided the example of Peru, where confiscated funds had been used to strengthen the infrastructure of the country's criminal justice system for recovering illegal assets. In this way, States are able to self-finance the growth of their illegal asset recovery capacities, enabling far more stolen funds to be recovered in future thanks to a snowball effect.

64. The Italian examples of police re-using sports cars confiscated from the mafia and turning capos' luxury villas into care homes for overstressed police officers and their families fit into this symbolic pattern of highly visible poetic justice – the fruits of crime being put at the service of the police. Such direct re-use of State-confiscated assets also protects against the risk that, in the event of a sale, criminal groups will themselves buy back "their" assets and/or threaten reprisals against any other interested party daring to do so.

65. With regard to using asset recovery as a means of exposing and repairing the damage done by corruption, the money should be ploughed back into the place it was stolen from – namely into the economic sector or region affected by that crime. Compensation should be paid to those who were directly affected wherever possible; but identifying individual victims can be costly and time-consuming. Widening the circle of impact to include, for example, communities, regions and economic sectors, may be enough to fulfil the aim of providing symbolic and visible redress.

66. An important and particularly difficult issue is the seizure of "mafia" businesses. On the one hand, such companies distort competition to the detriment of legal companies by avoiding the payment of taxes and social security contributions for their workers and by subsidizing their offer prices through the laundering of funds of criminal origin (drugs, usurious loans etc.). This costs jobs in the legal sector, in addition to

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43. See Basel Institute on Governance, "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", op. cit., p. 54.
44. Brumby, James A.; Fozzard, Adrian; Wetzel, Deborah L., "Stolen asset recovery: management of returned assets – policy considerations", Washington DC, 2009.

generating profits for organized crime. On the other hand, authorities who shut down mafia businesses must overcome the popular perception that “the mafia provides jobs, the State ²fires”. The solution advocated in Italy is to do everything possible to help potentially viable confiscated businesses to overcome the “legality shock” caused by the loss of illicit advantages, in co-operation with employers’ associations, trade unions and banks. The objective is therefore to put these businesses in the position to function normally, with a view to subsequent takeover. The buyers must be persons whose reliability has been rigorously established, including by using the "anti-mafia" databases of the regional public prosecutor's offices, which are accessible also to the National agency for the administration of seized assets.

67. As I saw in Italy, good social re-use of confiscated assets requires a solid legal and institutional framework, ensuring a transparent process and fair and visible results. The legal framework and administrative practice must be updated regularly, as is the case in Italy, in order to counter the avoidance and adaptation strategies used by the criminal structures. It is useful to have civil society closely involved both in the decision-making process and in the reception and management of confiscated assets. It is therefore unfortunate that, according to the responses received via the ECPRD, NGOs are almost never involved in decision making and are seldom beneficiaries. The legal framework should also provide safeguards against conflicts of interest and abuse, such as the cases that have been reported in some US States.[45] To ensure democratic oversight, it is also important that parliament receives regular public reports detailing the criminal assets seized and the use made of them. I was impressed by the fact that in Italy the National Agency for the Administration of Seized Assets and the Ministry of Justice present reports to both chambers of parliament twice a year.

68. Italy’s experience appears to show that a centralised approach with a specialised central institution (such as the ANBSC) is more effective than a centralised approach with non-specialised institutions (for instance ministries and public prosecutor’s offices) or the decentralised approach based on specialised or non-specialised local and regional bodies that is taken by other countries which re-use confiscated assets for social purposes. A great deal of expertise and management skills are required for handling movable and immovable assets intended for direct re-use, as well as for selling or renting them either at market prices or at preferential conditions in duly justified cases. The expertise acquired within a specialised institution may then be made available to stakeholders at local level. Having a central body that decides how to distribute confiscated assets may also prevent conflicts of interest which may lead to the type of abuse reported in the United States. Lastly, central specialised institutions may also act as key contact points in cases involving the return of confiscated illegal assets at international level.

69. In terms of international co-operation in tackling grand corruption, foreign bribery convictions offer another interesting possibility. Many countries have made it a crime for domestic companies to commit bribery abroad. Courts fine them or order them to return ill-gotten gains, but this money is usually collected by the country in which the corrupt companies are based, although the bribery took place in a foreign country which suffered the resulting damage. I believe it would be fairer to share these funds with the countries which are victims and with civil society organisations involved in tackling corruption. The rationale behind this is the same as for the social re-use of confiscated assets: using dirty money to fight corruption.

