

**TIE**

## **Tackling the Illegal Economy**

**With the financial support of the European Commission, DG Home Affairs, Financial and Economic Crime (FINEC) fund Coordinated by Libera Association, Rome.**

**The importance of reuse of confiscated assets for social purposes in fighting the illegal economy: some case studies**

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## 1. Introduction

This report has been prepared in the context of the Study TIE – *Tackling Illegal Economy*. The Study has been awarded to the University of Palermo - Department of European Studies and International Integration by the European Commission, and has been financially supported by the European Commission, DG Home Affairs, Financial and Economic Crime (FINEC) fund Coordinated by Libera Association, Rome.

The main objective of the EU's strategy on the fight against crime is to deprive criminal organizations of their illegally-obtained assets. Hence, organized crime is commonly recognized to obtain its financial benefits through the commission of serious crimes. The EU has enacted a criminal policy which has been designed to tackle the financial capability of the criminal organisations, focused on enforcing the assets collected through their criminal activities. The idea underlined by the policy is that the sole application of traditional penalties or imprisonment resulted not to be efficient against organized crime. The new perspective adds the possibility to act against the assets (and not just against the persons)<sup>1</sup>. The basic instrument adopted is the confiscation of the assets collected through crime, adopted for its great efficiency in tackling the profits obtained by organised crime<sup>2</sup>.

The last years have seen an increasing knowledge in relation to the importance of asset recovery within the European Union, which recently developed its efforts to improve the awareness about asset recovery, seen as an essential part of the fight of illegal economy. The social reuse of confiscated assets is the final stage of a comprehensive procedure which starts with the confiscation order of a given asset and ends with the delivery to designated beneficiaries for its reuse. Several types of reuse are currently possible, ranging from the simple transfer of the illegal profits into the State budget to more recent forms of disposal that are increasingly gaining attention at the EU level, such as the social reuse.

The confiscation of assets aims to prevent their use in order to “finance other illegal activities, undermine trust in the financial systems, and ruin legitimate society”<sup>3</sup>. This political-criminal strategy has the objective to stop the collection of the earnings by the criminal organizations, while putting the emphasis on the deprivation of the assets generated through crime rather than the prosecution and punishment of the accused criminals. According to the EU Commission, confiscation and recovery of assets has a general preventive effect, as it keeps the crime from being profitable, it discourages the criminals and “may contribute to reducing the influence of negative models on the local communities”<sup>4</sup>.

Many issues on how to reuse the proceeds and assets derived from crime still need to be overcome. These issues are mainly linked to the disposal phase, which is the final confiscation order is which dispose the confiscation of the assets and the following management<sup>5</sup>. These issues can strongly impact negatively on the effectiveness of the overall confiscation procedure. Key problems emerging in this phase can nullify the efforts by all involved entities.

There is a need of a common practice for the reuse of confiscated assets at EU level, and the national best practices could usefully be shared with other countries. Despite the extreme

importance of the topic, there is a lack of knowledge about the way the confiscated assets disposed of and reused across the EU Member States, and the main problems and best practices. Some questions about the how the confiscated assets are disposed and reused across EU member states are still unanswered, as well as the main problems and best practices, since there is currently a lack of knowledge on the disposal of confiscated assets and on their re-use in the EU, despite the extreme importance of the topic.

## 2. Objectives and Methodology

### 2.1 Objectives

This work aims to identify the main results and issues from different experiences of social reuse of confiscated assets across the European Union.

The reuse of confiscated assets may be subject of consistent variations among the Member States. The following pages provide a comparison between three EU Member States (Italy, Spain, Scotland)<sup>6</sup> on the reuse of confiscated assets for social purposes. For each country, this description will address the following objectives:

1. To conduct a case-analysis of the reuse of confiscated assets in 3 EU Member States
  - a. Italy
  - b. Scotland
  - c. Spain
2. To verify the main results achieved by the different case-studies;
3. To verify the main limits of the different case-studies;
4. To carry out an in-depth analysis of current experiences on the re-use of confiscated assets for social purposes in the EU and of their potential for adoption by other MSs.

### 2.2 Methodology

After providing the reader with a theoretical framework which includes the EU development on social reuse of confiscated assets, this study will analyse four different projects of reuse of confiscated assets:

- **Case 1:** Villa Santa Teresa (Italy)
- **Case 2:** Social Market of Milan (Italy)
- **Case 3:** Cashback Athletics (Scotland)
- **Case 4:** Fundaciòn Atenea (Spain)

These projects have been selected according to the following criteria:

- Geographical position within the European Union (Southern Europe/Northern Europe);
- Type of reuse (direct reuse indirect reuse);
- Plurality of involved subjects (Associations, Partners, Public Institutions);
- Availability of information, documents and sources;
- Existence of clear examples of best practices and limits.

## 2.3 Data

The collection of the information has been achieved in the period between March and October 2014:

- Documents have been collected at central level (national authorities and AOR) and peripheral (project manager, municipality) to allow a better understanding of the case study;
- In depth-analysis of the open sources: national and local newspapers, internet, other sources;
- Where possible, in-depth interviews have been made to the directors of the reuse project.
- Documentation of the state of the projects through written/photographic reports.

## 3. The reuse of confiscated assets in Europe: theoretical review

The social reuse of the confiscated assets is a strategic priority for the European Union as provided by the 2009 Stockholm Programme. However, the current EU regulation does not address the social re-use of confiscated assets. On the other hand, several EU action plans, reports and strategies refer to the need to introduce regulation pertaining to the social re-use of confiscated assets.

The Directive 2014/42/EU encourages EU Member States to “*consider taking measures allowing confiscated property to be used for **public interest** or **social purpose***” with regards to management and disposal of frozen or confiscated properties. The main objective of these initiatives is to provide Member States with a coordinated approach on confiscation and reuse of proceeds of crime<sup>2</sup>.

### 3.1 The asset recovery process

The confiscation is the first step in the process of recovery and social reuse. Before proceeding with the analysis of the specific phase of reuse, it is important to say that the reuse is included in the disposal phase of the asset recovery process, which is the last of four<sup>3</sup>:

- i. **Pre-investigative** or intelligence gathering phase, during which the investigator verifies the source of the information initiating the investigation and determines its authenticity;
- ii. **Investigative phase**, where the proceeds of crime are located and identified in the pre-investigative phase and evidence of ownership is collated covering several areas of investigative work in more formal processes (e.g. financial investigations to obtain and analyse bank records);

- iii. **Judicial phase**, where the accused person/defendant is convicted (or acquitted) and the decision on confiscation is determined;
- iv. **Disposal phase**, where the property is actually **confiscated** and disposed of by the State in accordance with the law<sup>2</sup> (e.g. social reuse).

### 3.2 The social reuse of assets

The reuse of confiscated assets is a regime applicable to all the criminal figures (or, at least, to most criminal activities in some Member States). It is however for large part applied to the assets confiscated to organised crime.

Organised crime invests the profits obtained through its criminal activity into the legal economy. The purchased assets may vary from the money held in bank accounts to vehicles, real estate, businesses, livestock, company shares, artworks, horses, etc. Confiscation and reuse of assets are the two final steps of a legal process which is aimed at recovering the criminal assets and reusing these in favour of victims, deprived communities or the state.

There is a strong need for greater research on asset recovery. Thus policy debates are very often disconnected from the empirical evidence where both the costs and benefits of the reuse of assets need to be clarified in order to implement more efficient strategies of reuse.

It is possible to classify the main types of reuse as follows:

- i. **Direct reuse:** once the assets enter in the property of the state, the allocation of the assets is decided by the competent authority tasked with the disposal of the confiscated properties upon formal request by the eligible beneficiaries. As a rule, in most countries the competent authorities are not specialised institutions tasked only with transfer of assets for social purposes, but are rather appointed to perform these duties among many others.: confiscated assets are directly used for social purposes. This typology of reuse is mainly adopted in the following countries:
  - Belgium (Flemish region)
  - Italy
- ii. **Indirect reuse:** the reuse of proceeds of the confiscated assets through established specialised funds/programs that invest these proceeds for fighting drug trafficking or crime prevention<sup>3</sup> the allocation of the proceeds from the confiscated assets through specialised funds that invest these proceeds for fighting drug trafficking or crime prevention is a model currently implemented in a few EU countries, which are Luxembourg, France, Spain and UK (Scotland). Generally, two distinct approaches can be identified in the implementation of this indirect reuse model. The first one is the approach of France, where

the law generally does not envisage any competitive procedure and the repartition of the revenues collected is ultimately prescribed. The legislation in Luxembourg, Scotland and Spain provides for more discretionary powers to the bodies managing the accumulated funds and the repartition involves competitive procedure between the eligible beneficiaries. This type of reuse is adopted in the following countries:

- France
- Luxembourg
- Spain
- UK (Scotland)

The assets subject to social reuse also vary depending on the model of social reuse applied in the different Member States. The social reuse models in some countries delineate confiscated assets based on their origin (e.g. assets deriving from drug related crimes versus assets from all kinds of organised crime), whereas others delineate assets by type (e.g. real estate versus moveable assets).

