

## ENHANCING INTEGRITY AND EFFECTIVENESS OF ILLEGAL ASSET CONFISCATION – EUROPEAN APPROACHES

The project “Enhancing Integrity and Effectiveness of Illegal Asset Confiscation – European Approaches” is a 24-month initiative of Transparency International-Bulgaria launched in the beginning of June 2013. The project receives financial support from the “Prevention of and Fight against Crime” programme carried out by DG Home Affairs of the European Commission. It is a natural continuation of TI Bulgaria’s monitoring on the adoption of the Bulgarian *Confiscation of Illegally Acquired Assets Act* and the establishment of the *Commission on confiscation of illegally acquired assets* (the Confiscation Commission).

The project is implemented by the Bulgarian chapter of Transparency International – TI-Bulgaria in partnership with Transparency International-Italy and Transparency International-Romania.

The overarching objective of the project is to enhance transparency, integrity, accountability and effectiveness of illegal asset confiscation procedures across Europe by exercising efficient civil society control on the functioning of authorities specialised in this area.

The expected results include improvement of cooperation between illegal asset confiscation authorities in Europe and establishment of minimum European standards for more efficient confiscation at EU level.

### MAIN ACTIVITIES

The project started with in-depth analysis of the legal framework, institutional practices and policies of the national confiscation authorities in Bulgaria, Italy and Romania.

The analysis runs from September to December 2013 and includes detailed assessment of the national, European and international legislation in this area as well as the existing practices applied in the execution of assets confiscation procedures. The effectiveness of the models under examination will be assessed on the basis of analysis of the confiscation mechanisms specific to each country and the results achievable by these mechanisms.

The aim of the national reports is to analyse the legal framework and related implementation practices in each country from the perspective of transparency, integrity, accountability and efficiency. The analysis will inform the development of a methodology and indicators for civil society monitoring on the functioning of the institutions specialised in confiscation of criminal assets in the three countries.

An important aspect of the analysis will be the management and usage of confiscated assets as an essential part of the entire prevention and punishment mechanism and a major factor for protection of public interests.



Starting in April 2014, independent experts of Transparency International-Bulgaria will monitor the functioning of the Commission for Illegal Assets Forfeiture and its regional structures in the course of ten months.

In addition to Bulgaria, the national branches of Transparency International in Romania and Italy will also monitor the operations of asset confiscation authorities in these countries on the basis of the same evaluation criteria.

The civil society monitoring of illegal asset confiscation authorities focuses on the extent to which these authorities apply in their operations the principles of transparency, integrity and accountability, and on how efficient is their work in terms of intersecting the link between inexplicable wealth, corruption and organised crimes. Important parts of the evaluation are the conflicts of interest and the application of ethic standards in the work of asset confiscation authorities with a view to avoidance of corruptive practices, political pressures and various dependences in respect to the Confiscation Commission and staff.

The objective of independent civil society monitoring is to exercise efficient civil control on asset confiscation procedures in order to identify gaps in legislative frameworks and implementation practices, and accordingly formulate recommendations on how to address the existing issues.

The survey will be of special interest to Bulgaria as the new Act introduces a different asset confiscation regime which is based on a civil court ruling where the person concerned is unable to prove the lawful origins of his or her assets, without necessarily being sentenced of a particular crime – the so called “non-conviction based confiscation”..

This is a major difference from the previous Asset Confiscation Act (which applied until 18 November 2012), wherein assets could only be confiscated on basis of a sentence that has duly entered into force (*res judicata*), meaning that it was necessary first to prove the perpetration of a crime and only then confiscate the assets gained from that crime. Thus, the new procedure is easier and faster to apply and provides more scope for confiscation of assets belonging to a specific person or parties related with that person.

In this situation, the confiscation process persecutes the illegal assets regardless of their present owner.

The monitoring exercise will provide valuable information on the application of the provisions of the new illegal asset confiscation legislation and will contribute to an objective evaluation of illegal asset confiscation procedures as a tool for combating serious crimes.

On the basis of the national reports and the results from the civil society monitoring exercises in the three countries, the project will produce a regional report on the practices used in execution of illegal asset confiscation procedures in Europe.

This benchmarking analysis will be presented at national level in three partners' states to this project. Additionally, in March 2015 there will be a joint presentation to the European Commission and to Members of the European Parliament with a focus on the three distinct European models. An important part of the discussion at European level will be the specific conclusions from the analyses and observations as well as the recommendations aimed at development of common European standards for more efficient enforcement. The analysis will also contain findings and recommendations related to exchange of know-how and convergence of Member-States' asset



confiscation policies and structures, and can also be used as a stepping stone for establishment of new models for asset confiscation authorities at European Union level.

One of the key project objectives is to encourage civil society in exercising efficient control on how the asset confiscation tool is used. Through their work, the project partners will raise public awareness of these themes and will elicit a broad-based discussion aimed at enhancing transparency, integrity, accountability and effectiveness in this area.

The project will organise a series of events in the three countries with the aim to increase the capacity of asset confiscation authorities, especially in terms of working methods, human resources management, access to information, expertise in the valuation of assets, economic effectiveness and collaboration with other institutions involved in the asset confiscation process.

A discussion will be undertaken to highlight the ways for improving coordination and inter institutional cooperation within the European Union in the context of pan-European efforts for fighting organised crime and corruption. The benchmarking of the three models under examination will enable the introduction of good practices and know-how in the policies of each state, will contribute to the convergence of the structures of national confiscation authorities in the Member-States as well as to the establishment of minimum common standards at European Union level.

## **FORTHCOMING EVENTS**

*February 2014 – Sofia, Neapol, Bucharest*

Publication and presentation of analysis of the legal framework in force and related implementation practices in Bulgaria, Italy and Romania.

*April 2014 – Sofia, Milan, Bucharest*

Launch of civil society monitoring on illegal asset confiscation authorities: the monitoring exercise will be carried out simultaneously in the partner states to this project on the basis of a common methodology and will assess the functioning of illegal asset confiscation authorities in the course of ten months.

*October 2014 – Sofia, Milan, Bucharest*

Three national roundtables with representatives of institutions involved in the confiscation of illegal assets.

*March 2015, Brussels*

Publication and presentation to the European Commission and MEPs of a Comparative report on the practices in the implementation of illegal asset confiscation procedures in Europe – three different European models



*March 2015 – Sofia, Milan, Bucharest*

Publication of Policy Paper. The document will present the key findings from the monitoring exercise as well as recommendations for addressing the established weaknesses and for convergence of the policies of illegal asset confiscation authorities at European Union level.

*May 2015, Sofia*

International conference with participation of leading European experts in the area of illegal asset confiscation. The conference will present the project results and will discuss the ways for improving the common European legal and institutional framework in this area.



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