



Council of the
European Union

Brussels, 6 January 2016
(OR. en)

17768/10
DCL 1

GENVAL 24

DECLASSIFICATION

of document: 17768/10 RESTREINT UE

dated: 20 January 2011

new status: Public

Subject: EVALUATION REPORT ON THE
FIFTH ROUND OF MUTUAL EVALUATIONS
"FINANCIAL CRIME AND FINANCIAL INVESTIGATIONS"
REPORT ON ESTONIA

Delegations will find attached the declassified version of the above document.

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REPORT ON ESTONIA

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1. INTRODUCTION

At the meeting of the Multidisciplinary Group on Organised Crime (MDG)¹ on 26 February 2008, the Presidency proposed three possible topics for the fifth round of mutual evaluations², two of which received substantial support. At the MDG meeting on 6 May 2008, the majority of delegations were in favour of selecting financial crime and financial investigations. On 17 June 2008, the Group decided that the subject of the fifth round was to be "financial crime and financial investigations". The scope of the evaluation covers numerous legal acts relevant to countering financial crime. However, it was also agreed that the evaluation should go beyond simply examining the transposition of relevant EU legislation and take a wider look at the subject matter³, seeking to establish an overall picture of a given national system. On 1 December 2008 a detailed questionnaire was adopted by the MDG⁴.

The importance of the evaluation was emphasised by the Czech Presidency when the judicial reaction to the financial crisis was being discussed⁵. The significance of the exercise was once again underlined by the Council when establishing the EU's priorities for the fight against organised crime based on OCTA 2009 and ROCTA⁶.

Topics relating to the evaluation, in particular the improvement of the operational framework for confiscating and seizing the proceeds of crime, were mentioned by the Commission in its Communication on an area of freedom, security and justice serving the citizen⁷.

Experts with substantial practical knowledge in the field of financial crime and financial investigation were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG.

¹ Since 1 July 2010 the responsibilities for this process have been transferred to the Working Party for General Affairs, including Evaluations (GENVAL).

² 6546/08 CRIMORG 34.

³ 10540/08 CRIMORG 89.

⁴ 16710/08 CRIMORG 210.

⁵ 9767/09 JAI 293 ECOFIN 360.

⁶ 8301/2/09 REV 3 CRIMORG 54.

⁷ 11060/09 JAI 404.

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At its meeting on 17 March 2009 the MDG discussed and approved the revised sequence for the mutual evaluation visits¹. Although originally foreseen for April 2010 the on-site visit had to be re-scheduled for September 2010 due to *force majeure*. Accordingly, Estonia was the thirteenth Member State to be evaluated during this round of evaluations.

The experts charged with undertaking this evaluation were Mr Jaakko Christensen (Senior Detective Superintendent, National Bureau of Investigation, Vantaa/Finland), Ms Svetlana Klouckova (Director International Affairs Department, Supreme Prosecutor's Office, Brno/Czech Republic) and Mr Angelo Gafa (Police inspector, Malta Police Forces GHQ, Valletta/Malta). Three observers were also present: Mr Stefan de Moor (*OLAF*, European Commission) and Mr Cristiano Ripoli (National Expert, Eurojust), together with Mr Peter Nath from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the Council Secretariat, based on findings arising from the evaluation visit that took place between 6 and 9 September 2010, and on Estonia's detailed replies to the evaluation questionnaire.

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¹ 5046/1/09 REV 1 CRIMORG 1.

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2. NATIONAL SYSTEM AND CRIMINAL POLICY

2.1. Specialized units

2.1.1. Investigative authorities

2.1.1.1. *Police and Border Guard Board*

In 2009 the Estonian Parliament passed the Police and Border Guard Act which merged several authorities under the Ministry of Interior, namely the police, border guard and immigration authorities, to form the **Police and Border Guard Board**¹. The Board - which is the biggest state authority in Estonia with approximately 7.000 staff of whom about 3.000 are police officers - is organised into four territorial authorities (East, West, South and North Prefecture) under the Director General (DG) of the Police and Border Guard Board. Also under the DG are the Criminal Police Department and the units mainly involved in preventing and investigating financial crime, namely the Investigation Bureau, Criminal Intelligence Bureau and the Financial Intelligence Bureau. Also within the four Prefectures there are Crime Bureaus each with eight divisions, including Organised and Serious Crime, Corruption Crime and Economic Crime Divisions and the Criminal Intelligence Service. There are specialists on tracing proceeds of crime within a unit of the **Investigation Bureau**² at central level, and within the Investigation Divisions at Prefecture level. This sub unit of the Investigation Bureau fulfils the function of the Estonian Asset Recovery Office (ARO) and CARIN contact point.

Therefore the total number of police officers in Estonia whose main tasks are focused on preventing and investigating financial crime and conducting financial investigations is combined of the officers working in the aforementioned structural units, both at central level and in the four regions.

2.1.1.2. *Security Police Board*

The Security Police Board³ under the Minister of Interior also has some responsibilities in combating financial crime, primarily in the prevention of corruption. The Security Police has full powers to conduct pre-trial investigations and to apply coercive measures.

¹ Cf.: <http://www.politsei.ee/en/>

² Cf. also see also chapter 2.1.1.4 of this report.

³ Cf.: <http://www.kapo.ee/eng>

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2.1.1.3. *Financial Intelligence Unit (FIU)*

The Anti Money Laundering and Terrorist Financing Prevention Act (MLTFPA), which entered into force on 28 January 2008 harmonizes Estonian legislation with the requirements of the 3rd EU AML Directive and its Implementing Directive 2006/70/EC.

The Financial Intelligence Bureau within the Criminal Police Department of the Police and Border Guard Board is the Estonian FIU. The bureau is well staffed and has wide powers to freeze transactions for 30 days with a possible extension of 60 days and to obtain information on transactions from obligated persons, government authorities and third persons. In 2009 the FIU received 17.000 STRs, and the total sum reported in the STRs amounted to 93 billion EEK (approximately 5.9 billion €).

The Head of the FIU, himself a Police official, holds extraordinary powers when it comes to freezing and possibly seizing criminal assets. He has the power to freeze assets for a period of thirty days when a case is still in the intelligence phase. Added to that, the reversed burden of proof is applied at this phase and hence it is up to the proprietors of the assets to justify the origin of frozen assets. Failure to justify the origin of frozen assets may lead to the Head of the FIU taking a decision to freeze the suspicious assets for a further period of sixty days, within which period he must refer the case to criminal investigations.

Criminal investigations which are based on financial intelligence are the responsibility of both the Security Police Board (terrorist financing) and the Police and Border Guard Board (money laundering and predicate offences).

2.1.1.4. *Asset Recovery Office (ARO) and other similar bodies, and implementation of Council Decision 2007/845/JHA*

A sub unit of the Investigation Bureau performs the tasks of the **National Asset Recovery Office (ARO)** based on Decision 2007/845/JHA of the Council of the European Union, dated 6 December 2007, which deals with cooperation between the Asset Recovery Offices of the Member States for the recovery and identification of revenues and other assets related to criminal activities.

The service's mandate is derived mainly from the Code of Criminal Procedure (CCP) and in addition from the Surveillance Act, the Police and Border Guard Act, the statutes of the Police and Border Guard Board and other relevant legislation.

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The service became operational on 1 January 2010 and deals with criminal revenue. It is situated within the structure of the Investigation Bureau of the Criminal Police Department of the Police and Border Guard Board. The officials serving with the ARO belong to a sub unit of the Investigation Bureau and the Financial Intelligence Bureau. Before the Police and Border Guard Board was formed, the criminal assets service was already established on 1 January 2009 as a division of the Investigation Bureau of the Central Criminal Police. Initially, the Criminal Proceeds Division started its work in March 2007. The service also performs the tasks of a national ARO. In addition, each of the four prefectures has persons specialised in identifying criminal revenue, who are tasked with advising the officials conducting investigations within the prefecture, and if necessary, taking action themselves.

In executing its tasks, the service lends its support to other police units, the Tax and Customs Board, the Security Police Board and other investigative authorities.

The ARO does not have its own, separate database. For the performance of their duties, officials have access to all databases and registers used by the police.

The Estonian ARO does not cover cases other than those related to criminal proceedings.

2.1.1.5. Tax and Customs Board

Under the Ministry of Finance (MoF), the **Investigation Department of the Tax and Customs Board**¹ deals mainly with preventing and investigating tax and customs related financial crime. It is organised into four territorial authorities identical to those of the Police and Border Guard, i.e. east, west, south and north. Additionally at the central level there are the Surveillance, IInd Northern, Co-ordination and Analysis as well as International Co-operation Units. At the time of the visit, the Investigation Department had a total staff of 131. The Tax and Customs Board, when acting as a law enforcement authority, has full powers to conduct pre-trial investigations and to apply coercive measures as well as to apply measures for international legal assistance.

¹ Cf.: <http://www.emta.ee/?lang=en>

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The evaluation team was informed that tax fraud is primarily investigated by the Tax and Customs Board and that the police may investigate tax fraud if it is related to other financial crimes which the police is investigating.¹

2.1.2. Judicial authorities

2.1.2.1. Prosecution services

In Estonia pre-trial investigations are supervised by prosecutors. There are 193 Prosecutors in Estonia divided among state and district levels. The Prosecutor-General directs the activities of the Prosecutor's Office² at national level. Chief State Prosecutors control respective departments and State Prosecutors deal with cross-border, international and serious priority crimes. District Prosecutor's Offices are administered by a Chief Prosecutor. Departments of the District Prosecutor's Office are managed by Senior Prosecutors. Special Prosecutors work on the district level with specific crimes (e.g. organised crime) whereas District Prosecutors and Assistant Prosecutors deal with general crime.