For example, in Scotland and Spain only the proceeds stemming from assets confiscated in relation to drug related crimes are subject to social reuse. On the other hand, the legislation in Italy and Belgium restricts confiscated assets available for social reuse only to real estate.

The procedure of asset disposal and recovery can be actuated only in agreement with the instruments established by the criminal legislation with the asset confiscation provision. To provide prosecutors, judges and police with the instruments to identify those assets an increasing number of countries created Asset Recovery Offices (ARO). These offices have the objective to improve the effectiveness of the action against the criminal financial capital and to facilitate the procedures of disposal, seizure and management of the assets<sup>u</sup>. At the EU level there are 4 Council Framework Decisions<sup>v</sup> (FD) and one CoE Decision<sup>u</sup> on confiscation that harmonise confiscation laws between EU member states, enable mutual recognition of freezing and confiscation orders and facilitate the exchange of information and cooperation between Asset Recovery Offices<sup>u</sup>.

#### **4. The reuse of confiscated assets in Europe**

To provide the research with an empirical basis, this chapter presents an in-depth analysis of 4 projects of re-use of the confiscated assets. These projects have been selected according to a number of criteria, such as the type of reuse project (direct or indirect), the geographical coverage at EU level (2 cases for Italy, one case for southern Europe –Spain- and another for northern Europe – Scotland), the plurality of the actors involved, and the availability of information, documents and actors. These projects must not be considered for the sole program and recover of the assets phases,

but also at the current state of the structure, in order to evidence best practices and weaknesses of each project.

The collected information are analysed with qualitative methods. In particular, each project includes:

- History of the project;
- Objectives of the project;
- State of realization of the project;
- The relationship with the territory (Region and Municipality);
- Impact of the project;
- Analysis of strengths and weaknesses.

#### 4.1 Italy

Italy has developed a complex confiscation system to enforce the proceeds of crime. The confiscation of the criminal assets is possible either within or outside criminal proceedings (e.g. civil confiscation as a preventative measure, the so called *confisca di prevenzione*). The Italian legislation on the confiscation and reuse for social aims of the mafias' assets is a result of several interventions by the legislator in the last fifty years<sup>45</sup>. A unique feature of the Italian legislative framework on the social re-use of confiscated assets is that it sets the priority for seized assets, e.g., immobile property, to be transferred to the community where the asset had been confiscated, in order to be used by the regional community, its associations or co-operatives. The Italian model thus allows regional and local authorities to use the assets, compensating local communities affected by organised crime.

All the relevant regulations are now included in the legislative decree 159/2011 (antimafia code) which envisages:

- i) the acquisition of the asset by the state<sup>46</sup>;
- ii) the transfer for social reuse to private/public entities. This procedure involves the municipalities where the assets are located, or, alternatively the province/region. The local bodies may decide to entrust the assets for free to social communities or associations<sup>47</sup>.

In Italy, the ANBSC (*Agenzia Nazionale Beni Sequestrati e Confiscati*) has an essential role in managing the complex different legal actions concerning confiscated assets. Its involvement in handling confiscated assets include the return to the state, maintaining properties or transferring those assets to regions, provinces, municipalities and third parties. This makes the ANBSC an important institutional body. On the other hand, the operative management of confiscated assets has to face a number of legal issues. These issues are caused both by the lack of preparation of some administrators and by the courts themselves, which often take different approaches on the management of the assets according with the Region of competence.

Even though the Italian legislative framework envisage the social purpose for the future use of confiscated assets, it does not clarify how assets other than real property can be used for social



purposes. These assets go the Single Justice Fund under the authority of the Ministry of Justice and Ministry of Interior, which has other regulations in place for allocating assets under its competence.

## **I. Case Study 1: Villa Santa Teresa<sup>18</sup>**

### **I.1 History of the Project**

Villa Santa Teresa is a clinic specialized in diagnostics, radiotherapy and nuclear medicine. It was founded by the engineer and entrepreneur Michele Aiello, later convicted for mafia association during the operation known as "Talpe alla Dda". The clinic was seized the 20 March of 2004 after the arrest of Michele Aiello, in November of 2003. A number of assets characterised by a high value, such as dossiers and bank accounts were blocked by the Italian Procure consequentially to a fraud made by Aiello to the Municipality of Palermo<sup>19</sup>. The clinic was confiscated the 11 of May, 2013. Following the definitive confiscation enacted by a Supreme Court Sentence, 3 of October 2013, a new Administrative Council was appointed. A judiciary administrator, Andrea Dara, was nominated ex artt.1, L.575/1965.

After a first recognition of the companies owned by the Aiello group, it was clear that large part of these companies were performing a health service which could not be reduced or stopped without damaging the patients. The main objective of the new administration was therefore to ensure the continuity of the services provided while recovering the finances of the enterprise. The main issue was related to the fact that none of the administration council members had any expertise regarding the health sector.

### **I.2 Objectives of the project**

Considering the situation and the number of patients, the primary objective after the seizure was to ensure the continuity of the treatments. At the same time, it was important i) to maintain the level of the services, ii) to requalify the employers where necessary, iii) to revise the bills and iv) to start a new dialog with the territory and the general scientific community<sup>20</sup>. The main objective of the new administration was to recover the enterprise assets in a condition of sustainability within the legal market. The plan of recover was focused on the following points:

- Revision of the budget and reintegration of the enterprise in the health care market;
- Ensurement of a high level of medical assistance and the continuity of the assistance to patients;
- Reduction of the loss of employees through the requalification of the personnel;
- Contact with other centres, improvement of the relationships with non for profit organizations, research and specialization, organization of seminars.

### **I.3 State of realization of the project**

The new administration started to redirect some employees in areas where the enterprise was not controlled, such as the financial area, which was the core of the fraud schemes of Aiello that used a system of overbilled reimbursements. The number of employees remained unchanged although some people deliberately left as they had a strong connection with Aiello. The entire

financial branch was replaced and the accounting system was recovered. Part of the funds was invested for the training of the personnel at the Rizzoli hospital in Bologna, which is currently partner of the enterprise. The initial number of customers (around 3000 units), was further increased also due to the establishment of the orthopaedic branch.

The work of the new administration allowed i) to cancel more of 60-70 millions of euro of risk invoices from the enterprise budget, ii) to restore the assets of the enterprise, and iii) to cancel more than 40 administrative trials. Originally, Villa Santa Teresa had a partnership with the Region of Sicily of 50-60 millions of Euros per year; after the confiscation the amount of money was reduced by around 11 times the initial amount. Therefore, the clinic had to face a strong budget reduction (Around 6 millions/year). The technical devices were already the best in the whole Sicily, as well as the conformational radiotherapy devices which was at the same level of the Italian best practices on radiotherapy. The clinic is today considered a top-clinic for the quality of the oncological treatments, also thanks to the continuity in the research field ensured by the new administration.

Villa Santa Teresa implemented an ethical code according to the law 231<sup>4</sup> and was the first enterprise at regional level to implement an ethical code as well as of a procedure of implementation of the law 231.

#### **I.4 The relationship with the territory (Region and Municipality)**

Since the confiscation, the relationship with the Region and Municipality had to face many difficulties, especially with the subjects previously in charge of the relationship with Aiello.

#### **Fig. 1 – Villa Santa Teresa**

The new health assessor, Massimo Russo, realized a benchmark of the best national practices of health services relationship with the territory. This benchmark became then part of his reform of the regional health service<sup>4</sup>. In the August of 2010 the new tariffs were approved.

#### **I.5 Impact of the project**

The whole structure is currently employing around 200 people, and the number of customers ranges from 35.000 to 50.000. It is noteworthy to say that before Dara's administration the clinic was paying these suppliers around 17 millions of euros/year for their services. After a basic negotiation with the new administration, this amount decreased to 5-6 millions. This explains the schemes used by Aiello for laundering the money coming from his illicit activities.

There was also a clear separation between the administrative area and the operations. The communications between these two areas, which should be a basilar operating principle, were voluntarily absent. This was the first step for the discovering of a new scheme of tax evasion: thus many of the top ranked personnel had a credit invoice included in the budget. It was then discovered that the 95% of the whole clinic income was included in credit invoices for the personnel<sup>4</sup>.

This scheme at the same time allowed M.Aiello to pay less taxes. This scheme was used also by the employers: technics, doctors engineers were evading in the same way. For these reasons, the operation branch had no contacts with the administration, as many of the professionals were not knowing the budgets and the fake invoices made by the administration.