70. This report, which has been in preparation for more than two years, has sadly gained in topicality following the war of aggression launched against Ukraine by the Russian Federation. On the one hand, oligarchs close to power have been hit with strong targeted sanctions, including the freezing of their assets in Western countries; on the other hand, Russian bombings and other acts of war in Ukraine have caused enormous damage, and triggered a wave of refugees unprecedented in Europe since the Second World War. It therefore seems logical to make use of frozen assets that lend themselves to it, in particular houses and apartments, to accommodate Ukrainian refugees. The next step would be the final confiscation of these assets. According to the logic of this report, these are indeed illicit assets, stolen by the oligarchs from the Russian people. They should therefore in principle be returned to the Russian people. But as we have seen above, the return of illicit assets seized abroad to their country of origin does not make sense when the “thieves” are still close to power because the risk of a new embezzlement of these funds is then high. At the same time, Russia's aggression has generated a large debt (also in financial terms) of Russia vis-à-vis Ukraine. The Russian Federation will have to compensate Ukraine for the enormous damage caused by the bombing of infrastructures and housing that continues to this day. A logical solution would therefore be to operate an “offsetting of claims” by paying the illicit assets confiscated from the oligarchs into the future fund for the reconstruction of Ukraine. I made a proposal to that effect in the draft resolution.

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45. See for example “The Police Seized My Money Now What Do I Do?” (assetforfeituredefender.com) – the website of a Texas law firm specialising in fighting abuse of asset forfeiture, which has some compelling examples.

Appendix – ECPRD questionnaire and summary of replies

Questions sent via the ECPRD

1. Are there regulations in your country (legislation or administrative or other measures) concerning the use of seized or confiscated illicit assets for the public good?

2. If so, to what extent may civil society organisations take part in decision making concerning the ultimate use of confiscated assets?

3. If there are regulations on this subject, please outline the main principles thereof (aims pursued, criteria and procedure for the selection of projects to which confiscated assets are allocated).

4. Is the social re-use of confiscated assets only possible in connection with the proceeds of certain offences (for example, drug trafficking) or for all crimes?

Summary of the replies

In short, most of the 31 countries which replied to the questionnaire[46] reported that they had enacted some relevant legislation. In most cases, this dealt with the confiscation process, but some laws had detailed and well-thought-out provisions on the ultimate use of confiscated assets. Interesting features included setting up specific bodies to administer and liquidate confiscated assets (in France, Portugal, Spain, Slovenia, Romania, Moldova and the United Kingdom) and using assets for "restorative justice" purposes (in Spain, for assets derived from drug crimes; in Latvia, for economic and financial crimes; and in the United Kingdom and France, both without any restrictions related to the type of crime). Some countries (for instance Belgium, Greece, Montenegro and Romania) explicitly enable confiscated property (for instance cars, boats, etc.) and confiscated funds to be used by the police or other public bodies (for instance in the United Kingdom, through 'top slice funding', especially for projects that contribute towards improving criminal asset recovery capacities). In total, 13 countries said that confiscated assets could be made available to charities or other non-profit making organisations (Albania, Estonia, France, Georgia, Hungary, Republic of Moldova, Montenegro, Norway, Romania, Slovenia, Spain, Turkey, and the United Kingdom). Civil society representatives have a say in the allocation of confiscated assets only in two of these countries, however, namely Hungary (through the Charity Council set up by a decree which provides for the participation of the most important charities) and the United Kingdom (through the Police and Crime Commissioners) (although in Estonia, France, Georgia, Hungary, Latvia, Romania, Spain and the United Kingdom, and possibly in the Slovak Republic, they may be beneficiaries of such assets).

Outline of the replies by country

ECPRD replies to questionnaire on use of confiscated assets			
Country	**Specific legislation y/n**	**Civil society involvement**	**Summary of legislation**
Albania	yes	no	Confiscated property may be administered in the public interest or sold off. No specific rules on particular uses of confiscated assets.
Austria	yes	no	Confiscated (forfeited) assets go to the Republic of Austria, 20% being reserved for the Ministry of the Interior.
Belgium	yes	no	Confiscated property is mainly auctioned off for the benefit of the general budget; certain items (vehicles, IT equipment) can be made available for use by the police.
Croatia	no	no	Confiscated or otherwise forfeited property falls to the State.
Cyprus	no	no	Confiscated assets are destroyed (if illegal), returned to their rightful owner (if possible) and otherwise auctioned off for the benefit of the State.
Czech Republic	no	no	Confiscated or otherwise forfeited property falls to the State.

46. Italy did not respond to this survey, but the relevant information obtained on the Italian model during the fact-finding visit to Rome is presented, in more detail, in the explanatory memorandum.

