



EUROJUST STRATEGIC SEMINAR

Towards Greater Cooperation in Freezing and Confiscation of the Proceeds of Crime: a Practitioners Approach

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ANTONIO MURA

*Head of the Department for Justice Affairs
Italian Ministry of Justice*

Opening Session

- This Seminar comes when the semester of Italian Presidency of the Council of the European Union is reaching its end, with plenty of results in different sectors. Just to stick to criminal (or horizontal) matters: Eurojust, data protection, EPPO, Protection of Financial Interests of the EU, Presumption of innocence etc.
- Together with the concrete results achieved on the legal texts currently under negotiation, the Italian Presidency has given priority to advance also on other files, which at present have not yet been transformed into legislative proposals. In particular: legal training (Council Conclusions adopted in December) and aggression of assets of criminal activities.
- This latter is a long standing priority for Italy, which is reflected in the constant support provided to any initiative in this field, not only at EU level but also in all other international *fora*, such as the Council of Europe.

- When planning the work of our Presidency in this field, we have moved from 2 starting points:
 1. the declarations adopted by the Council and the European Parliament – in connection with the new Directive on confiscation – calling upon the European Commission to consider the possibility of submitting further proposals on this matter, in particular for what concerns mutual recognition by Member States of confiscation orders issued by another Member State, as well as on confiscation not directly linked to a conviction passed in criminal proceedings (“non-conviction based confiscation”);
 2. the new strategic guidelines in the JHA Sector adopted in June this year by the European Council, which have called, among the rest, “*to enhance mutual recognition of decisions and judgments in civil and criminal matters*”.
- Building on these solid programmatic bases, it seemed to us natural to devote our efforts to transforming them into concrete action. Therefore, taking into account the transition situation in the Parliament as well as in the Commission, we decided to move on by promoting a brainstorming among experts and practitioners.
- The conference on “*Mutual recognition of judicial decisions and confiscation 15 years after Tampere: an additional tool for depriving criminals of their illicit assets all over the Union*”, organised by the Italian Presidency of the Council of the EU in cooperation with the European Commission and the Italian Ministry of Justice, was held at the *International Institute of Higher Studies in Criminal Sciences (ISISC)*, Syracuse, Italy, on 22-23 September 2014.
- 15 years after the Tampere conclusions, more than 100 practitioners and experts from 28 Member States took part in the conference in order to assess the current situation in the area of mutual recognition of judicial decisions and confiscation of criminal assets.
- The Conference of Syracuse represented an important occasion to discuss the topic of confiscation of assets derived from criminal activities, as well as to combine two concurrent needs in a coherent framework (also in order to provide valuable feedback to the European Commission): the effectiveness of measures to contrast organized crime on the one hand, and the protection of fundamental rights on the other hand.

- The conclusions of the Conference were also brought to the attention of the Ministers of Justice, who held a lunch debate on this topic on the occasion of the JHA Council convened in Luxembourg on 10th October this year.
- In general, all participants in the seminar stressed the importance of having in place an efficient mechanism for dispossessing criminals of illicit proceeds of their activities, also in cross-border cases and in particular in the field of fight against serious and organized crime. It has been highlighted how depriving criminal organizations of their means of subsistence is the key element for an effective response to their crimes.
- Among the many issues addressed by the participants, I would like to highlight the following:
 - the need to assess in depth the challenges arising from the **implementation and practical application** of the existing legal framework concerning mutual recognition of confiscation orders;
 - the need to identify possible areas for improvement of the existing legal framework concerning **mutual recognition of confiscation orders** under Framework Decision 2006/783/JHA, in particular for what concerns the types of procedures which may result in confiscation (criminal, civil or administrative);
 - the need to provide for more detailed rules on the **procedural safeguards** which must assist the issuing of the confiscation orders, regardless of the type of procedure where this may take place;
 - concerning **non-conviction based confiscation**, the need to examine in further detail the various aspects that such confiscation takes in the legal traditions of Member States, identifying cases which may be the object of further consideration by the EU both from the point of view of **approximation** of substantial criminal and procedural rules, as well as from the point of view of ensuring, to the widest possible extent, mutual recognition of confiscation orders taken in these cases.
- The conclusions of the Siracusa Seminar are now in the hands of the new Commission for its consideration, in view of the future initiatives it could decide to undertake.
- The present Strategic Seminar is the most appropriate continuation and complement of the work started by the Italian Presidency in order to foster, also through the full implementation of existing legal instruments and the possible

adoption of new ones (with full respect of the fundamental rights of the persons involved), our common fight against serious crime, to deprive criminals of the proceeds of their activity and eventually put into practice the principle that “Crime does not pay”.