## I.8 Villa Santa Teresa – Main results and limits of the project

Results	Limits
<ul style="list-style-type: none"> <li>• Full recover of the administrative and financial branches;</li> <li>• Revision of the budget and reintegration of the enterprise within the health care market;</li> <li>• Removal of family-based relationships among the employees;</li> <li>• Maintain of a high level of medical assistance and the continuity of the assistance to patients;</li> <li>• Reduction of the loss of employees through the requalification of the personnel;</li> <li>• Contact with other centres, improvement of the relationships with non for profit organizations, research and specialization, organization of seminars.</li> <li>• Implementation of an Ethical Code;</li> <li>• Collaboration with other centres of excellence (such as the Rizzoli Hospital of Bologna);</li> </ul>	<ul style="list-style-type: none"> <li>• Some employees still do not feel part of the new model of administration (still tied to the old entrepreneur);</li> <li>• Relationship with local institutions still to be improved (external relationships);</li> <li>• Relationships between the administration and operation branches (e.g. financial branch and doctors) need to be improved (absence of collaboration and communication during the previous administration);</li> <li>• Asset still under judicial administration (higher costs to be sustained).</li> </ul>

## II.1 Case Study 2: Milano Social Market

### I.1 History of the Project

The Social Market of Milan was created in the October of 2013 by the Founder of the association “Terza Settimana”, Bruno Ferragatta, and the RAI Journalist Federica Balestrieri, which is expert of social issues<sup>34</sup>. The Social market was established after the confiscation of a local which were used

for drug smuggling by a ‘Ndrangheta organization. The Municipality of Milan thus entrusted the “Terza Settimana” association for the reuse of the local for social purposes. Since its beginning, the project has encountered the enthusiasm of the Municipality of Milan<sup>25</sup>, which considered the realization of the project an important contribution to improve the level of social services provided by the city. The social market aims to offer a specific service to persons which are facing economic difficulties. The idea behind was to develop a shop which gives the possibility to buy food to people which cannot afford the normal prices of supermarkets, giving at the same time a large degree of freedom of choice on what to buy<sup>26</sup>.

The start-up project of the Social Market was realized through an online money collection (crowdfunding)<sup>27</sup>, where the citizens donated 400 shopping vouchers of 20 euros each. The basic principle which aims the activities of the Social Market based is solidarity among people: thus, the money collected to open the first shop in Turin was collected through this practice. Its main feature is the strong push from the bottom of the society together with the collaboration with public and private administrations. Since the opening of the Social Market, around 400 people donated 20 euros allowing the association to receive the first supply of products required for the market to open. Other people offered their time to work in the shop, some others donated computer and monitors and many shops donated some of their supplies

## **Fig. 2 – The Social Market**

### **II.2 Objectives of the project**

The aim of the social market is to provide poor people with a complete dotation of basic goods at a social price of at least 300 complete shopping bags per week, where the maximum cost of the basket is 20 euros<sup>28</sup>. The Social Market of Milan has the following objectives:

- Creation of a social market network, stores of primary goods at a social price to promote the development of a new type of welfare (the so-called private-public welfare) through the collaboration of public institutions, associations, citizens and enterprises<sup>29</sup>;
- Promotion of voluntary work;
- Provision of specific services to persons which are facing economic difficulties;

- Promotion of solidarity among people, with activities such as crowdfunding;
- Promotion of the collaboration between public and private administrations.

### **II.3 State of realization of the project**

The municipality of Milan entrusted the “Terza Settimana” association of the management of a confiscated asset located in via Leoncavallo, 14. This shop once belonged to a ‘Ndrangheta organization which was trafficking cocaine.

This shop is a concrete example of synergy between public and private sectors to realize concrete projects of social welfare. Projects such as the Social Market provide new solutions to face the dramatic ask for help coming from an increasing number of poor people. “The association Terza Settimana with the Social Market project – explains the President, Bruno Ferragatta, - aims to develop the concept of 'big society' in an innovative way by helping the poorer sectors of the society. There is a considerable risk for many people of losing the social identity due to the current economic downturn and of the consequent drop of purchasing power. The market aims to preserve the civic belong sense and of social dignity of those families which are in economic difficulty, involving at the same time both the public and private institutions to make nobody feel alone”<sup>30</sup>. The president of the association, Bruno Ferragatta, is currently looking for contacts in Catanzaro and Venice to open new social markets. All the people working for the Social Market are volunteers. Some of them are young and some are the same customers. Thus, one of the terms of the contract of benefit includes the possibility to work voluntarily in the market for 4 hours per month<sup>31</sup>.

The prices of the market are very cheap. Half a kilo of pasta is listed for 0,45 euros, one liter of milk 0,53 euro. The offer includes also a number of primary goods which are however difficult to find on discount, such as diapers or washing machine soap. At the same time it is possible to find some fancy products such as Nutella.

### **II.4 The relationship with the territory**

The social market establishes its link with the territory by giving to the poorest part of the citizenship to buy food at a lesser price than normal supermarkets, giving at the same time freedom of choice on what to buy. This shop is a concrete example of synergy between public and private sectors to realize concrete projects of social welfare. The names of the beneficiaries are communicated to “Terza settimana” from the social services of the municipality. The social background of the beneficiaries is varied and includes Italians and foreigners, old and young people. Terza settimana asks to beneficiaries to be available to work within the social market. There is also an area dedicated to the children and a living room. The project is now involving the students of the last year of the high school. Finally, terza settimana will hand 40 complete meals to old people and disabled which can not reach the shop.

According to Federica Balestrieri «The selection of the beneficiaries is not upon us, but we receive a list from a number of associations. Today there is the risk for many to feel deprived of social

identity due to the lose of purchasing power. With this initiative we try to preserve the sense of citizenship and of the social dignity of the families in a great economic difficulty», confirms the founder of the Association Terza Settimana.

The same associations (accredited by the Municipality) will be then in charge for the control of the appropriate use of the vouchers by the families, in order to avoid any waste.

The objective for the year 2014 is to reach 300 families, and to increase the territorial coverage of the beneficiaries (actually only the zones 2 and 3 are covered).

### II.5 Impact of the project

The shop is currently employing around 35 of local volunteers of the association “Terza Settimana” and the association is currently assisted by the lawyers of the legal firm Clifford Chance. The 30 of March, 2012 the Social Market, together with the association “Terza Settimana”, organized the meeting titled “Paths of welfare: the experience of the social market as form of contrast of the food poverty” chaired by the RAI journalist and volunteer of the association Federica Balestrieri. The main topic was the role of the associations of volunteer in improving the level of the social policies by acting as a link between the poor families and the administration to guarantee to everyone access to the first necessity goods.

Families can buy food in the shop of via Leoncavallo 12, upon communication of the Municipality of Milan or by private institutions such as solidarity associations of religious institutions which chose to participate to the project. According to the single case, the contribution given by the Municipality of the beneficiary may range from 10 to 5 euros. Caritas also provides vouchers for a shopping basket of 20 euros. The earnings of the shop are destined to the purchase of further solidarity goods. For this reason the customers will be only the families which are beneficiaries.

This is possible because these supermarkets decrease their costs by supplying directly from the wholesaler. In this way, the costs are decreased of around the 25%. It is also included a service for the home delivery of fruit and grocery for disabled and old people. The project aims to involve students from the high schools as volunteers. Thanks to the collaboration with a wholesale store, it is possible to have fruit and grocery for free. On average, the total saving is of 20/30% compared with a normal supermarket.

### Fig.3 The Shop

### II.7 Milano Social Market: Main results and limits of the project

Results	Limits
<ul style="list-style-type: none"> <li>• New form of <i>non-governmental</i> welfare</li> <li>• Promotion of voluntary work;</li> <li>• Provision of specific services to persons who are facing economic difficulties;</li> <li>• Promotion of solidarity among people, with activities such as <i>crowdfunding</i>;</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary Workers (risk of sudden shortage);</li> <li>• Territorial coverage to be improved (only the southern part of Milan is covered);</li> <li>• Partnerships still not sufficient to ensure the self-sustainment of the project;</li> </ul>

<ul style="list-style-type: none"> <li>• Promotion of partnerships between public and private administrations.</li> <li>• Creation of a social market network, stores of primary goods at a social price to promote the development of a new type of welfare (the so-called private-public welfare) through the collaboration of public institutions, associations, citizens and enterprises.</li> </ul>	<ul style="list-style-type: none"> <li>• The project still needs public aid to keep its activity going.</li> </ul>
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## 4.2 Scotland

Scotland has a legal system which is separate and distinct from those in other parts of the United Kingdom. It is however subject to United Kingdom legislation, such as the Proceeds of Crime Act, 2002 (POCA). Such legislation is enforced and implemented in Scotland through its own legal institutions. Part 5 of POCA establishes a regime of “non-conviction based forfeiture”, also defined as “civil recovery”. The Civil Recovery Unit (CRU) acts as agent for the Scottish Ministers. The CRU is part of the National Federation of the Crown Office and Procurator Fiscal Service (COPFS) and is a multi-disciplinary unit which includes lawyers, financial investigators, a forensic accountant and support staff<sup>32</sup>.