The Prosecutor's Office participates in the planning of the surveillance activities necessary to prevent and detect crimes, manages pre-trial investigations, and represents the public prosecution in court.

As the leader of the criminal proceedings pursuant to § 30 of the Code of Criminal Procedure, the prosecutor directs the investigators in the gathering of evidence and, based on the ascertained circumstances, decides whether to charge the person. In respect of financial investigations, the task of the Prosecutor's Office is to cooperate with the investigative authority in the planning of the financial investigation, in which the prosecutor's primary task is to decide on legal issues – e.g. which assets have been acquired as a result of a crime, what the possibilities for seizing or confiscating the property are, and which circumstances need to be proven.

The Prosecutor's Office conducts proceedings related to crimes in cooperation with the investigative authorities, including police authorities, the Tax and Customs Board, as well as the Security Police Board.

¹ The Estonian authorities have informed after the visit that they had specific responsibilities by the types of crimes. Furthermore, in individual cases the Prosecutor's Office may decide to hand over the proceeding to other investigative authority.

² Cf.: http://www.prokuratuur.ee/?set_lang_id=2

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The Prosecutor's Office has no specialised unit dealing exclusively or mainly with financial investigations or tracing the proceeds of crime. The evaluation team was informed however, that thirteen prosecutors who work in the Economic Crimes and Corruption Department of the Northern District Prosecutor's Office (from a total of 80 prosecutors in the five departments of the Northern District Prosecutor's Office) and eight prosecutors who work in the Office of the Prosecutor General and other District Prosecutors Offices are specialized in economic crimes and corruption. At present one of the prosecutors from the Office of the Prosecutor General is the CARIN contact point for the Estonian prosecution service.

2.1.2.2. Judges

Estonia has a three level court system with 242 judges, 153 of whom are employed in four County Courts, 27 judges in two administrative courts, 43 judges in two Courts of Appeal and 19 judges in the Supreme Court. The First and Second Instance Courts are governed by the Ministry of Justice in co-operation with the Court Administration Council. The Supreme Court is self governed with a separate budget and management structure.

The evaluation team was informed during its meetings with the judiciary that a certain level of specialization was maintained among judges although there are no specialized judges for financial crimes.

2.1.3. Estonian Forensic Science Institute (EFSI)

The Estonian Forensic Science Institute, which operates under the supervision of the Ministry of Justice, provides forensic accounting services for law enforcement authorities but with limited human resources. Based on EFSI's next 5 year development plan the capacity of expert level examiners will be doubled. Furthermore, the Institute has expertise in the analysis of forged documents and banknotes. All complicated *Financial and Accounting Software* related cases can be solved in partnership between Document examiners and Computer Forensics experts.

2.1.4. Bailiffs

The enforcement of court decisions is the responsibility of private bailiffs who are licensed and operate under the supervision of the Ministry of Justice. There are no specialized functions for tracking down the proceeds of crime post conviction in cases in which proceeds have not been located prior to the conviction, i.e. by the investigation or prosecution authorities.

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2.1.5. Financial Supervisory Authority (EFSA)

The Financial Supervisory Authority¹ is a financial supervision institution with autonomous competence and a separate budget which conducts supervision in the name of the state and is independent in its activities and decisions. It is responsible for the stability, reliability and transparency of the financial sector of Estonia. As money laundering and terrorist financing is directly connected with stability and reliability of the financial sector, the EFSA exercises supervision in this field as well and has a role in preventing and identifying financial crime within its area of responsibility.

The evaluation team was informed that the EFSA identifies only a few cases of insider trading annually and that convictions for insider trading have been handed down. The EFSA exercises wide powers in relation to market participants which fall under its supervision and has good working relations with law enforcement and prosecution authorities.

The EFSA is also responsible for the supervision of the insurance sector.

2.1.6. Competition Authority

The Competition Division of the Competition Authority², under the Ministry of Economic Affairs and Communications, supervises agreements restricting competition and undertakings with significant impact on the market.

2.1.7. Anti Fraud Co-ordination Service - AFCOS

The Estonian Anti Fraud Co-ordination Service (AFCOS) has its headquarters within the Financial Control Department in the Ministry of Finance. It mainly has an informative, consultative and coordinative function and is responsible for the irregularity reporting system. The Department does not conduct investigations but rather co-operates with domestic law enforcement authorities and *OLAF*.

¹ Cf.: <http://www.fi.ee/?lang=en>

² Cf.: <http://www.konkurentsiamet.ee/?lang=en>

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2.1.8. Training

2.1.8.1. Investigative authorities

Police

The Estonian authorities explained during the visit that the appropriate unit of the Criminal Police Department's Investigation Bureau has completed various training courses on the topic of criminal assets.

Several training sessions related to the identification of criminal revenue were conducted for the police officers of the criminal assets service and, as well as for police officials, security police officials, employees of the Tax and Customs Board, border guards, judges and prosecutors within the framework of a twinning project, entitled "Support of the Creation of the National Monitoring Centre of the Criminal Proceeds"¹ that was implemented in 2008 and 2009. The training courses were organized and conducted by the corresponding specialists from Germany (i.e. the police from the *Land Berlin*).

Language training programmes are also in place. However, whilst English language classes are provided free of charge, French and German language classes are provided to officials of the Police and Border Guard Board against fees only. Given that the exchange of information with foreign countries is usually conducted through the ARO or through the Criminal Intelligence Bureau (also a structural unit of the Criminal Police Department; being a central contact point for Estonia of international police co-operation, officials working in this bureau already have the language proficiency required), the evaluation team was informed that enhancing language capabilities was not a priority for training related to tracing criminal assets.

Within the framework of the European Commission's Technical Assistance and Information Exchange Instrument (TAIEX), an official of the FIU has also participated as trainer in the Republic of Ukraine in the field financial crime and money laundering in 2008.

¹ Twinning-Project EE06-IB-JH-02.

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Customs

Tax and Customs Board officials have specialized, vocational and professional training in the field of criminal justice and criminal proceedings and the majority have also acquired professional higher education qualifications. Special education in economics is not required.

In the past, the Tax and Customs Board has received both domestic and international (US, Germany, the Netherlands, Finland) group training in the following fields of activity: EU tax law, financial analysis, financial investigations and project planning, economic and financial crimes, the investigation of tax offences as well as training organized by the Estonian Police.

In connection with the amendment to the law adopted in 2007 (a more precise regulation regarding assets acquired by criminal means and assets subject to extended confiscation as specified in §§ 83¹, 83² of the Penal Code), training sessions for authorities related to financial investigations have been conducted for the prefectures and officials of the Tax and Customs Board primarily by the Investigation Bureau's specialized unit. Among other things, the training sessions have dealt with issues related to criminal revenue. Prosecutors and officials from the Security Police have also participated in the training, as have compliance officers from private banks.

In respect to language training, several internal, commissioned and open language courses (English, German, and French) have been conducted for the officials of the Tax and Customs Board. In addition, it is assumed that staff working in these positions already has the language proficiency required.

2.1.8.2. Judicial authorities

A higher education qualification, preferably in law, is required for assistant prosecutors. A higher education qualification in law is required for state prosecutors, senior prosecutors, specialized prosecutors and district prosecutors.

Prosecutors have mainly participated in commissioned education (various practical and legal training sessions) and open training (the largest number of training sessions have been related to various amendments to the law and topical issues organized by the Supreme Court). A round table is carried out twice a year as internal training, where the main topics of discussion include changes in the field of activity (inter alia international cooperation) and the best practices of various regions. If necessary, specialists from other fields (e.g. the Police and Border Guard Board, Tax and Customs Board) are invited to participate at the round tables. Training sessions follow in communication psychology, management and language instruction.

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2.2. Criminal policy

2.2.1. The Estonian concept of financial investigations

In answering the questionnaire the Estonian authorities explained that within their legal framework, there was no official definition of the terms ‘financial investigation’ and ‘financial intelligence’. In answering the questionnaire, the term ‘financial investigation’ was therefore interpreted by the Estonian authorities as investigating financial offences.

In Estonia, criminal policy, including criminal investigation and the confiscation of criminal revenue, is based on the objectives provided and set at political level. In its resolution of 21 March 2003 the *Riigikogu*¹ approved the “Guidelines for Development of Criminal Policy until 2010”. One of the objectives of the plan is to deal with the consequences of crime. Improving the preconditions for the confiscation of assets acquired through crime and the imposition of material punishment has been identified as one of the actions to achieve the goals of the plan. Many agencies and institutions are involved in implementing these objectives for criminal policy, together with the Ministry of Justice, Ministry of the Interior, Ministry of Social Affairs, Ministry of Education and Research and the Ministry of Culture as well as the agencies under their jurisdiction playing a leading role.

The Ministry of Justice has prepared the new “Guidelines for Development of Criminal Policy until 2018”, one of the objectives of which (namely point 26) is related to dealing with criminal revenue. It is conceded that in fighting organized crime, the revenue derived by criminals from their crimes needs to be reduced. Law enforcement authorities therefore need to focus on measures related to confiscation, including a systematic training of specialists in the field.

The Estonian Ministers of the Interior and Justice have signed the so called “**Laulasmaa Declaration**” on priorities in the fight against crime, in which crimes related to criminal revenue (including revenue from corruption) and money laundering are included among the most important common priorities for the prosecutor’s office and police in the fight against organized crime.

For the Tax and Customs Board, one of the implementation goals of the five-year strategy is raising pre-trial investigation competency to a level that will allow consistent implementation of the identification and confiscation of criminal revenue.

¹ The Estonian Parliament

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As of 2009, one of the indicators for the work process of the Tax and Customs Board is the ratio of revenue to expenses in Estonian Kroons (EEK). This calculation is based on the ratio of the amount of damages ascertained and assets confiscated in the course of the pre-trial investigation to wage costs.