ECPRD replies to questionnaire on use of confiscated assets			
Country	**Specific legislation y/n**	**Civil society involvement**	**Summary of legislation**
Denmark	no	no	Confiscated assets go to the Treasury, no specific rules exist.
Estonia	yes	No, but civil society groups may be beneficiaries	Confiscated assets go to the State treasury. Appropriate items can be made available for the benefit of the public, usually to State bodies but also to civil society groups, or auctioned off.
Finland	no	no	All confiscated criminal assets except for those needed to be returned to or otherwise compensate the victims go to the treasury, where they are used for general State expenditure as required by the constitutional rules on budgetary accountability.
France	yes	no	Confiscated assets (except those needed to pay the criminals' debts) are administered by a special body, l'Agence de gestion et de recouvrement des avoirs saisis et confisqués (AGRASC) and may be made available to associations and foundations recognised as acting for the public good.
Georgia	yes	no	Confiscated assets are used to compensate victims, the remainder is administered by the Ministry of Finance, which may allocate funds to local authorities or other organisations for social purposes.
Germany	yes	no	Confiscated physical items can be made available for public interest purposes; sums of money confiscated or the proceeds of the sale of confiscated goods are paid into the State's general budget.
Greece	yes	no	Certain confiscated physical objects can be made available to police, coast guard, fire department or prison administration.
Hungary	yes	Yes, a Charity Council set up by decree partakes in decision making	Hungarian law allows the use of certain categories of confiscated items for charitable purposes, with the participation of the Charity Council
Iceland	no	no	Confiscated assets fall to the State.
Latvia	yes	no, but civil society groups may be beneficiaries	Half of the proceeds of the sale of confiscated assets (up to 2 m€ p.a.) are allocated to a MinJ administered fund set up to support the fight against economic and financial crime and to support victims.
Lithuania	no	no	Confiscated goods are sold for the benefit of the treasury or destroyed.
Republic of Moldova	yes	no	Confiscated goods are sold for the benefit of the treasury or transferred to the local authorities; in certain cases, given free of charge to orphanages or other social welfare institutions. Illegal goods and tobacco products are destroyed in a controlled manner.
Montenegro	yes	no	Confiscated proceeds of crime become State property; goods can be sold off for the benefit of the treasury, failing that donated for charitable purposes or used by State bodies.
Netherlands	Not yet, but relevant proposals are under consideration	n/a	The new government intends to allow for non-conviction based confiscation; proposals to use confiscated criminal assets for the benefit of communities especially ravaged by crime are under discussion in parliament.

ECPRD replies to questionnaire on use of confiscated assets			
Country	**Specific legislation y/n**	**Civil society involvement**	**Summary of legislation**
Norway	yes	no	Confiscated proceeds of crime go to the State or to compensate the victims of crime; in exceptional cases, confiscated physical objects can be made available for public interest purposes (for instance break-in tools given to a vocational school).
Poland	no	no	Confiscated proceeds of crime go to the State budget; a “Justice Fund” for the benefit of crime victims and prisoners post-release exists which is fed, *inter alia*, by sums of money (fines? forfeited proceeds of crime?) fixed by the courts.
Portugal	yes, but not specifically on social use	no	Confiscated proceeds of crime go to the State budget, no provisions on use for social purposes.
Romania	yes	no	Confiscated immovable property can be transferred to public institutions and charities (in particular in the social field). Confiscated assets may also be sold off. The proceeds are shared out between different ministries for educational, social and other public purposes. Due to a lack of clear criteria and of follow-up procedures, allocation of confiscated assets free of charge occurs rarely in actual practice.
Slovak Republic	yes	no	If confiscated assets are considered redundant (if they are not useable for the fulfilment of official duties) they are offered for sale or for donation.
Slovenia	yes	no	Confiscated property may be sold off for the benefit of the State budget, if this is not feasible, it may be donated for charitable purposes. Confiscated illegal funds are paid into the State treasury.
Spain	yes	no, but NGOs may be beneficiaries	Confiscated assets may generally be sold off for the benefit of the State treasury. A special regime exists for drug-related crimes: related assets shall be used to fund drug rehabilitation or similar damage mitigation programmes, including by NGOs.
Sweden	no	no	Confiscated assets accrue to the State budget, if physical objects cannot be sold they are destroyed.
Switzerland	yes, at federal and (predominantly) cantonal level	no	Confiscated assets are distributed between the federal and cantonal levels, depending on the case, and disposed of freely by the beneficiaries.
Turkey	yes	Yes, the Turkish Red Crescent and the Federation of Animal Rights	Confiscated assets concerning most crimes fall to the State, in particular, confiscated weapons and ammunition to the security authorities. Assets confiscated at customs can be made available to the Turkish Red Crescent for social purposes or, in the case of confiscated smuggled animals, to the Federation of Animal Rights, to ensure their humane treatment.
United Kingdom	Yes, very specific and well-developed	Yes, at the level of regional police and crime commissioners (PCCs)	Confiscated assets and funds are used to compensate individual victims, including, when the victim is a foreign State (returns of confiscated funds made for instance to Macau, Chad and Nigeria); remaining funds are used for the public benefit under the Asset Recovery Incentivation Scheme (ARIS) for projects to further strengthen asset recovery (“top slice funding”), then to fund local schemes through PCCs (for instance Hertfordshire and Staffordshire for youth projects, South Yorkshire for victims of domestic violence, West Midlands “Active Citizens Fund”, City of London “Safer City Partnership Fund”. Scotland has its own “cash back for communities” scheme.