The asset recovery is regulated by the Proceeds of Crime Act 2002 which allows criminal confiscation of the profits of crime from individuals which are suspected to be product of crime. The confiscation procedure can also be used to forfeit the assets of a suspect at the start of confiscation proceedings, with the aim to interrupt further criminal activities<sup>33</sup>. The recoverable amount from a confiscation order should correspond to the amount of the accused's benefit from criminal conduct. However, this amount cannot exceed the amount of attainable assets owned by the accused. If the amount available for recovery is recognized to be lesser than the amount of his benefit from criminal conduct then this amount is defined as "recoverable amount" (section 93 of POCA).

Civil recovery can be also referred as “non-conviction based forfeiture” and can be pursued also on cases with no preceding criminal conviction. It is important to note that civil recovery should be used only where prosecution is not possible or where prosecution has failed. Although the Scottish legal system is distinct from the UK legal system, Scotland is subject to UK legislation, and in the case of confiscated assets under the Proceeds of Crime Act 2002 (POCA) which is enforced and implemented in Scotland through Scotland’s own distinctive legal institutions.

The Civil Recovery Unit (CRU) is the main body for the civil confiscation in Scotland and is part of the Operations Group of the Crown Office and Procurator Fiscal Service (COPFS). The main goal of the CRU is to use civil proceedings in order to counter crime.

All members of the CRU are specifically trained to minimise the risk of any CRU officer being susceptible to corruption/bribery<sup>24</sup>.

In Scotland<sup>25</sup>, the criminal assets which have been recovered are invested in the “CashBack for Community” programme. This programme is focused on communities, facilities and activities largely for young people at risk of turning to crime/anti-social behaviour<sup>26</sup>. Since the launch of the Cashback for Community program, in 2007, over £46 million have been recovered from proceeds of crime and invested to sporting, cultural, educational and mentoring activities for children and young people throughout Scotland.

### **III. Case Study 3: Cashback for Communities – Scottish Athletics<sup>27</sup>**

The “CashBack for Communities” programme is aimed to the re-use of the illegal profits of crime, recovered through the Proceeds of Crime Act 2002 and “investing them into community programmes, facilities and activities largely, but not exclusively, for young people at risk of turning to crime and anti-social behaviour as a way of life”<sup>28</sup>. The projects included in the programme range from alternative work opportunities to more long-term projects, all of them aimed to provide individuals at risk of anti-social behaviour with the opportunity of social employment or volunteering. The “CashBack for Communities” allocates part of its budget to sports and community facilities for essential refurbishment and renovation<sup>29</sup>.

The Cashback for Community - Scottish Athletics<sup>30</sup> project ran from April 2011 to the end of March 2012. Initially based on clubs of Run, Jump and Throw, it developed into a Multi-Sport community delivery model providing Street Sprint and a National Volunteering programme. This new structure gave the opportunity to increase the participation of people in new areas linking at the same time the activity to local athletics clubs to ensure the diversionary opportunities remained available in the longer term.

#### **III.1 History of the project**

“Scottish Athletics” is a comprehensive project which coordinates a variety of events centred sports such as running, jumping and throwing.<sup>1</sup> Scottish Athletics is the governing body which coordinates 135 formal clubs with 13,000 members spread throughout Scotland. Furthermore, around 21,000 people participate to the more recreational *JogScotland* clubs. Scottish Athletics also supports a regional and national event programme and provides education and resources to teachers at primary and secondary school level. Athletics participation is evenly divided between male and female participation (around 50% each).

Scottish Athletics recognized the Cashback programme as an opportunity to increase participation, personal development and creating new or enhancing existing local partnerships. The core of the partnership was a connection between the local clubs to ensure the opportunities for young people and new volunteers remained available in the longer term. The initial programme was based on the



existing model of 'Run, Jump, Throw' clubs within Local Authorities. At the same time, it was planned to coordinate the project would be overseen at the national development level. Scottish Athletics were funded by CashBack (2009-2010 to 2011-2012) to run three projects<sup>4</sup>:

- *Street Sprint*. A diversionary street athletics project targeting 10-19 year olds in targeted communities;
- *Club Together Project*. Based on the enhancing of the entry-level participation in athletics while at the same time promoting the access to community clubs and sustainable pathways for the participants;
- *National Volunteer Development Programme*. Aimed to provide training and leadership opportunities to increase the number of the new volunteers which deliver athletics in clubs (16-26 years).

### **III.2 Objectives of the project**

The programme of the activities of Scottish Athletics meets the aims set out in the grant letter by the Cashback programme. The grant letter focused on: i) increasing the number of young people trying the activity, ii) targeting disengaged young people, iii) providing safe activities and training opportunities, iv) raising the profile of the sport and contributing to the national sports participation targets.

The objectives of the project, in agreement with the grant letter<sup>4</sup>, were the following:

- Increase of the number of youngsters aged 10 - 19 experiencing activity through Athletics;
- Provision to disengaged and disadvantaged young people of a sporting opportunity;
- Offer of training and leadership opportunities for young people in Athletics;
- Provision of safe, well organised and enjoyable activity for children and young people;
- Raise of the profile of Athletics and its member clubs throughout Scotland as an inclusive and open sport;
- Contribution to national goals of increasing participation in sporting activities.

### **III.3 State of realization of the project**

17 Club projects delivered 18 Street Sprint projects in 15 centres across Scotland while providing a minimum of 10 sessions over the duration of the project. Finally. the volunteering strategy has been extended to include parents and those over 50 years of age.

The key principles aiming the activities of Scottish Athletics are:

- *Positive* – broadly defined as wholesome, healthy, fun, active, engaging

- *Open to all* – accessible, well advertised, free of charge, of interest to all ages and to both boys and girls, ethnic minorities, young people with disabilities
- *Developmental* – changing behaviours and attitudes, developing personal and physical skills
- *Sustainable* – providing medium and long term as well as short term benefits; linked to mainstream funding.

The first year had to face some issues as was necessary to set up the project in each Centre as well as for the arrangements and deliver activity with local partners'. The intention was to create pathways for strengthening the connection with the local communities to create in this way a longer-term sustainability.

### **III.4 The relationship with the territory (Region and Municipality)**

The Cashback Athletics project formed the cornerstone of street level contact, while the Club-together mechanism was aimed to bring the community and the local clubs together<sup>4</sup>. To ensure the long-term sustainability of the project, the volunteering programme recruited new young volunteers (16-25) within local communities, while promoting athletics at the grass roots.

The project worked with 20 Local Authorities providing 33 Street Sprint projects (1,212 hrs), 17 Club Together projects (6,123 hrs) and training 121 volunteers (almost all were local young people). These project provided 60 educational meetings on different topics such as drugs, alcohol misuse and the juvenile violence.

### **Fig.3 – The Torry Aberdeen twilight basketball team**

It has been noted that these activities can increase employability and help young people realise their potential, which can only be welcomed in an area as diverse as the North East.

### **III.5 Impact of the Project**

The main results achieved by the project are:

- i. Promotion of athletics within the community;
- ii. Provision of healthy activities;
- iii. Provision of a fun alternative to the traditional approach to athletics as provided in the local schools;
- iv. Promotion of partnerships between sports and diversionary youth work..

The project resulted in a number of young volunteers and training as coaches. A survey conducted among the partners highlighted a number of areas where the project impacted on young people, such as the interest or many young people which came to more than one session, the allowing disabled young people to participate, the progressive awareness by young people of the impact of their behaviour and actions on their lives and others. In a few cases, young people began to take ownership of the organisation of their sessions.

The main issue was the lack of a full-time national coordinator for the Cashback athletics project which created some difficulties in the planning and execution of the project itself. At the same time, more efforts should be focused on understanding how to target the relevant young people. The planning phase of the Torry Aberdeen activities needs more thought and more guidance from the outset.

The key data gap was the lack of any crime related statistical data or hard community impact data as none was collected and available at the time of this report. Despite the fact that the main objective of the Grant Letter was to decrease crime as a key criteria no evidence was forthcoming as such data was not asked for under the Cashback Guidelines nor could any be produced within the time-scale of the evaluation. Moreover, due to the unique way in which Cashback is funded, it is inherently difficult to forecast when new funds will become available. There is no government budget for Cashback and the Programme relies on the excellent work of the Scottish Courts Service, the Crown Office and Procurator Fiscal's Service and all the other agencies involved in enforcing the law, to fully recover the ill-gotten gains of criminals in order that Cashback can invest them back into communities.

Example 1. Torry Youth and Leisure Centre

The locality of Torry was originally an old fishing village situated on the south bank of the river Dee which has grown over the decades into a community of just around 9,000 people by 2008. Torry was the third most deprived zone (according to the main indicators such as employment, health, housing etc) in Aberdeen. There are two primary schools and one secondary school and the community is well served with small shopping areas and community facilities including the Torry Neighbourhood centre and the Youth and Leisure Centre that houses the Torry Youth Project.