2.2.2. Prioritisation of tracing, seizure and confiscation of assets

In answering the questionnaire the Estonian authorities conceded that tracing, seizure and confiscation of assets constituted an important factor in criminal investigations. Priority however was given to proving the crime and then to the tracing of the criminal assets. The underlying assumption is that the additional effort necessary would require additional resources beyond those for a normal investigation, the allocation of which would also depend on the findings made in the course of the criminal investigation. Therefore the Estonian investigative authorities would not conduct an independent criminal investigation if information about illegally acquired assets is received during the verification of the crime. However, if this is not ascertained in the course of the pre-trial investigation of the crime, but it is suspected that such assets exist, an independent investigation will be initiated, requiring additional human and financial resources.

2.2.3. Special Committees

2.2.3.1. Committee for the coordination of money laundering and terrorist financing prevention

The Committee for the coordination of money laundering and terrorist financing prevention was established in 2006 to promote the fight against money laundering and terrorist financing. The Committee is chaired by the Minister of Finance. Representatives from ministries, Financial Intelligence Unit, Tax and Customs Board, the Prosecutor's Office, police, Bank of Estonia and the Financial Supervision Authority are members of this Committee.

2.2.3.2. Committee on tax fraud

The Committee on tax fraud which was established in 1996 initially focused on VAT and excise fraud. In 2009 the scope of the committee was formally widened to include direct taxes. The Committee, which is established by a Government Decree, is chaired by the Minister of Finance.

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The members of the committee are the following persons:

- Chairman of the Board of the Chamber of Commerce and Industry
- Chairman of the Council of the Employers Association
- Director-General of the Security Police Board
- Secretary-General of the Ministry of Economy and Communications
- Director-General of the Tax and Customs Board
- Director-General of the Police and Border Guard Board
- Secretary-General of the Ministry of Finance
- Head of the Tax Policy Department of Ministry of Finance
- Head of the Customs and Excise Policy Department of Ministry of Finance
- Secretary-General of the Ministry of the Interior.

2.3. Conclusions

2.3.1. Investigative authorities

- There are several administrative, law enforcement and judicial authorities in Estonia with responsibilities and powers for the prevention of financial crime. The responsibilities are well defined and there are little or no overlaps which might cause inefficiency.
- Estonian law enforcement authorities have appropriate mechanisms for the coordination of operational activities. Co-ordination is facilitated by centralised structures of the authorities responsible for combating financial crime, with specific co-ordination bureaus both at national and Prefecture level, government committees on the prevention of money laundering and on tax crime, commonly used national threat assessments which are shared among different law enforcement authorities, and the development of the digital E-File system (cf. 3.1.1) allowing better co-operation, especially between investigating authorities and prosecutors. In this regard, special mention should be made of the criminal intelligence database in use in Estonia as an exceptionally effective tool facilitating the intelligence cycle. A further factor that facilitates coordination which should be taken into account is the relatively compact size of the country and the good institutional and personal connections between authorities responsible for the prevention of financial crime.
- Considering that financial crime is by nature hidden crime, greater resource allocation to the prevention of financial crime may in the long run be beneficial, especially when combined with a robust regime for the tracing and confiscation of the proceeds of crime.

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- The human resources for preventing financial crime and conducting financial investigations are limited. This has become particularly evident with regard to the staff that is tasked with tracing and confiscating proceeds of crime, i.e. the appropriate service of the Investigation Bureau and the specialised officers in the four districts. It might help to invest more in promoting the CARIN among practitioners throughout the country and the added value that the work of the network can bring in return.
- Although Estonia has committed itself to several initiatives emphasising the necessity of tracing and confiscating the proceeds of crime during the last decade and the Estonian Parliament has recently set the tracing and confiscation of the proceeds of crime as a higher priority in the ‘Guidelines for Development of Criminal Policy until 2018’, the experts felt that such Guidelines needed to be followed by appropriate steps for implementation¹.
- Tax fraud is primarily investigated by the Tax and Customs Board and the police may investigate tax fraud if it is related to other financial crimes which they are investigating². The decision on which authority is responsible for investigating individual financial crimes is taken on a case-by-case basis³. This seems to be an adequate arrangement for the time being, but a more structured method for a greater involvement of the police in tax fraud investigations could also be considered.
- The management of confiscated property is currently not the responsibility of any single authority. The evaluation team was informed of discussions on establishing a specialised government body for this purpose in line with the Criminal Policy Guidelines by 2018. Such an institution may also in the long run become a centre of excellence for proceeds of crime. Management and sale of proceeds of crime may be especially challenging in a country the size of Estonia and the overall proceeds of crime regime would benefit from such an institution.

¹ The Estonian authorities have informed after the visit that the Ministry of Justice has prepared an analysis describing the practice and problems of confiscation. By taking into account the results of the analysis and if deemed necessary, relevant amendments to law or other measures, in order to improve the situation, are going to be conducted.

² The Estonian authorities have clarified after the visit that in general, regarding financial crimes, proceedings relating to unpaid state taxes are conducted by the Tax and Customs Board. And, the competent authority regarding proceedings of other financial crimes such as offences against ownership and offences relating to companies is the police.

³ The Estonian authorities have clarified after the visit that specified responsibilities by the types of crimes exist and that in individual cases the Prosecutor’s Office may decide to hand over the proceeding to another investigative authority.

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- Although independent, Estonia's FIU is part of the Police and Border Guard Board and is composed of Police officers. This is deemed as a very positive aspect as analysts within this Unit have an investigative background which is a benefit in tracing assets and interviewing proprietors of suspicious assets.
- The Head of the FIU, himself a Police official, holds extraordinary powers when it comes to freezing and possibly seizing criminal assets. He has the power to freeze assets for a period of thirty days whilst a case is still in the intelligence phase. Added to that, the reversed burden of proof is applied in this phase and hence it is up to the proprietors of the assets to justify the origin of frozen assets.
- Failure to justify the origin of frozen assets may lead to the Head of the FIU taking a decision to freeze the suspicious assets for a further period of sixty days within which period he must refer the case to criminal investigations.
- These extraordinary powers of the FIU are reflected in the 8 million euros frozen by the FIU in 2009.

2.3.2. Judicial authorities

- Estonian judicial authorities seem to have appropriate resources and powers for the judicial process concerning financial crime.
- Co-operation with law enforcement authorities was reported to the evaluation team as being good and one of the exemplary methods for this was the E-File system.

2.3.3. Supervisory bodies

- There are four (4) supervisory bodies responsible for supervision in regard to money laundering and terrorist financing.
 - The Estonian Financial Supervisory Authority, which seems to be well resourced, exercises wide powers in relation to market participants which fall under its supervision and has good working relations with law enforcement and prosecution authorities.
 - The Estonian Financial Intelligence Unit has supervisory powers in regard to the categories of following obliged entities of the MLTFPA: gambling institutions, dealers/intermediaries of immovable's, traders, pawnbrokers, auditors and providers of accounting services, providers of trust and company services and providers of financial

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services not under the supervision of EFSA (e.g. currency exchange, etc). In 2009, Estonian FIU performed 208 onsite inspections and 227 offsite inspections and as a result initiated 54 misdemeanour matters accordingly.

- The Chamber of Notaries is responsible for supervising the notaries.
- The Bar Association is responsible for supervising the members of Bar Association (lawyers).

2.3.4. Training

- Training in topics which enhance the capacities of authorities in preventing and combating financial crime are currently and have in the past been available. However, the evaluation team was not informed of training in countering financial crime and conducting financial investigations incorporated into regular law enforcement or prosecutor training curricula. Such training may be beneficial and would be efficient in setting a standard and uniform knowledge base not only for law enforcement and prosecution authorities, but for all co-operating authorities which each have their own role in the overall crime prevention strategy.

2.3.5. Criminal policy

- Estonian criminal policy places strong emphasis on the seizure and confiscation of proceeds of crime; however practice does not fully reflect this prioritisation (the Estonian authorities have attributed this to the fact that amendments to the law have been recently made and therefore, the progress is not reflected in statistics yet). This is assumed particularly in the light of the fact that the amount of assets seized by the Police in 2009 was less than half the amount seized the year before.
- In addition, progress has been made in cooperation of different institutions, e.g. Prosecutor's Office and the Financial Supervision Authority.

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3. INVESTIGATION AND PROSECUTION

3.1. Information and databases available

3.1.1. Databases and Registers

3.1.1.1. *E-File*

The Centre of Registers and Information Systems (RIK) is an ICT focused state agency under the Ministry of Justice. The RIK is responsible for the so called E-File project which functions as a central storage for files and metadata used by more than one organisation, including law enforcement and judicial authorities. The evaluation team was informed that the E-File provides for a secure connection for case management between the law enforcement authorities, prosecutors offices and courts. The system can be considered an exemplary tool for co-operation between authorities in general and for case management facilitating due process of law and more efficiency in the whole criminal process. Additionally the E-File system is a platform for collecting comparative data for statistics.

3.1.1.2. *Law Enforcement Data*

The evaluation team was informed of several law enforcement related registers and databases, including the Police Information System, Criminal Register, Penal Register and Criminal Intelligence Register, which were considered extremely effective.

3.1.1.3. *Financial Data*

The evaluation team was informed that several registers and databases including financial data¹ were available to law enforcement authorities.

Estonia has no unified database for bank accounts. Access to bank accounts is regulated by the Credit Institutions Act and the Money Laundering and Terrorist Financing Prevention Act. The relevant information must be provided by the relevant banking institution.

¹ Among these are: the tax payers databases, customs databases, register of real estate, land register, commercial register, register of economic activities, register of vehicles and the securities register.

