

NEWSLETTER n. 11

May 2019

FINAL CONFERENCE

UNIVERSITY OF FERRARA

On the 24th May, the last meeting of the Project ConfiscEU took place in Ferrara. The meeting was structured in two sessions, both chaired by Professor **Alessandro Bernardi**, who is the coordinator of the Project.

In the **first session**, after some preliminary discussions about the Project and the activities developed so far, the meeting was dedicated to the horizontal conclusions. In other words, confiscation-related issues were analysed from a comparative perspective, in order to underline differences and similarities between Member States and understand the level of homogeneity within the European scenario.

In the **second session**, some outstanding international and national experts have discussed important issues concerning confiscation. The aim of the meeting, in fact, was also that of training the judges, lawyers and public authorities attending the conference.





1st

Improving cooperation between EU Member States in confiscation procedures

In his presentation on *substantial aspects of criminal confiscation in Europe*, **Dan Morosan (University of Babes-Bolyai)** focused on the typologies of confiscation in the European scenario (criminal confiscation, extended confiscation, third-party confiscation, non-conviction based confiscation) from

different perspectives, such as their compulsoriness, whether they are founded on a proportionality test, as well as their limits. The conclusion is that despite many similarities there are several differences between these typologies of confiscation at the European level.

DAN MOROSAN



Here, the link to the *SLIDES*



WOUTER DE ZANGER

Wouter de Zanger (University of Utrecht) spoke about the *procedural aspects of criminal confiscation in Europe* with regard to the following procedural issues:

provisions regulating the role of the authorities involved in the procedures, standard of proofs, rights, guarantees and legal remedies available to the parties.



Here, the link to the *SLIDES*



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ARPE



In her presentation, **Vera Weyer (University of Bonn)** dealt with an **horizontal analysis on mutual recognition** in the field of confiscation. She focused on the following issues: time-limits, authorities involved, languages accepted in the mutual recognition procedures of freezing and confiscation,

ground for refusal (such as *ne bis in idem* or unanimities). As a conclusion, she pointed out that there are many aspects that must be modified, especially from a technical point of view, in order to improve mutual recognition and this might be the case with the new Regulation.

VERA WEYER



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THIBAUT SLINGENEYER

Thibaut Slingeneyer (University of Brussels) analysed the **management of confiscated and frozen assets in Europe**. Firstly, he focused on institutional aspects, pointing out the plurality of actors involved in the process. Secondly, he analysed the available disposal methods, such as

conservation, sale and social reuse. Thirdly and finally, he spent some words on the management in the context of mutual confiscation, underlying the difficulties related to the obligation to inform the affected persons, the legal remedies available and the compensation for the damage suffered.



Here, the link to the **SLIDES**

Samuel Bolis (University of Ferrara) spoke about the disposal of confiscated assets. The management of confiscation assets depends on the fact that they could have a static or dynamic nature.

Particularly, he pointed out that the most problematic issue concern the management of real estates and companies, which fall within the so called dynamic assets.

SAMUEL BOLIS





2nd

La confisca tra cooperazione transnazionale e diritti fondamentali

Francesco Viganò (judge of the Italian Constitutional Court), structured its presentation in two parts. In the first part, he focused on the recent case-law of the Constitutional Court in

confiscation matters. In the second part, he analysed some outstanding issues that have not been solved yet and that will be necessarily brought at the attention the Court.

**FRANCESCO
VIGANO'**



Paolo Pinto de Albuquerque (judge of the European Court on Human Rights) gave a detailed framework of the case-law of the ECtHR in confiscation matters, focusing in particular on the decisions concerning Italy, such as *Sud Fondi*, *Varvara* and *G.I.E.M.*

The judge decided to dwell on the latter sentence as for the importance that it will have beyond confiscation issues and, precisely, on the interpretation of the presumption of non-culpability and the principle of culpability under articles 6§2 and 7 of the Convention.

**PAULO PINTO DE
ALBUQUERQUE**



**PIERO
SILVESTRI**

Piero Silvestri (judge of the Italian Court of Cassation) analysed the case-law of the last ten years in confiscation matters. He retraced the most important steps of national case-law and he paid particular attention to the relation between the Court of Cassation

and the Constitutional Court, on the one hand, and between the Court of Cassation and the ECtHR, on the other. Particularly, he focused on the case *G.I.E.M.* and its effects at the national level, underlying the differences in the "implementation" of this decision.

**TERESA
MAGNO**

Teresa Magno (first assistant of the national member of Eurojust for Italy) started her presentation by outlining the powers and tasks of Eurojust in the field of transnational cooperation in criminal matters. Subsequently, she focused on the role of Eurojust

in the specific context of confiscation. In this second part, Teresa Magno pointed out the problems that frequently arose in the practice, especially with regard to mutual recognition of seizure and confiscation decisions.

Here, the link to the **SLIDES**