The main problems among young people are related to the use of drugs and the abuse of alcohol. Crime statistics for 2008 showed vandalism rates were much higher, (32 per 1,000 population) than the Aberdeen average of 20 per 1,000, per year.

The first project in Torry, the "Street Sprint", attracted 22 boys and 12 girls with 114 contacts overall, with an average of 3 sessions per young participant. The young people's enjoyed the activities which kept them out of trouble with the local police and gave them something else to do with their friends on a Thursday night. Many of them suggested to include other types of athletic sport and mentioned maybe having their own Street Sprint club. Three young people went on to join Aberdeen Amateur Athletics Club and one young person joined the volunteering programme.

The Torry Youth and Leisure Centre is located in the heart of the Torry area in Aberdeen and offers a wide range of activities within its high quality facilities. The centres facilities include large sports hall, a fully equipped gym; trampoline areas; a youth project Area. To pursue the objectives of the grant letter, was central to identify an initial audience for the project as a whole in Aberdeen. To this extent, the best way was through establishing a number of local partnerships with institutions which were already linked to Aberdeen Athletics Club such as Blue Horizon.

### III.7 Cashback for Communities – Scottish Athletics: Main results and limits of the project

Results	Limits
<ul style="list-style-type: none"> <li>• Increased the number of youngsters aged 10 - 19 experiencing activity through Athletics;</li> <li>• Provided disengaged and disadvantaged young people with a sporting opportunity;</li> <li>• Offered training and leadership opportunities for young people in Athletics;</li> <li>• Provided a safe, well organised and enjoyable activity for children and young people;</li> <li>• Raised the profile of Athletics and its member clubs throughout Scotland as an inclusive and open sport;</li> <li>• Contribute to national goals of increasing participation in sporting activities;</li> <li>• When held in public places, the street sprint did attract attention not just from young people but from parents and other local people: 'people came to see what was going on'.</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary Workers (risk of sudden shortage);</li> <li>• Lack of a full-time national coordinator for the Cashback athletics project;</li> <li>• Difficult to forecast when new moneys will become available. There is no Government budget for CashBack;</li> <li>• More time needed to be given to the planning phase and there needed to be more understanding of how to target the relevant young people;</li> <li>• No data provided about the effects on crime rates (it was one of the objectives of the project).</li> </ul>

## 4.4 Spain

Spain is one of today's most active States in Europe in the procedures of asset recovery. To tackle the proceeds of crime<sup>4</sup>, Spain adopts a twofold strategy:

- i. **Criminal prosecution:** punishing the traditional criminal offences by criminal police and judicial. The main objectives are two: first, to restore the social order and to ensure the custody of defendants; second, to deprive criminal organizations of the criminal proceeds, through instruments such as confiscation or equivalent value seizure;
- ii. **Prevention:** impeding the access to lawful economy of proceeds of crime.

Both these fronts require to work together to be effective. The activities of prevention are essential for the criminal prosecution of criminal organizations. At the same time, the criminal prosecution front needs to be complemented with administrative laws aimed at the enhancement of the criminal protection barrier previous to offence committing.

Once assigned, the asset is registered in the “Seized Assets Inventory”, indicating the duration of the assignment and the name of the beneficiaries. The judicial authority may also decide the temporary assignment of the assets to the Judicial Police.

The Spanish Government has set a number of criteria for the distribution of the seized money by creating a special fund<sup>45</sup>. These criteria are for large part dedicated to programmes to contrast drugs and money laundering which are based on a demand/supply approach<sup>46</sup>:

- i. In the area of demand reduction: drug prevention programmes, assistance to drug addicts and social integration and employment of the same, including: i) drug-awareness programmes; ii) rehabilitation programmes for drug addicts with legal problems; iii) research projects on drugs addiction; iv) projects and programmes in the addictions that include a gender perspective; v) training;
- ii. In the area of supply control: activities of disruption of drug smuggling networks.

The body in charge for the management of the Fund is the *Mesa de Coordinación de Adjudicaciones* (Coordinating Bureau for Allocation). It belongs to the Ministry of Health, whose tasks include the identification of the assets to be allocated to the Fund and the adoption of decisions regarding their destination to beneficiaries<sup>47</sup>.

Spain has designated two Asset Recovery Offices (ARO), in order to implement the EU Council Decision 2007/845/JHA, of 6 December 2007: the Center of Intelligence for Organized Crime (*Centro de Inteligencia contra el Crimen Organizado*, CICO) and the Special Anti-drug Prosecution Office (*Fiscalía Especial Antidroga*).

One of the issues of the Spanish system of reuse is that confiscated assets have a specific programme of reuse only if result of trafficking in drugs. If other serious and organised crimes occur, the confiscated assets will be used for the compensation of victims first, and any remaining amounts will be directed to the State budget. Moreover, even when the confiscated assets are a result of trafficking in drugs, these assets have to be shared with a number of governmental institutions and civil society.

Spain does not have implemented an asset management system. Real assets are usually easy to be disposed of and sold at auction. More difficult is the disposal of movable assets. These are also more difficult to be located if they have not been seized previously.

Currently, the management of seized assets is delegated to each judge, who has the authority to, in a case-by-case scenario, determine how the assets will be managed (or simply put in a deposit). This may lead to depreciation of the assets (if not liquid), which will most likely not be sold at their market value, ensuring in such a way a double loss for the State, which will be responsible for the costs of the management and the depreciated amount for which the assets were sold.

#### **IV. Case Study: Fundación Atenea<sup>48</sup>**

##### **IV.1 History of the Project**

Since 1985, the “Fundación Atenea” is focused on the development of prevention programs, assistance and rehabilitation for people at risk of social exclusion (minors, families in situations of vulnerability, people with addictions, immigrants, people unemployed). The main goal of the Foundation is to improve the conditions and the quality of life of these categories and to act on the factors which may cause the exclusion.

“We forgot as society that the most basic needs of people are the rights”<sup>4</sup>, warns the Director of the “Fundación **Atenea**”. The mission is to guarantee the people’s right, to improve the quality of life of those people which are facing the risks of social exclusion and to prevent those factors which may cause the social exclusion. At the same time, the foundation fosters the economic innovation, the formation and the social research.

The work of Fundación Atenea is directed to individuals with problems of addiction, prostitutes, and unemployed with low levels of instruction. Nowadays, Fundación Atenea is a leading entity for the society on regard of social inclusion and the development of plans and programmes of quality inspired by the criteria of innovation, efficiency and sustainability, the realization of research to improve the social development and providing new framework for the design and evaluation of public policies.

The team of the Fundación Atenea is composed by 150 professionals with different competences: psychologist, anthropologists, sociologists, doctors, economists and many others.

## **IV.2 Objectives of the project**

Fundación Atenea focuses its activity on the individuation of those factors which seem to facilitate the social exclusion, conditioning the life of the people. The approach of the foundation is to encompass all the social agencies which can contribute to the development of personal skills: media, public administration, private enterprises, citizens. Priority of the foundation are those individuals which are exposed to major risks of social exclusion, creating new opportunities and avoiding the new phenomenon of the “gender poverty”.

The activities of Fundación Atenea are inspired by the following key concepts:

- *Adaptment*: to the concrete necessities. The researches and evaluation are adjusted to the particular cases of study: context, function, necessities of the entities, etc;
- *Multidisciplinarity*: the team is composed by professional with diverse backgrounds, with different abilities;
- *Global vision*: focused on the possible actions. Thus basis of the actions is an analysis of the situation from different points of views which finds its application on a range of possible actions;
- *Utility*: The foundation elaborates practical tools to facilitate the decision process.

To realize these principles it is important to offer adequate attention to every social group, based on the recognizement of the rights and potentiality of the persons, which are fundamental values of the

organization. The innovation, the multidisciplinary focus on its projects, the attention on the quality, the independence on the decision processes and the ability of developing new forms of actuation complete the philosophy which aims the organization.

### **IV.3 State of realization of the project**

The people target of the action of the Foundation are protagonists of their own paths of change and active part of the organization improvement. Furthermore, the foundation aims to improve its relationship with both the customers and the institutions. To this extent, it is important to develop new ways of communication to activate new people through encouraging the volunteer work within the organization' structure.

However, Spain is currently facing an economic downturn which has one of its main shortcomings on the social welfare which faces a constant risk of budget reductions. At the same time the enterprises often do not pay attention to their social role, making the situation even more uncertain for people which are at risk of social exclusion. Despite of the situation, the Fundacion Atenea is currently undertaking 16 different projects with the objective of providing assistance to people which are at risk of social exclusion.

### **IV.4 The relationship with the territory (Region and Municipality)**

The activity of Fundacion Atenea is carried out across an increasing part of the Spanish territory, while keeping its approach of offering an adequate attention to each person based on the protection of each person dignity. The network of intervention of the Foundation involves around 101.000 people. Currently, the foundation develops its programmes across the Autonomous Communities of Andalucia, Castilla la Mancha, Extremadura, Madrid and Valencia. More of 160 employees are involved.