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3.1.1.4. *The Land Register*

The Land Register, containing data pursuant to the Land Register Act, is maintained by the land registry departments of local County Courts. It contains data subdivided into four sections:

- (a) Composition of registered immovables
- (b) Owner
- (c) Encumbrances and restrictions
- (d) Mortgages

On 1 February 2010 there were 913 382 open records, as follows:

- registered immovables	443 721
- apartment ownerships	464 990
- right of superficies	3492
- right of superficies in apartments	1179.

Right of access to the database and conditions

Everyone may access a register and take extracts there from. Other documents contained in the land register (a land registry file and a land registry journal) may be accessed and extracts may be taken provided there is a legitimate interest. Owners, courts, supervisory authority, notaries, bailiffs and a person who has the consent of the person entered in the land register are exempt from the obligation to prove their legitimate interest.

Extracts from the land register can be taken from land registry departments or via the internet¹

Notaries and other public authorities (e.g. the Police and Border Guard Board as well as the Tax and Customs Board) have direct access.

Links between databases and cross-checks

The Land Register is linked with the following information systems: cadastre information system (*Land cadastre*), commercial register, population register, register of state and local government agencies, state real estate register and the notary information system. For data exchange with other registers the layer X-Road is used. At the moment, automatic entries are made based on data from the cadastre information system.

¹ Cf.: www.rik.ee

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3.1.1.5. *The Commercial Register*

The Commercial Register is maintained by the registration departments of local County Courts – the Harju, Tartu, Pärnu and Viru County Courts - which are supervised by the Ministry of Justice. The register contains data pursuant to the Commercial Code.

As of 1 February 2010, the number of registered companies entered in the Commercial Register totalled 107 626 of the following classes:

– public limited company	5066
– private limited company	99 928
– commercial association	610
– general partnership	460
– limited partnership	1557
– European company	4
– European Economic Interest Grouping	1

In addition, the Commercial Register contains entries regarding self-employed persons (FIE) and foreign company branches. This central database includes also data from the Register of Non-Profit Associations and Foundations.

Right of access to the database and conditions

Entries in the commercial register are public. Everyone may access¹ the card register and business file and make copies of documents in the card register and business file. Documents which are submitted to the registrar by the undertaking according to the law or which are forwarded to the registrar by a court or a trustee in bankruptcy on the basis of the Bankruptcy Act must be maintained in the business file.

A registry file may be examined by a competent state authority, including by the court in the course of a proceeding, a bailiff or a person with a legitimate interest in the matter. Proof of payment of state fees and other documents concerning the undertaking which are not maintained in the business

¹ Publicly available data of the Commercial Register are accessible via the information service based on the common web-based inquiry system under: www.rik.ee.

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file must be maintained in the registry file. For example, a copy of the submitted document is included in the registry file if the submitted document is to be returned upon the request of the applicant.

Links between databases and cross-checks

The Commercial Register has no direct links with other databases. The register exchanges information via the layer X-Road and XML and also receives information from some authorities via this layer.

3.1.1.6. The Ship Register

Like the Commercial Register the Ship Register¹ is maintained by the registration departments of local County Courts. It contains data pursuant to the Law of Ship Flag and Registers of Ships Act.

As of 1 February 2010, the number of vessels entered in the Ship Register totalled 658 from which there were actually 402 existing and 256 closed or deleted.

Right of access to the database and conditions

With regard to the ship register, the provisions of the Land Register Act apply in as far as the Law of Ship Flag and Registers of Ships Act does not provide otherwise. Thus the regulation for access is analogous to the Land Register.

Everyone may access² the Ship Register at the registration departments of local County Courts and examine public documents. Provided there is a legitimate interest, the court, competent authority, notary and authorised official of the notary's office by notary may obtain access at the registration department holding the ship registry file, as well as technical supporting registers and other documents. Ship encumbrances (mortgages etc.) cannot be viewed using the enquiry system.

¹ It comprises the register of ships (sea-going vessels of at least 12 metres in length and which pursuant to the Law of Ship Flag and Registers of Ships Act are required to fly or may fly the national flag of the Republic of Estonia; inland vessels of at least 12 metres in length owned by natural persons resident in Estonia or Estonian legal persons; sailing yachts and launches if the overall length of the sailing yacht or launch is at least 24 metres) and the register of ships under construction (sea-going vessels, inland vessels and non-propelled floating vessels under construction in Estonia, and non-propelled floating vessels situated in Estonia). A separate register is maintained for small craft.

² Publicly available data of the Ship Register are accessible via the information service based on the common web-based inquiry system under: www.rik.ee.

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Links between databases and cross-checks

The Ship Register uses built-in inquiries from the Population Register and Commercial Register to obtain information about ship owners and other persons (mortgagees, etc.). Data exchange via the X-Road layer from the Ship Register has yet to be realised.

3.1.1.7. The Traffic Register

The Traffic Register is maintained by the Road Administration, which is supervised by the Ministry of Economic Affairs and Communications. It contains data pursuant to the Traffic Act.

It is composed of the following databases: the vehicle database, recreational crafts, vessels with a length under 12 metres and jet ski database, vehicle driving rights certifying documents and driving license database, recreational craft driver and jet ski driver registration certificates database, digital tachograph cards database and drivers occupational education database.

In addition, a request for information on vehicles can be forwarded to the National Insurers' Fund database which contains information on traffic damages and on persons on behalf of whom the insurance policy has been issued.

As of 1 February 2010 the number of vehicles entered in the Traffic Register totalled 735 048 entries, which can be divided into the following categories:

– motor vehicles and their trailers	711491
– snowmobiles	979
– all-terrain vehicles/ATVs	506
– recreational crafts, vessels with length below 12 metres	21640
– jet skis	432.

Right of access to the database and conditions

Natural and legal persons only have the right to access information in the register which relates to them. State and local government agencies, notaries and bailiffs and the Guarantee Fund (according to the Motor Third Party Liability Insurance Act) have the right to access information which is necessary for the performance of their functions in accordance with law. Persons performing public duties on the basis of a contract with the state have the right to access information which is

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necessary for them to perform their public duties. The procedure for accessing information for scientific purposes or in the case of other legitimate interests must be established by the chief processor of the register.

Links between databases and cross-checks

The Traffic Register is linked via the layer X-Road with the following information systems (data user): Commercial Register, Population Register, Motor Third Party Liability Insurance Register, Procedure Information System.

3.1.2. Cooperation at national level

3.1.2.1. Identification of bank accounts

For all types of crime, the identification of an unknown bank account belonging to a specified person takes place through inquiries made in the course of criminal proceedings to all companies in the country providing banking services and to their branches. The maximum duration of the measure is not determined and there are no other conditions. Any authority that has the right to conduct pre-trial investigations can implement the measure. When criminal proceedings are being conducted, the obligation for financial institutions to observe bank secrecy is waived.

If requested by the applicant, the financial institution transmits the information electronically.

The Financial Intelligence Unit and financial institutions are used as co-operation partners for monitoring operations to and from a specified bank account.

The results are regularly transmitted in the form and at the time agreed with investigators.

Estonia has no centralised data base that allows the identification and detection of bank accounts.

The evaluation team was informed that all authorities that have placed requests concerning banking information receive the replies to them in electronic form; this practice can be considered as advanced and reflects the fairly developed e-business and e-government policy applied in Estonia.

Estonian legislation provides for the monitoring of banking transactions and for IP address surveillance i.e. surveillance of telecommunications.

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3.1.2.2. *Legal Framework*

Banks maintain data that is protected by banking secrecy (including accounts and related persons). Access to this data is regulated by the **Credit Institutions Act** and the **Anti Money Laundering and Terrorism Financing Prevention Act**. Information can be requested about the background of a transaction to the extent necessary for the specific criminal matter under investigation that has occurred in Estonia or abroad. During criminal proceedings it is not possible to directly track transactions as they occur.

Pursuant to the Credit Institutions Act § 88 (5) clause 2), a credit institution is required to disclose information subject to banking secrecy to a pre-trial investigation authority and the Prosecutor's Office if a criminal investigation is conducted and on the basis of a request for legal assistance received from a foreign state pursuant to the procedure provided for in an international letter rogatory (request for assistance).

Apart from the legal preconditions mentioned, no additional conditions are necessary to obtain data that is held by a bank.

3.1.2.3. *Types of crime covered*

The measure can be applied to all types of crime.

3.1.2.4. *Duration of a measure regarding a bank account*

There is no special regulation, but the application of the seizure depends on the duration of the criminal proceedings. The measure can be implemented throughout the criminal proceedings.

3.1.2.5. *Competent authorities*

Pursuant to § 88 of the Credit Institutions Act, in order to obtain information subject to banking secrecy in the course of a pre-trial investigation the investigation authority/the prosecutor's office has to submit a written inquiry or an inquiry in a format which can be reproduced in writing.

No prior authorisation is required to implement the measure.

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3.1.2.6. Information of persons affected by the measure

If in the course of an investigation data has been requested, the suspects or accused and their defence lawyer have the right to familiarize themselves, after completion of the criminal proceedings, with the evidence collected during their course.

3.1.2.7. Secrecy obligations or privileges impeding or affecting the measure

There are no regulations concerning secrecy obligations or privileges that may impede or affect the execution of these measures.

3.1.3. Cooperation at European level

3.1.3.1. Legal Framework

At the time of the visit Estonia had not yet ratified the Protocol to the Convention of 29 May 2000 on mutual legal assistance between Member States of the EU.

In this respect it has to be noted that Estonia has not yet ratified the Council of Europe's Additional Protocol to the Criminal Law Convention on Corruption (CETS No. 191).

3.1.3.2. Identification of bank accounts and holders

It is possible to forward information related to specified measures to law enforcement authorities of other Member States.