The work of the foundation is based on the collaboration with public institutions to optimize the existing resources and to obtain a major efficacy on the response to the demands of the society. The foundation aims to increase its participation within the civil society, and to coordinate its activities with other organizations of the sector in order to attain the objective of improving the social welfare of Spain. For this reason Fundación Atenea is participating in different platforms and networks at European, National and Local level.

It is important also the involvement of the political groups which must include in their agenda the promotion of the social inclusion as well of the fight against the poverty. To this aim, the foundation is promoting conferences on the best strategies and practices for social inclusion, which should be the basis for the innovation and improvement of the existing social policies.

### **IV.5 Impact of the Project**

The Foundation has so far implemented 16 projects on the following topics:

- Treatment and prevention of addictions;

- Reduction of risk and damages;
- Provision of assistance to minors, young and families at risk;
- Integration and participation of immigrants;
- Research and evaluation;
- Training of professionals.

More of 20 publications on these topics (reports, bulletins, action plans) are currently available online. These studies describe the results for each single project, the main problems and the subjects involved.

Together with the local entities, the Foundation elaborates plans and municipal programmes on:

- Prevention of drugs addiction;
- Social integration of immigrants and other categories at risk of social exclusion;
- Psychological help for youth;
- Gender equality;
- Health education;
- Social activities for disadvantaged areas.

The Foundation provides a service of support for the start of new territorial services, programmes and strategic plans, as well as the redesign of those already existing. In more of 25 years of experience, the Foundation focused not only on the intervention on categories which are in situations of social vulnerability (prevention, assistance, damage reduction, integration) but also on the social research (policy analysis, project formulation). The organization has developed a solid structure of Knowledge Management and Research and Evaluation which allows collecting all the data which describe quantitatively the objects of the researches to analyse them qualitatively and to provide a framework about the situations of social inclusion/exclusion as well as a strong methodology of analysis.

*Example 1. Centro de integración Social para Jóvenes y Adolescentes de Torrejón de Ardoz (CISJA)<sup>50</sup>*



The Center of Social Integration for Young and Adolescents of Torrejon de Ardoz is a centre specialized in the assistance

- i. A service of job-counselling for young people experiencing social difficulties to define a personal path of inclusion
- ii. A service of prevention, with group activities on the risks typical of adolescence, health education;
- iii. Personal counselling on topics such as sexuality, drugs consumption, etc.;
- iv. Activities of support for students;
- v. Social activities in periods of no lessons;
- vi. Establishment of an Information Point for Youth;
- vii. Sport Activities.

It is also a meeting point to promote the relations of equality, the enlargement of the network of support for young people,

- Promoting the development of socioeducational strategies of intervention for youngs at risk in Torrejón de Ardoz
- Reducing the drug consumption and help the youngs in condition of vulnerability within the Municipality of Torrejón de Ardoz

*Example 2. Servicio de Acompañamiento a la Inserción Laboral* <sup>51</sup>

The Service of Accompaniment to Labor insertion (SAIL) is a programme to support the active search of jobs which is directed by the Secretariat of Health, Social Policy and Equality and the Fundación Cajasol.

The SAIL is directed to the following categories:

- Women victims of gender violence;
- Drugs-Addicted under treatment;
- Individuals with histories of long-term unemployment;
- People older than 45 years
- Youngs under 30 years which come from previous social programs;
- Immigrants and ethnic minorities.

According to SAIL, the profile of the assisted people is varied although showing some common features:

- Economic difficulties;
- Low-level of education;
- Low work experience, mainly centred on the construction sector;
- Low levels of self-esteem.

The main actions of SAIL include:

- i. Personalized assistance: Each assisted individual will develop a personalized plan of labor insertion to establish a job.
- ii. Formation, within three areas:
  - Labor skills: personalized session according to the needs of each person;
  - Social Skills: working groups to analyse features of the labour orientation and development of basic competences.
  - Computer skills and internet.
- iii. Information service, on job offers, courses of formation etc.
- iv. Actions of job-keeping and improvement.

SAIL is currently working with different institutions such as Municipality of Mérida, Center for the Women Victims of Violence, etc.

#### **IV.7 Fundación Atenea - Main results and limits of the project**

Results	Limits
<ul style="list-style-type: none"> <li>• Around 101.000 people involved;</li> <li>• Territorial Coverage (Andalucia, Castilla-La Mancha, Madrid, Extremadura, Cataluña);</li> <li>• 6 projects funded by the "Fondo de Bienes Decomisados":</li> <li>• Treatment and prevention of addictions;</li> <li>• Reduction of risk and damages;</li> <li>• Provision of assistance to minors, young and families at risk;</li> <li>• Integration and participation of immigrants;</li> <li>• Research and evaluation;</li> <li>• Training of professionals.</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of data on the impact of the Project;</li> <li>• Difficulties in accessing to public funds to keep active the project;</li> <li>• Difficulties of the reuse projects of financial self-sustainment.</li> </ul>

## 6. Conclusion: best practices in asset management

The reuse of confiscated assets through transfer of property to state or local institutions is currently the second most applied reuse option after indirect reuse. Italy makes however exception, where, as seen, reuse for social purposes is the most common measure.

This report aimed to provide a comparative picture of the different systems of confiscated assets reuse in the European Union. In particular it presented the main differences among the projects of reuse undertaken by four different areas of the European Union. These differences regard the type of reuse which is defined as follows:

- i. **Direct reuse:** confiscated assets are directly used for social purposes (Case Studies analysed: i) Villa Santa Teresa and ii) Social Market of Milan, in Italy);
- ii. **Indirect reuse:** the reuse of the confiscated proceeds of crime through established specialised funds/programs that invest these proceeds for fighting drug trafficking or crime prevention (Case Studies analysed iii) Torry Aberdeen and iv) Fundacion Atenea)".

Furthermore, it has been possible to identify a number of common best practices for the reuse of confiscated assets both at *macro* level (e.g. responsiveness of the project to the territorial needs) and *micro* level (e.g management of the recovered asset) for each case analysed, identifying also their key issues and weaknesses. Some projects had to face a number of operational issues in the goal planning phase; at an environmental level, with infiltration of organized crime in all the phases of the reuse project; at economical level, with projects not adequate to guarantee a long term economic sustainability.

The present study provided the following key findings:

- There is a comprehensive EU regulatory framework for combating of serious and organised crime through the confiscation of the proceeds of crime;
- However, there is no regulation pertaining to the social reuse of confiscated assets. At the same time, several EU action plans, reports and strategies refer to the need to introduce regulation pertaining to the social re-use of confiscated assets;
- There is a clear need to consider the advantages in allowing assets confiscated from criminal organisations to be used for civil society and in particular for social purposes;
- The solutions presented by the selected States that have, or intend to have in place provisions for the social re-use of confiscated assets are diverse. Italy is more oriented to the direct reuse while Spain and Scotland are more oriented to reinvest the proceeds of crime through specialized programs (e.g. Cashback for Communities and Fundacion Atenea);
- There is a need to develop common elements for regulation on the social re-use of confiscated assets. This would also ensure more transparency on the specific destination of the confiscated assets for social purposes;
- An introduction of EU regulation allowing assets confiscated from criminal organisations to be for social purposes would allow for greater co-operation and harmonisation of existing legislation that would enable more effective cross-border prevention and combating of serious and organised crime.

Regarding the empirical evidence provided by the experience of reuse which have been analysed:

- i. The first case, *Villa Santa Teresa*, is also one of the most prominent in the whole Europe for the asset overall value. Due to the complexity of the structure and the network of relationships within the enterprise the operation of recover had to face a number of issues. Thus, the financial office was separated from the other branches and the enterprise was isolated from the scientific community. At the same time was essential to ensure the continuity of the services considering the typology of the treatments for the patients. Finally, the funds provided by the institution were considerably reduced after the discover of the links with organized crime. Many of these problems have been resolved by the new administration, which also started a new partnership with the Rizzoli hospital of Bologna. Nowadays, Villa Santa Teresa is without any doubt one of the centres of excellence of the Southern Italy.
- ii. The second case, the *Social Market of Milan* was a storehouse used by ‘Ndrangheta involved in drug trafficking. Since the start of the reuse project, also thanks to the collaboration of the Municipality, the Social Market has a strong relationship with the territory, with the Municipality of Milan

providing the list of the beneficiaries. Part of the cost of the shopping basket is covered by Caritas, which is another important partner. The relationship with the territory featured new practices such as the “crowdfunding”, which has been used to open the Market of Milan. The main issues are related to the limited area covered by the Social Market (which it is going to be broadened) and the fact that all the employees are voluntary-based. This sometimes causes problems of sudden shortage of the workforce.

iii. Scotland is the first example of indirect reuse of confiscated assets. The *Cashback for Communities* is the main project for the reuse of confiscated assets in Scotland, and can be seen as an umbrella encompassing various sub-projects. One of these was the “Scottish Athletics”, which has been carried out in the years 2010-2012. It was aimed to re-socialize youth at risk of anti-social behaviour through sport. The project featured a strong relationship with the territory, which was already established during the first year of the project. According to the participants, more time needed to be given to the planning phase to better understand how to target the relevant young people. The main issues linked to the project are the lack of a full-time national coordinator for the project, the difficult to forecast when new funds will become available. There is no Government budget for CashBack and the voluntary basis of the work, which implied the risk of sudden shortages.

iv) Spain is the second example of indirect reuse of confiscated assets. The project analysed is the *Fundacion Atenea*. Similarly to the Cashback for Communities, is a project which encompasses a number of sub-projects. In 25 years of history the foundation published various reports and investigations about social exclusion. The foundation currently coordinates 16 project across Spain, with a staff of 150 people involving more than 101.000 people. Fundación Atenea is participating in different platforms and networks at European, National and Local level. The main issues are related to the difficulties in raising new funds (Spain is one of the countries which most have been affected by the economic downturn) and to the lack of data on the effect of the project undertaken.

## **6.1 Summary of the main results**

Although with a different impact, as illustrated in the previous paragraphs, and with different procedures, all the reuse projects above presented produced a number of results according to three different levels: economic, cultural and symbolic.

The Italian cases involved the reuse of assets confiscated to organized crime. In this sense, plays a crucial role the strong symbolic element associated: the assets have been taken out from illegality and restituted to the community for a social reuse. Of course some problems which may emerge may weaken this symbolic element such as issues linked to the reuse project or interruptions (also temporary) of the project itself. By analysing the effect on the territory it is possible to distinguish between social effect and economic effects. In this sense it is very important the ability to create a

network of relationship between the other active bodies: other associations, foundations, enterprises, ONG, local entities. In all the cases a strong network of relationship between the asset, the municipality, ONG and local actors was created. These actors could also profit by the reuse of the asset.

At economic level, the good practices can be identified either at single project level and for the creation of job opportunities. Thus all the cases had an effect on the territory, implementing a number of complementary services or the full recovery of the economic activities of the territory (Case study 1). Good practices are also those implemented to allow the self-sustainability of the project (Case 2)

### **Impact on the social and cultural environment**

- Restitution to the community of an asset confiscated to organized crime (Case 1 and 2);
- **Involvement of the population in social and cultural projects; (Case 1, 2, 3 and 4)**
- Requalification of the personnel (Case 1);
- Improvement of the current welfare state (Case 2);
- Promotion of voluntary work (Case 2,3 and 4).

### **Urban and environmental requalification**

- Recover of abandoned assets (Case 1);
- Recover of criminal high-risk areas (Case 3 and 4).

### **Inter-institutional Cohesion**

- **Creation of a network of active subjects on territory (Case 1,2,3 and 4);**
- **Creation of partnerships with private and public institutions (Case 1,2,3 and 4).**

### **Impact on the economic and productive sector**

- Creation of job opportunities (Case 1,2, and 4).

### **Economic self-sustainability**

- Self-sustainability through for profit activities (Case 1);
- Integration among different financing systems (public, private, crowdfunding, etc. Cases 1,2 and 4).

## **6.2 Summary of the main issues**

The identification of the weaknesses of the recovery and reuse of the confiscated assets is useful as well as the analysis of the best practices.

The disposal phase the analysis evidences a number of issues linked to the persistent presence of organized crime within the asset under recovery (Case 1). Thus some of the employees were still feeling connected to the old entrepreneur, hampering the process of recovery.

The financial problems, linked to the difficulties of the reuse projects to self-sustain from a financial point of view, seem to be one of the most critical issues (Case 1,2,3,4). Thus, public funds seem to be insufficient to ensure the development of the projects in a long-term perspective. In this sense, the projects of crowdfunding (case 2) seem to be one valid solution.

### **Environmental Issues**

- Some employees still do not feel part of the project (Case 1);
- Influence of the ex-owner on the employees still persistent also after the disposal (Case 1);
- Difficulties of relationship and lack of collaboration between the subjects involved in the project of reuse (Case1);
- Territorial coverage to be improved (Case 2).

### **Financial Issues:**

- Difficulties in accessing to public funds to keep active the project (Case 1,3,4);
- **Difficulties of the reuse projects of financial self-sustainment (Case 1,2,3,4).**

### **Project-Related Issues:**

- Scarcity of data on the territorial impact of the project (Case 3 and 4);
- No data on the effects of the project on crime rates (Case 3).

## **6.2 Final Remarks**

To conclude it is possible to affirm that there are large margins of improvement for a more efficient use of the EU funds in projects of reuse of confiscated assets. More efforts in the analysis of the socio-economic context of the projects should be made while proceeding in a more systematic manner and on a large-scale to identify the areas which require more attention for an optimal intervention planning. Finally, the analysis of the intervention plans would be more accurate for the future management of the asset to make the impact of the project more efficient and to reduce the risk of failure. In this sense, a more detailed system of monitoring after the completion of the recovery project in order to verify its real impact on the territory.

1 Until not long ago, little importance was given to the deprivation of property with a criminal origin belonging to criminals. One reason for that was the fact that the criminal proceeding was essentially aimed at punishing the crime, and not so much at recovering the assets. Another reason was indeed the scarcity of means at the judicial authorities' disposal for finding and identifying the illegal assets. This is changing now, and over the last years the establishment of confiscation has been acquiring great importance, to the extent of being considered as the "central weapon" in the arsenal aimed at dealing with the proceeds of crime. In the fight against criminality, great importance is given today in the EU to the cross-border prosecution of illegally-originated assets, and the confiscation of such assets.



2 The proceeds to launder the money coming from the proceeds from the perpetration of a criminal action, several schemes, such as tax heavens, corporate vehicles, financial transfers, etc. make the investigation highly difficult, even more if the involved assets are concealed in other states.

[3](#) EU Commission's Communications to the European Parliament and Council entitled "Proceeds of organised crime; guaranteeing that "crime does not pay", Brussels, 20-11-2008. COM(2008) 766 ff.

4 Ibidem

5 The most significant cases arise when assets sold in public auctions are re-acquired by emissaries of the same criminal organisations to which they were confiscated (often at a lower price), often because the other potential bidders have been deterred by intimidation.

6 It is important to say that to evaluate the impact of a project of reuse of a confiscated asset is fundamental that the recover of the asset has been completed as well started its activity. The method used involved the use of interviews to privileged witness (gestore del bene, rappresentante del consorzio promotore, delle istituzioni, della società civile e dell'utenza del progetto) with the final goal of evidencing the best practices and their weaknesses to suggest strategies to improve the reuse of the confiscated assets.

[7](#) Commission Communication on the proceeds of organised crime (2008); Stockholm Programme (2009); Justice and Home Affairs Council Conclusions on confiscation and asset recovery (2010); 2010 Commission Communication on a EU Internal Security Strategy (COM(2010) 673 final; European Parliament Report on organised crime in the European Union (2010/2309(INI).

[8](#) ICAR. Tracing Stolen Assets: a practitioner's Handbook, Basel, 2009.

[http://www.baselgovernance.org/fileadmin/docs/publications/books/asset-tracing\\_web-version.pdf](http://www.baselgovernance.org/fileadmin/docs/publications/books/asset-tracing_web-version.pdf).

9 The most typical issue during this phase is when assets are to be sold in public auctions and end up being re-acquired by emissaries of the same criminal organisations to which they were confiscated (often at the lowest price) because the other potential bidders have been deterred by intimidation. National best practices on the reuse of confiscated assets could usefully be shared with other countries.



10 These assets may then be entrusted for: i) institutional reuse: i.e. confiscated assets are absorbed within the State budget (most common) or to ii) NGOs/Society: i.e. aimed at giving visibility to the confiscated assets and spread a social message “what stems from crime is given back to society”, through a “social fight against organised crime”.

11 It is important to foresee the economic entity and the nature of the assets which can be seized, to make available the necessary means for their transportation and storage available. The financial investigation is essential for both the pre and post confiscation phases. To investigate the assets it is important to have an efficient ARO with centralized database to provide information on the owners of suspect assets (financial instruments, real estate, vehicles, etc.), allowing quick access to the investigators.

[12](#) Framework Decision 2005/212/JHA. Ordinary confiscation, including value confiscation, must be available for all crimes punishable by 1 year imprisonment. Extended confiscation must be available for certain serious offences, when "committed within the framework of a criminal organisation"; and Framework Decision 2001/500/JHA, which obliges Member States to enable confiscation, to allow value confiscation where the direct proceeds of crime cannot be seized and to ensure that requests from other Member States are treated with the same priority as domestic proceedings

13 The “Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime” was adopted at Strasbourg on 8 November 1990 and entered into force on 1 September 1993.

[14](#) The United Nations Convention against Corruption, which came into force in 2005, focuses on the implementation of recovery of asset within the domestic criminal legislations of States Parties. The recovery of assets process takes into account the whole environment surrounding the assets originated by a crime. The confiscation of the assets collected through criminal activities is therefore considered as a basis for the fight against criminal organizations.