According to the procedures specified in international agreements and based on letters rogatory (requests for assistance) that arrive from foreign countries, credit institutions are obliged, pursuant to § 88 (5) clause 2) of the Credit Institutions Act, to disclose bank secrets in written form or in a format that can be reproduced in writing, as an answer to the inquiries submitted.

Pursuant to Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, information related to banking secrets can be forwarded by Estonian investigative authorities, if such information exists in the corresponding administrative agency or its register. A letter rogatory is required for information that must be requested from credit institutions. In cases dealing with money laundering, information is exchanged through the Financial Intelligence Unit.

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3.1.3.3. *Information requests via the ARO*

When a request for information is issued by a law enforcement authority in another Member State, the appropriate unit of the Investigation Bureau in its role as Estonian ARO can comply with such a request.

3.1.3.4. *Competent authorities for handling information requests*

Acting as issuing State

The authority competent to issue a request is the Prosecutor's Office, but investigative authorities, the Police and Border Guard Board and prefectures, the Security Police Board and the Tax and Customs Board take part in the preparation of the request.

Pursuant to § 464 (1) CCP, unless otherwise prescribed by an international agreement entered into by the Republic of Estonia, a request for assistance must be submitted to the Prosecutor General's Office which must verify whether the request meets the requirements. The Prosecutor General's Office must forward requests that comply with the requirements to the Ministry of Justice.

Acting as receiving State

Pursuant to § 462 (1) CCP, the Ministry of Justice must verify whether a request for assistance received from a foreign state meets the requirements. A request that complies with the requirements must be sent to the General Prosecutor's Office immediately. Pursuant to the CCP, the Office of the Prosecutor General must verify whether compliance with the request is admissible and possible and forward the request to the competent judicial authority for execution.

The authorities competent to execute the request are all law enforcement authorities (prosecutor's offices for MLA requests and police authorities for international police cooperation) which conduct financial investigations.

3.1.3.5. *Problems encountered*

The Estonian authorities noted that in the case of a letter rogatory (request for assistance), problems sometimes occurred when foreign countries wished to obtain information for a long period that could not be connected to the circumstances of the crime. In such cases, an inquiry to a credit institution is only made for the period that is justified based on the letter rogatory.

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With regard to informing the owner of the bank account, questions have arisen as to whether the credit institution may notify the client of the inquiry made regarding his/her banking information. However, in accordance with § 214 of the Code of Criminal Procedure, information about the facts and content of a bank inquiry made in the course of criminal proceedings can be provided only by the Prosecutor's Office, while the rules of confidentiality pursuant to § 433 (4) of the Code of Criminal Procedure also apply to banking inquiries made based on letters rogatory. The credit institution does not have the right to inform the client of the inquiries made, regardless of whether the inquiry has been made in connection with criminal proceedings or not.

3.2. Financial investigations and use of financial intelligence

3.2.1. Legal framework

There is no specific legal framework for financial investigations. Criminal proceedings are regulated by the Code of Criminal Procedure (and the Surveillance Act), pursuant to which criminal assets are ascertained in the course of criminal proceedings. In the course of both pre-trial as well as judicial investigations, the Code of Criminal Procedure applies to all criminal proceedings, including the identification of damages caused by a crime and the existence of criminal assets.

The evaluation team was informed that Estonia will in the future ratify the 2005 Council of Europe Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (the "Warsaw" Convention)¹.

3.2.2. Special legal powers and tools for investigating the financial aspects of criminal activities

The separate proceedings for confiscation of assets deriving from crime are laid down in §§ 403¹ - 403¹⁰, chapter 16¹ (Proceedings of Confiscation of Property which was obtained by Criminal Offence) CCP. Furthermore confiscation as sanction is provided in §§ 83¹ and 83² PC.

3.2.3. Use and effectiveness of financial investigations regarding specific crimes

Under the Penal Code it is possible to confiscate assets derived from crime (§ 83¹ PC) or criminal activity (§ 83² PC). In certain conditions this may also apply to the confiscation of a third person's property derived from crime or criminal activity.

¹ CETS 198

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According to statistics, the value of confiscated property in 2008 was 14.3m EEK, which is seven times the amount in 2007. In 2008, there were three court decisions to confiscate third persons' property. The decision to confiscate was taken in 102 different criminal cases. Financial investigations were considered to be very effective in drug cases, but also in cases concerning cyber crime, economic crime and crimes against property.

Extended confiscation of assets acquired through criminal activity (§ 83² PC) is applicable in the cases of the following crimes:

- 1) Enslavement
- 2) Making minors available to engage in prostitution
- 3) Aiding prostitution involving minors
- 4) Unlawful handling of large quantities of narcotic drugs or psychotropic substances
- 5) Providing of narcotic drugs or psychotropic substances to persons of less than 18 years of age
- 6) Preparation for distribution of narcotic drugs or psychotropic substances
- 7) Acts of terrorism
- 8) Criminal organisation
- 9) Formation of a criminal organisation
- 10) Provision of opportunity to engage in unlawful activities, or pimping
- 11) Aiding prostitution
- 12) Accepting a bribe
- 13) Illicit traffic
- 14) Illicit import and export of prohibited goods or goods requiring a special permit
- 15) Money laundering
- 16) Unlawful handling of explosive substances
- 17) Unlawful handling of an explosive device or essential component thereof.

3.2.4. Continuation of an investigation into the financial aspects of crime after closure of a case

In accordance with the Code of Criminal Procedure, separate proceedings are allowed for confiscation of property which was obtained by criminal offence in cases of particular complexity or extenuating circumstances relating to confiscation.

Pursuant to § 403¹ (3) CCP, in the event of separate confiscation proceedings, a request for a decision on confiscation must be submitted to the court not later than two years after the entry into force of a court judgment in criminal proceedings conducted with regard to the criminal offence which is the basis for confiscation.

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3.2.5. Involvement of private experts in investigations

If there is a justified need to involve experts from the private sector in criminal proceedings, § 95 CCP provides the possibility to involve officially certified experts and, if there are none, experts in the relevant field. An expert opinion is evidence with equal legal force.

3.2.6. Financial intelligence

3.2.6.1. *Financial investigations in the intelligence phase*

Within the Estonian legal sphere, the concept of financial investigations is primarily understood as the activities carried out by the FIU, which has its headquarters in the Criminal Police Department, in the context of combating money laundering. According to § 37 of the Money Laundering and Terrorism Financing Prevention Act the function of the FIU is “to gather, register, process and analyse information received pursuant to § 32 (notification obligation in event of suspicion of money laundering and terrorist financing) and § 33 (notification obligation, place and form of enforcement). In the course of these activities, the significance of the information submitted to the Financial Intelligence Unit for the prevention, identification or investigation of money laundering, criminal offences related thereto and terrorist financing must be assessed, and information on suspicions regarding money laundering and the financing of terrorism must be gathered, registered, processed and analysed, and, if necessary, suspicious assets frozen. The FIU must also forward information on a suspected criminal offence to the competent authority.”¹

Furthermore, the FIU must “inform the persons who submit information to the Financial Intelligence Unit of the use of the information submitted for the purposes specified in clause 1) of this section in order to improve the performance of the notification obligation;”²

On the other hand, financial investigations are also understood as tracing of criminal assets and considered to be a priority. Consequently pursuant to the Code of Conduct³ issued by the Director General of the Police and Border Guard Board regarding the Identification, Assessment and Calculation of Assets Acquired through Criminal Offences and Subject to Extended Confiscation, Estonian police are under obligation to trace criminal assets during every investigation where it is deemed reasonable.

¹ Cf. § 37 of the Estonian MLTFPA.

² *ibid.*

³ This ‘Code of Conduct’ is contained in a classified document and not publically available.

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3.2.6.2. *Financial intelligence information as a starting point for criminal and financial investigations*

Financial investigation and analysis is possible pursuant to the provisions regulating criminal proceedings. If, in the course of a criminal investigation, criminal assets are ascertained, the FIU is approached by written inquiry in order to obtain existing information. If, in the course of its activities the FIU ascertains circumstances that may be of interest to the authority conducting the investigations, the necessary materials are forwarded to them.

3.2.6.3. *Cooperation with and collection of financial intelligence from other authorities in the intelligence phase*

The Estonian authorities have affirmed that in the intelligence phase, cooperation is organized with other authorities on an ongoing basis. Cooperation usually includes the exchange of information between authorities, as well as the sharing of experiences and best practices.

3.2.6.4. *Situational awareness and threat assessments on financial crime*

The Co-ordination Bureau of the Police and Border Guard Board are responsible for strategic analysis which also includes financial crime, whereas the Criminal Intelligence Bureau within the Criminal Police Department of the Police and Border Guard Board are tasked with drafting and maintaining the National Crime Threat Assessment, which is drafted once a year and updated every six months. The Tax and Customs Board compiles its own threat assessment¹ which is then combined with the threat assessment of the police once a year. The source information utilised by the tax and customs authorities in their assessments are tax information, official statistics, case analysis, governmental and private research and mass information from other national databases.

Based on processed intelligence the police, in coordination with the prosecution authority, applies a targeting process for selecting crime prevention targets.

¹ The evaluation team was informed after the visit that the threat assessment is compiled once a year and is updated every six months.

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The Tax and Customs Board has calculated the so called tax gap since 2005 which in 2008 was estimated at 6.8 billion EEK (434.6m €), with uncollected VAT as the largest item at 4.4 billion EEK (281.2m €). According to tax and customs authorities the main areas of VAT fraud are in construction, wholesale, real estate, the metal industry, the timber business and haulage whereas the main areas for fraud in income tax are construction (61m EEK), wholesale trading (56m EEK), retail sale (34m EEK), haulage (25m EEK), IT products - software (23m EEK). Currently the tax gap is estimated by the tax and customs authorities to be 3 % of the GDP and approximately 10 % of the total tax revenue. The tax gap estimate has been used for operational planning, targeting specific sectors (of commerce) or specific types of fraud. The source of information is the tax information. According to the tax and customs authorities the main areas of the 'grey' economy are construction, metal industry, trade in real estate, forestry and the trade in scrap metal.

3.3. Cooperation with Europol and Eurojust

3.3.1. Cooperation with Europol

3.3.1.1. Past experience

The Criminal Intelligence Bureau functions as the Europol National Unit, NCB and central agency responsible for international police cooperation including SIS. In contributions to Europol Estonia has been relatively low in the number of cases initiated (ranking 25th in the *Siena* and *InfoEx Cases initiated per MS*). On the other hand the information content has been good (ranking 19th in *IS content per MS* on 31 December 2009) and the information provided by Estonia has been evaluated as highest in quality (3.10 for the reporting period Q4/2009).

Estonia has not had joint investigation teams with Europol concerning financial investigations.

3.3.1.2. Expectations regarding Europol support for financial investigations

Expectations regarding Europol support are related to the information that the agency collects and analyzes.

The Estonian authorities expected in particular

- support on individual cases, where Europol's databases and contact networks could facilitate connecting persons under investigation in Estonia to suspicious transactions in other countries,
- a regularly compiled overview of trends in legalizing the proceeds of crime, based on information related to international organized crime,

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- a greater contribution to the development of the Siena system, as it was considered to be of significant help in exchanging information among AROs (trends, tactics used by criminals, etc).

3.3.2. Cooperation with Eurojust

3.3.2.1. *Legal assistance in general*

Overall Estonia receives an average of 550-570 requests for legal assistance and forwards approximately 200-260 requests to foreign counterparts annually. However, the number of requests received has been constantly rising since 2001. Within the exchange of information through requests for legal assistance, money laundering and fraud have been among the four most common crimes between 2006 and 2009.

3.3.2.2. *Past experience of Eurojust support in financial investigations*

Estonia has had past and present experience of supporting investigations in another Member State facilitated by Eurojust. The evaluation team was informed that Europol's role in this particular case had been considered as useful in conducting initial and co-ordinating meetings that helped to identify directions for co-operation in order to trace and investigate crime as well as the proceeds derived there from.

3.3.2.3. *Joint Investigation Teams*

Estonia has actively taken part in Joint Investigation Teams (JITs) with a total of 9 teams of which the Estonian authorities have been a member. The investigations in the JITs, however, have not focused to any great extent on financial crime. Arrangements for setting up and joining JITs appear to be well established despite the Estonian authorities not having guidelines for JITs.

According to § 471 of the Code of Criminal Procedure, the Office of the Prosecutor General and the National Member for Estonia at Eurojust are competent to submit a request for setting up a JIT. The Office of the Prosecutor General or the Eurojust National Member, with the permission of the Office of the Prosecutor General, takes a decision with regard to joining a JIT. Prosecutors and representatives of the pre-trial investigation authorities can be members of a JIT.

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3.3.2.4. *Expectations regarding Eurojust support for financial investigations*

Expectations regarding Eurojust support for financial investigations are related to Eurojust's capacity to help operationally when seizing property in other states as well as with arranging operational co-operation meetings in cases where several states are involved.

3.3.3. **Plea Bargain**

The evaluation team was informed that Estonia applied plea-bargaining in over 4000 cases in 2009, which equals approximately 26 % of all criminal cases brought before the courts.

The issue of plea-bargaining has been raised due to the fact that it might impede further investigation and the subsequent seizure of proceeds of crime. This way, it can be misused by criminals to "declare" only a small part of the assets during the first trial, establishing immunity for the rest of the assets.

The Estonian authorities have explained after the visit that it was possible to separate proceedings for the confiscation of property before the plea bargain. In such case, the confiscation of the proceeds of crime can be done even after the criminal has settled a plea bargain (admitted his guilt). Theoretically, problem could arise when during the plea bargain, also the sum what should be confiscated is agreed. It is up to the court to decide whether in this case, the separate confiscation procedure should be allowed. Thus, it can be subject to different interpretations and finally the court will have to determine whether the separate confiscation procedure is acceptable or not. Overall, if in the regulation of separation of proceedings the establishment of proceeds of crime is in separate proceeding, it should be possible to confiscate assets even after plea bargain.

Furthermore it could not be established whether the possibility of post-plea-bargain confiscation existed.

3.4. **Conclusions**

- The "E-File" policy in Estonia should be considered as best practice facilitating the overall application of justice and providing cost efficiency, legal certainty and upholding due process as well as shortening the time required for the criminal process. Furthermore the E-File system provides an excellent basis for analysing and utilising statistical data as well as for management and resource allocation.

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- Due to the small number of staff members in the unit of the Investigation Bureau dealing with proceeds of crime and the numerous tasks that they are required to perform, the capacity to actively seek proceeds of crime appears to be limited. Estonia may therefore consider strengthening the capacity of this unit of the Investigation Bureau and that of the Prefectures in tracing and seizing proceeds of crime. This would also be in line with the Guidelines for Development of Criminal Policy until 2018 which have recently been adopted by the Estonian Parliament and which also highlight the importance of denying perpetrators the possibility of retaining the profits from crime.
- The Estonian police has adopted guidelines for tracing and seizing the proceeds of crime. These guidelines are applied by other authorities including the prosecution service. Common interagency guidelines concerning search, seizure and confiscation of the proceeds of crime should be considered by other EU MS in order to establish common practice regarding the proceeds of crime.
- Although the Estonian authorities are already using the Eurojust channel they should be further encouraged to make fuller use of its capacities and possibilities in the investigation and prosecution phases with regard to financial issues. This can be effected by taking a proactive approach vis-à-vis the National Member (following article 13 point 6 of the New Eurojust Decision¹) when forwarding information and exploiting the coordination possibilities of their National Member under Article 6 of the New Eurojust Decision.
- The expert team noted that Estonia has begun to actively utilize joint investigation teams although there is still little experience with JITs focusing on financial crimes.
- It was considered highly positive that information requested from banks in Estonia is provided to investigators within a relatively short period of time and is supplied in an electronic format which facilitates the analysis of such information. The only negative aspect in this regard is that no centralised register of bank accounts exists and request letters consequently have to be sent to each and every bank.
- Estonia maintains a reservation to the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters² with regard to the dual criminality principle, which should only be applied for searches and seizure of property (Art. 5 of the Convention);

¹ COUNCIL DECISION 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 138, 04.06.2009, pp.14-32.

² Cf. CETS. 30

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- Estonia has not ratified a number of international legal instruments that are of importance to the subject under evaluation; these are referred to in the recommendations contained in chapter 6 of this report.
- From the information received it became apparent that the competent Estonian authorities were rarely - if at all - using direct contacts between judicial authorities which issued a MLA request (or a freezing order) and the competent judicial authority for execution; it was therefore felt that in order to improve this practice, the central authorities (e.g. the Ministry of Justice and the General Prosecutor's Office) should rather focus on methodology and the most complex cases;
- From the interviews the evaluators were able to conduct with local prosecutors and judges it became apparent that the support of international co-operation mechanisms would be enhanced by guidance on the existing possibilities and legal instruments, accessible either in the form of a manual or in an internal instruction containing templates relating to international cooperation;

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4. FREEZING AND CONFISCATION

4.1. Freezing

4.1.1. At national level

4.1.1.1. Legal bases for freezing

The legal bases for measures freezing of assets (which are also applicable to confiscation {cf. chapter 4.2. of this report}) are laid down in §§ 83¹-84 of the Penal Code and are the following:

- Confiscation of assets acquired through offence, § 83¹ PC
- Extended confiscation of assets acquired through criminal offence, § 83² PC
- Substitution of confiscation, § 84 PC

A court may apply confiscation both in the case of confiscation of objects used to commit an offence and constituting the direct object of an offence (§ 83 PC) and confiscation of assets acquired through an offence (§ 83¹ PC).

As an exception, pursuant to §§ 83-83² PC, a court may confiscate the assets if they belong to a third person at the time of the handing down of the judgment or ruling and the person, according to:

§ 83 (3) PC

§ 83¹ (2) PC (assets according to § 83¹ (1) PC):

§ 83² (2) PC (assets according to § 83² (1) PC):

Pursuant to § 83² (3) PC, assets of a third party which were acquired more than five years prior to the commission of a criminal offence cannot be confiscated.

The legal basis **for the procedure to seize property** is laid down in § 142 CCP. In accordance with subsection (1), the objective of seizure of property is to secure a civil action, confiscation or fine to the extent of assets. “Seizure of property” means recording the property of a suspect, accused person, civil defendant or third party or property which is the object of money laundering or terrorist financing and preventing the transfer of the property.

The legal basis for proceedings for **confiscation of property obtained by means of a criminal offence** is laid down in §§ 403¹ - 403¹⁰ of chapter 16¹ CCP.

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4.1.1.2. *Types of crime for which the measure can be obtained*

These measures may be implemented for all types of crimes which are the object of a civil action or where assets acquired by criminal means are ascertained. Different types of crimes are specified in connection with extended confiscation, in which a person has the obligation to prove the legal origins of assets.

4.1.1.3. *Duration of the measure*

Assets remain frozen until:

- (a) The court issues a judgement regarding the assets (releases or confiscates the assets or the assets are assigned to cover damages that have been incurred).
- (b) The criminal proceedings are completed and the assets released.
- (c) The basis for freezing the assets ceases to exist and the assets are released.