[15](#) The idea of the social reuse of confiscated emerged in the mid-90's, when law 109/1996 enabled the use for social purposes of assets confiscated from mafia (i.e. in civil/preventative proceedings and in certain criminal proceedings instituted under art. 12-sexies of law 356/1992).

[16](#) In this case, the assets can be used i) for justice/public order purposes, or to respond to other governmental or public needs related to the institutional activities carried out by state entities, fiscal entities, universities, cultural institutions; ii) for economic purposes by ANBSC (Agenzia Nazionale Beni Sequestrati e Confiscati).

[17](#) Italy has not ratified yet Framework Decision 2006/783/JHA on the mutual recognition of confiscation orders. In terms of resources, ANBSC is severely understaffed: only 30 officials in total, in the 5 seats of the Agency across the Italian territory. They are not provided with any training. Italy also reports problems in terms of delayed notification about the confiscation orders to ANBSC, lack of cooperation among ANBSC and the competent state and local authorities, uncertainties in legislation in regards to certain competences of ANBSC.



18 Interviewed subjects: Dr. Andrea Dara (Judicial Administrator) and Dr. Santo Aiello, 17 of March, 2014.

19 This asset restriction involved a great number of personal assets (bank accounts, financial assets, cars, boats, etc) and 25 companies, 7 of which not operative or already bankrupted. The operative companies owned by Aiello were operating in 4 macro-areas: the health branch, including 4 different societies, the edil branch, including 5 societies, the real estate branch, with 2 societies and the services branch, which was working only for the companies of the group and was including 3 societies

[20](#) Following an accurate procedure of asset evaluation to assess the value and the condition of the assets, Dara discovered that Aiello's enterprises were hiding all their financial flows, as the Health Local Service was the only client. These enterprises were acting under an accreditation status with the Sicilian Region, which suspended its payments due to the enormous quantity of money erogated to Aiello's group.

[21](#) The law 231 (meglio d.lgs 231/01) sets aside the penal responsibility to the enterprise instead to its members.

[22](#) For example, after one year of benchmarking of the best practices in the other regions of Italy, he introduced the conformational radiotherapy in Sicily, with a tariff reduced of 10% if compared to the average of the other regions tariffs. With the ASP Dara followed civil and administrative trials which were slowing Dara's activity, as the first answer he obtained was suspension of the budgets until July 2011, which were claimed to include a fraud of 110 millions of euro.

[23](#) It was the scheme used in order to conceal the huge earnings of the clinic, which would be easily discovered if included directly as income in the budget. This also implied a great tax evasion, together with a credible budget, as the payments to the personnel resulted as a cost which was moderating the total income of the clinic.

[24](http://www.vita.it/welfare/social-innovation/una-spesa-completa-a-20-euro.html) <http://www.vita.it/welfare/social-innovation/una-spesa-completa-a-20-euro.html>

[25](http://comune.milano.it/portale/wps/portal/CDM?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/ContentLibrary/giornale/giornale/tutte+le+notizie+new/politiche+sociali+e+cultura+della+salute/leoncavallo12_aperto_social_market)[http://comune.milano.it/portale/wps/portal/CDM?  
WCM\\_GLOBAL\\_CONTEXT=/wps/wcm/connect/ContentLibrary/giornale/giornale/tutte+le+notizie+new/politiche+sociali+e+cultur  
a+della+salute/leoncavallo12\\_aperto\\_social\\_market](http://comune.milano.it/portale/wps/portal/CDM?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/ContentLibrary/giornale/giornale/tutte+le+notizie+new/politiche+sociali+e+cultura+della+salute/leoncavallo12_aperto_social_market)



26 See also: <http://www.redattoresociale.it/Notiziario/Articolo/457177/Una-spesa-completa-a-20-euro-apre-a-Milano-il-secondo-Social-market>

[27](#) Crowdfunding is the collection of finance from backers—the "crowd"—to fund an initiative and usually occurs on Internet platforms. The initiative could be a nonprofit campaign (e.g. to raise funds for a school or social service organization), a political campaign (to support a candidate or political party), a charitable campaign (e.g. emergency funds for an ill person or to fund a critical operation), a commercial campaign (e.g. to create and sell a new product) or a financing campaign for a [startup](#) company.

28 This cost is often covered by Caritas

[29](#) This is the main aim of the association 'Terza settimana onlus', active in Turin and Milan, which fights against the food scarcity. Another shop is going to be opened by the end of April, in Via Sebastiano Del Piombo, which will be also able to home delivery.

[30](#) See footnote 25.

[31](http://www.labsus.org/2014/04/social-market-una-rete-di-solidarieta/) <http://www.labsus.org/2014/04/social-market-una-rete-di-solidarieta/>

[32](#) The primary aim of the CRU is to use civil proceedings to disrupt crime and to make Scotland a hostile environment for criminals (Civil Recovery Unit, 2012: para.3);

[33](#) Civil recovery powers can be used to prove that the obtainment of property or other assets was proceeding of crime. The Serious Organised Crime Taskforce is in charge for the maximisation the effectiveness of the Proceeds of Crime Act.



[34](#) Furthermore, some CRU officers operate under pseudonyms since they come into direct contact with major criminals, and it is necessary to protect their private identities.

[35](#) While the realisation of cash and other assets from Part 5 enforcement action has been welcomed, this is regarded as but a secondary issue – disruption is the primary aim. Significantly, the CRU has not been established to generate revenue. This can be contrasted to the tendency, in other parts of the UK, to assess the effectiveness of civil recovery by reference to property and money recovered, realised and remitted to “the tin can” (as HM Treasury is affectionately referred to in some circles).

36 <http://www.scotland.gov.uk/Topics/Justice/public-safety/17141/cashback>.

[37](#) See also: “Scottish athletics 2012. Executive Summary”. Community health research and evaluation 2012.

38 See: <http://www.cashbackforcommunities.org/>.

[39](#) Since the inception of the Cashback for Communities programme in 2007, over £74 million recovered under the Proceeds of Crime Act has been invested or committed to a wide range of sporting, cultural, educational and mentoring activities for children and young people throughout Scotland. The programme has funded 1.2 million activities and opportunities for young people. This investment includes £24 million on sporting activities and facilities projects; £10 million on grant schemes that support youth work projects across all 32 local authority areas; over £3.5 million on cultural activities involving arts, music and dance.

40 “scottishathletics” (Scottish Athletics Ltd) is the National Governing Body for Athletics in Scotland. A company limited by guarantee (established 2001), scottishathletics is affiliated to [UK Athletics](#), which is in turn affiliated to the International Association of Athletics Federation (IAAF).

41 The total amount received was £228,951



42 <http://www.cypscotland.org.uk/pix/uploaded/Library/GuidanceNotesV3ClubsforYoungPeopleScotland.pdf>

[43](#) An example of the Club Together approach is provided by Shettleston Harriers in Glasgow who deliver the project to the East End of the city. This includes coaching sessions to 30 primary schools and 3 secondary schools in the area.. They link with a local community group to deliver education sessions to the young people and have developed a specific programme working with asylum seekers and through this give support to young Eritrean athletes in the East End.

[44](#) Spanish notaries have shown a clear compromise in detection and communication of money laundering suspicious activities before getting the “obliged individual” condition. The key landmark is the issuing, by Finance Ministry, of the Order 2963/2005, September 20th. That order came into force in 2006 and provides the establishment of a specialised unit within the Notaries General Council, the Prevention Centralised Body (OCP). This creation was widely asked by notaries, and constitutes a valuable tool in money laundering prevention, aimed to notaries and the authorities that receive the information.

[45](#) “Fondo de Bienes Decomisados”, established by the Law 17/2003, 29 of May. Within the first quarter of each year, the President of the Panel will send to Parliament, through the Presidents of the Congress of Deputies and the Senate, a full report on the activities of the Fund, which collects the main operations and economic data.

46 The last time they have set has been the January 14, 2011.

47 For more information see <http://www.pnsd.msssi.gob.es/Categoria4/bienes/home.htm>.

48 See also: <http://fundacionatenea.org/>

49 See: <http://fundacionatenea.org/2014/01/04/pobreza-3650-euros-al-ano/>



50 See: <http://fundacionatenea.org/about/areas-de-trabajo/jovenes-y-familias/antena-de-riesgos/cisja/>.

51 See: [http://www.luisvivesces.org/upload/68/26/Cuaderno\\_Europeo\\_8\\_Atencion\\_integral\\_Manuel.pdf](http://www.luisvivesces.org/upload/68/26/Cuaderno_Europeo_8_Atencion_integral_Manuel.pdf) and <http://fundacionatenea.org/http://fundacionatenea.org/wp-content/uploads/2011/02/BUENAS-PRACTICAS-REINSERCIÓN-MERIDA1.pdf>