4.1.1.4. *Other conditions necessary to obtain the measure*

A report of seizure of property has to be drafted and pursuant to the § 143 CCP it must set out: the names and characteristics of the seized objects and the number, volume or weight and value of the objects, a list of property taken over or deposited into storage with liability, lack of property to be seized if such property is missing. A list of seized property may be annexed to the report of seizure of property and any comments concerning the list are made in the report. In this case, the report must not contain information such as the names and characteristics of the seized objects and the number, volume or weight and value of the objects.

4.1.1.5. *Authority competent to take/request the measure*

The Prosecutor's Office is the authority competent to take or request the measure.

Pursuant to § 142 (2) of the Code of Criminal Procedure, property is seized at the request of a Prosecutor's Office and on the basis of an order by a preliminary investigation judge or on the basis of a court ruling. And, pursuant to § 142 (3), in cases of urgency, property, except property which is the object of money laundering, may be seized without the permission of a preliminary investigation judge. The preliminary investigation judge must be notified of the seizure of the property within twenty-four hours of the seizure and the judge must immediately decide whether to grant or refuse permission. If the preliminary investigation judge refuses to grant permission, the property must be released from seizure immediately.

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The court (an investigating magistrate) is the authority competent to authorise the measure if prior authorisation is required.

4.1.1.6. Notification of persons affected by the measure

The notification of the measure is given to the person affected.

Pursuant to § 142 (5) CCP, a ruling on the seizure of property must be submitted for examination to the person whose property is to be seized or to an adult member of his or her family on the performance of the procedural act. The person or family member must sign the ruling to that effect. Pursuant to § 152 (3) CCP, a copy of a search report or of a report of seizure of property must be submitted to the person subject to the procedural act or to an adult member of his or her family or, if the person is a legal person, state or local government agency, to the representative thereof who participated in the procedural act. In the absence of such persons, a copy of the report must be submitted to the representative of a local government agency.

4.1.1.7. Legal remedies for the person concerned by the measure

If a person whose assets have been seized on the basis of a court ruling believes that his/her rights are being infringed, he/she may appeal against the court ruling.

Pursuant to § 387 (2) CCP an appeal against a ruling on seizure of property must be filed, through the court which issued the contested court ruling, with a court which is superior to the court which issued the contested court ruling within ten days as of the date when the person became or should have become aware of the contested court ruling.

4.1.1.8. Management of seized assets

Pursuant to § 142 (7) CCP the seized property must be confiscated or deposited into storage with liability. Generally, if the authority can store the movables and their seizure is justified, they will be seized. However, if it is not justified, they will be deposited in storage with liability. While frozen, immovable property and non-portable movable property is deposited in storage with liability resting with the owner, and portable movable property is deposited in storage with liability resting with the law enforcement authority in criminal matters.

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In the case of immovable property, pursuant to § 142 (8) CCP, it may be seized at the request of a Prosecutor's Office and on the basis of an order by a preliminary investigation judge or on the basis of a court ruling. For the seizure of immovable property, a Prosecutor's Office must submit an order on seizure to the land registry department for the locality where the property is situated in order for a prohibition on the disposal of the property to be entered in the land register.

In the case of construction work which constitutes movable property or a vehicle, pursuant to § 142 (9) CCP, it may be seized at the request of a Prosecutor's Office and on the basis of an order by an investigating magistrate or on the basis of a court ruling. For the seizure of a building which is movable, a Prosecutor's Office must submit an order on seizure to the register of construction works for the locality where the building is situated; for the seizure of a vehicle, the order must be submitted to the motor vehicle register.

The additional measures applicable to physical evidence and confiscated property that specifically regulate measures connected to the management of seized assets are laid down in § 126 (1)-(7) CCP.

In Estonia there is no specialised agency entrusted solely with the management of seized assets.

4.1.2. Cooperation at European level - Implementation of Framework Decision

2003/577/JHA

Estonia has implemented Framework Decision 2003/577/JHA¹. Section 9 (Seizure of property and storage of evidence in the Member States of the European Union) of Chapter 19 International Co-operation in Criminal Procedure) of the Code of Criminal Procedure entered into force on 16 April 2008. A freezing order can be understood in Estonian law as an order for the seizure of property (CCP §142) or the storage of physical evidence is a procedural decision taken without prejudice to the courts' judgment (CCP §126).

Before the implementation of the FD the seizure of property was carried out via mutual legal assistance.

Generally speaking, the Estonian authorities conceded that as compared to the situation before the implementation of FD 2003/577/JHA the enforcement of the application was speeded up if there were few possibilities for refusing to enforce the application. Therefore no proposals regarding enhancement of the FD in force were deemed necessary by Estonia.

¹ OJ L 196, 2.8.2003, p. 45ff.

4.1.3. Mutual assistance in the area of freezing

In 2009, Estonia received 5 European freezing orders; Estonia did not submit any requests to foreign states.

4.1.3.1. Experience when acting as an issuing State

Pursuant to § 508¹¹ (1) CCP the competent authority to issue a European freezing order in pre-trial procedure is the Prosecutor's Office and in judicial proceedings the court.

The enforcing authorities must contact the Prosecutor's Office (the authority that has drawn up the decision).

No guidance whatsoever exists with regard to

- the content and format of the freezing order and the use and practical completion of the certificate,
- requests or instructions which accompany the freezing order and the certificate and which relate to the subsequent treatment of the frozen property (cf. Article 10 of Framework Decision 2003/577/JHA).

There is no regulation for Estonia as a requesting state to submit any additional formalities. So far, Estonia has not submitted any request.

There is no regulation regarding the transmission option to be used for the circulation of a freezing order; Europol or Eurojust can be used for transmission. As no freezing order has been issued, there is no experience of the practice of transmission. Pursuant to §508¹² (3) CCP a European freezing order must be sent to the competent authority of the enforcing country by post, by e-mail or in a form capable of producing a written record under conditions allowing the executing State to establish authenticity. A European freezing order must be drawn up in Estonian and translated into the language indicated by the enforcing country by the Estonian Ministry of Justice. Pursuant to the Code of Criminal Procedure § 508¹ subsection (4), the regulation attached to the European freezing order does not have to be translated. The Office of the Prosecutor General must take the decision.

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4.1.3.2. *Experience when acting as an executing State*

The freezing order may be sent by fax or e-mail. Language requirements are not regulated in the corresponding section of the Code of Criminal Procedure, and therefore, a general rule applies that Estonia will comply with English-language certificates.

The information in the application is trusted, i.e. additional checks are not carried out.

4.1.3.3. *Competent authorities and role of ARO*

Pursuant to § 508⁶ (1) CCP, the Office of the Prosecutor General is competent to process European freezing orders and to decide on the enforcement of European freezing orders. If necessary, the Office of the Prosecutor General will involve the district prosecutor's office to enforce the order.

- Pursuant to § 508⁸ CCP (2), re the enforcement of a European freezing order based on the procedure pursuant to § 142 CCP, the freezing of the assets shall be decided by an order from the preliminary investigating magistrate based on an application from the prosecutor's office.
- Pursuant to § 508⁸ CCP (3), the following have the jurisdiction to decide on the freezing of assets based on a European freezing order:
 1. Harju County Court, if the assets that are the object of the application are located in Tallinn or Harju, Rapla, West-Viru, East-Viru, Järva, Lääne, Hiiu, Saare or Pärnu counties;
 2. Tartu County Court, if the assets that are the object of the application are located in Jõgeva, Viljandi, Tartu, Põlva, Võru or Valga counties;
 3. the County Court to which the corresponding application has been submitted, if the location of the assets cannot be unequivocally determined.
- Pursuant to § 508⁸ CCP (4), the Office of the Prosecutor General must notify the competent legal authority in the country submitting the application of the enforcement of the European freezing order.

The Office of the Prosecutor General is competent to take the decision and the ARO has no special jurisdiction in this regard. The ARO plays a role in the swift exchange of information and if necessary it has the competence to conduct procedural acts (e.g. to gather evidence). In principle, the ARO's role depends on the decisions and needs of the Prosecutor's Office acting according to the Code of Criminal Procedure.

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4.1.3.4. *Additional information requests*

In cases pursuant to § 508³ (4) CCP, the Office of the Prosecutor General may assign a deadline to the competent legal authority of the country making the application for the elimination of shortcomings or for the submission of additional information. Pursuant to § 508³ (4) CCP, a European freezing order is inadequate if it has not been submitted in the form specified by § 508¹ (3) CCP [i.e. according to the Annex to Council Framework Decision 2003/577/JHA regarding the enforcement of freezing orders for assets or evidence in the European Union], does not correspond to the order of the competent legal authority of the country making the submission or if the order of the competent legal authority of the country making the submission or a copy thereof is not attached to the European freezing order.

Additional information must be reviewed by the court and a decision made about whether the application is justified, although this issue is not directly resolved by the Code of Criminal Procedure.

4.1.3.5. *Difficulties observed*

The Estonian authorities have reported one case where it was found that the certificate was deficient but the Office of the Prosecutor General did not ask for additional information.

In court practice, a problem arose with the freezing of third-party assets, when - due to shortcomings in the certificate - the court did not believe that there was a clear basis for freezing third-party assets. In this case, it was found that the Office of the Prosecutor General should have asked for additional information based on § 508³ (4) CCP as it may assign a deadline to the competent legal authority of the country making the application for the elimination of the shortcomings or for the submission of additional information.

4.1.3.6. *Legal remedies*

In Estonia, the rights of third persons to their assets that are the object of a European freezing order are guaranteed. The legal safeguards against the enforcement of a European freezing order are laid down in § 508¹⁰ (1)-(4) CCP.

Appeals regarding rulings by the prosecutor's office or the activities of the investigative bodies in connection with the enforcement of a European freezing order may be submitted to the County Court which has jurisdiction over the area where the contested ruling or procedural act occurred.

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An appeal may be filed regarding a freezing order based on the procedure laid down in § 387 (2) of the Code within three days of the receipt of the order.

Estonia cannot challenge a European freezing order presented to Estonia or the order by the competent legal authority of the country making the application that provides the basis for the freezing order. If a person wishes, the Prosecutor General can provide him/her with contact information to help him/her to investigate the procedure for contesting the European freezing order in the country making the application.

Filing an appeal will not halt the enforcement of the order being contested, unless decided otherwise by the body resolving the dispute.

The prosecutor's office is required to notify the competent legal authority of the country making the application of any appeal or decision on the appeal in regard to the enforcement of a European freezing order.

4.2. Confiscation (including FD 2005/212/JHA and FD 2006/783/JHA)

4.2.1. Confiscation at national level

4.2.1.1. Statistics

The evaluation team was informed that in 2009 there were 44 court decisions on extended confiscation and 104 confiscation decisions, indicating an increasing number of confiscation orders on an annual level.

4.2.1.2. Enforcing court decisions

With regard to the fact that Estonia had no specialised authority responsible for managing confiscated assets the evaluation team was informed that there are discussions ongoing to establish such an entity.

It should be noted that the Code of Criminal Procedure (section 126) provides for initiating post-conviction tracing of proceeds of crime which in practice is carried out by law enforcement authorities. The evaluation team was informed that there have been three cases in which such post-conviction investigations have been conducted.

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4.2.1.3. *Legal bases for confiscation*

The legal bases for measures on confiscation of assets after conviction are laid down in §§ 83¹-84 PC and are the same that apply for freezing:

- Confiscation of assets acquired through an offence, § 83¹ PC
- Extended confiscation of assets acquired through a criminal offence, § 83² PC
- Substitution of confiscation, § 84 PC

The legal basis for commencing proceedings for the confiscation of property which was obtained by means of a criminal offence is laid down in § 403¹ of Chapter 16¹ of the Code of Criminal Procedure with further details set out in §§ 403² - 403¹⁰ of Chapter 16¹ of the Code of Criminal Procedure.

Confiscation of an object used to commit an offence and a direct object of an offence

Confiscation of an object used to commit an offence and a direct object of an offence, pursuant to § 83 PC (in case of both criminal offences and misdemeanours). The means of committing an offence is an objective feature of a necessary element of an offence, i.e. an object that is used to attack the object of the offence, or other object, which is used to fulfil a feature of a necessary element of an offence. The confiscation of the objects in question is a right of the court (not an obligation); this is primarily based on the nature of the offence and the potential harmfulness of the means employed. The confiscation of the means of an offence is based on the assumption that the person that has committed the offence has demonstrated by his/her activity that he/she is not worthy to utilise the given assets. However, some assets represent such a danger to society that their illegal possession is unconditionally precluded. These include, for instance, narcotic substances or firearms, in which case society has a clear interest in having such assets confiscated in order to prevent new offences. The purpose of such confiscations is preventive – to protect society from the use of dangerous assets.

The direct object of the commission of an offence is a substance or object, the handling of which is the object of the offender's activity, (e.g. falsified VIP document, illegally handled fuel). In the case in question, the offender's intention is directed at gaining profit from handling the object concerned, and therefore confiscation provides an opportunity to deprive the offender of the means to achieve the illegal objectives established by him/her.

Means or objects can be confiscated if the person to whom they belong, at the time when the

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decision is taken, has acquired these totally or partially on account of the offender, as a gift or by other means at a price significantly lower than the market price, or if the means or object has been transferred in order to prevent confiscation. The definitions of "on account of the offender" and "acquisition as a gift" are defined by private law.

As a rule, the means and direct objects of the commission of an offence are confiscated from the offender upon the issue of a court ruling. At the same time, the means and direct objects of the commission of an offence must also be confiscated if a criminal proceeding is terminated for instance by a regulation based on the consideration of expediency.

Confiscation of assets acquired through an offence

Confiscation of assets acquired through an offence (both criminal offences and misdemeanours) is provided for in a different section. Pursuant to 83¹ PC, assets acquired by offences (hereinafter defined also as criminal revenue) are defined primarily as the objects (stolen objects and money) that have been obtained from the commission of the necessary elements of an offence, assets that have been obtained by realising proprietary rights (right of claim), as well as remuneration received for the commission of an offence and any new assets acquired therewith. The confiscation of the revenue received from offences is obligatory (§ 83¹ (1)), i.e. as a rule, the assets received from a crime or misdemeanour are always subject to confiscation. This change carries a message of criminal policy, i.e. that the commission of offences must not be profitable. Based on the principle of proportionality, the draft still includes the possibility to grant exceptions to this rule in justified circumstances (subsection (3)). Thus, for instance, confiscation may be applied to a reduced extent or not applied at all if the confiscation would be unreasonably burdensome considering the circumstances of the offence or the situation of the person. Confiscation can be waived if the value of the assets is disproportionately small compared to the storage, transfer or destruction costs of the assets, or if, in the specific case, the application of the confiscation would be unreasonably costly for the state. Confiscation can also be applied to a reduced extent if a civil action has also been filed in the criminal proceeding that demands compensation for damages caused by the offence – in this case, the court may reduce the size of the confiscated assets to the amount of the object of the civil action, for the purpose of guaranteeing the injured party the right to receive compensation. An object that has been stolen from the injured party, which is subject to return to the owner, is not subject to confiscation (§ 126 (3) clause 2 CCP). Since as a general rule, the confiscation of the assets obtained from an offence is mandatory, its non-application must be justified. Revenue obtained from an offence can also be confiscated by a court ruling, if the criminal proceeding is terminated on grounds of expediency.

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Extended confiscation of assets acquired through a criminal offence

Extended confiscation of assets acquired through a criminal offence is provided for in § 83² PC. Criminal offences for which extended confiscation is applied are listed in the special part of the Penal Code. In practice, most of these criminal offences are related to organised crime and criminal offences that are directed at obtaining financial gain.

The following preconditions apply for the implementation of the extended confiscation of criminal revenue:

- The person is convicted of one of the aforementioned criminal offences;
- The convicted offender is punished by a sentence of imprisonment of more than three years and up to a life sentence;
- Based on the nature of the criminal offence, the legal income and property of the person, as well as differences in living standards or other reasons, there is reason to assume that the person has obtained the assets as the result of the commission of a crime.

Extended confiscation may include the entire assets of the convicted offender if there is reason to assume that the entire assets have probably been obtained as the result of the commission of a crime.

Proportionality Principle

The **proportionality principle** pursuant to § 83² (3) PC also applies in the case of the extended confiscation of revenues, which provides the basis for partially or totally waiving confiscation for good reason. This provision applies to the confiscation of the assets of both convicted offenders and third parties.

Reversal of the burden of proof

The **reversal of the burden of proof** (§ 83² (1) sentence 2 PC)) only relates to those cases in which extended confiscation of assets is applied. In the case of conviction for the aforementioned criminal offences, the court is granted authorisation for the extended confiscation of criminal revenue, i.e. when handing down the conviction, the court confiscates the assets that have been presumably acquired as the result of criminal offences committed previously (confiscation may extend to the confiscation of all the convicted offender's assets), except for the assets that the convicted offender can prove to have been acquired by legal means.

Substitution of confiscation

Substitution of confiscation is provided for in § 84 PC: if assets acquired by an offence have been transferred, consumed or the confiscation thereof is impossible or unreasonable for another reason, the court may order payment of an amount which corresponds to the value of the assets subject to confiscation.

4.2.1.4. Types of crime for which confiscation is possible

In principle, § 83¹ PC can be implemented for all types of crimes, in which a person has received illegal revenue (assets).

Different types of crimes are specified in connection with extended confiscation. Extended confiscation of assets acquired through a criminal offence is applicable to the list of serious crimes that have already been listed in Chapter 3.2. of this report.

4.2.1.5. Authority competent to decide on the confiscation

The competent court has the power to decide on the validity of the application of confiscation. In the course of the pre-trial investigation, the investigative body collects the necessary evidence but does not decide on the validity of the action.

4.2.1.6. Notification of persons affected by the measure

When a court has taken a decision on a confiscation, the parties concerned are notified of the court ruling.

Pursuant to the CCP the investigative body is required to produce a summary of the confiscation procedure (§ 403⁴ CCP) and forward this to the Prosecutor's Office, which will then draw up a confiscation application (§ 403⁵ CCP). Pursuant to § 403⁶ (2) CCP copies must be sent to the accused or convicted offenders, their defence and third parties (if applicable) and the application forwarded to the court. Thereafter, based on the court's decision, and on § 403⁹ (2) and (3) CCP, a copy of the order is given or sent to the accused and third parties.

4.2.1.7. Legal remedies for a person affected

If the person whose assets the court has ordered to be confiscated, finds that his/her rights have been infringed illegally, the confiscation order may be challenged.

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Pursuant to the Code of Criminal Procedure § 403¹⁰, an appeal may be filed against the confiscation order, or the order not to satisfy the confiscation application, by the prosecutor, convicted offender or third persons according to the procedure specified by the corresponding article of the Code of Criminal Procedure. The court order issued upon the review of the appeal may be further appealed against to a higher court.

Pursuant to the Code of Criminal Procedure § 306 (1) (13), when issuing its ruling the court resolves the question of how to deal with the evidence and other objects that are to be seized, frozen or confiscated in the course of the criminal proceedings, i.e. whether the assets are to be confiscated or released.

If a party to the court proceedings does not agree with the ruling of the court of first instance, he/she has the right to submit an appeal based on § 318 (1) CCP on § 319 (1) CCP.

Based on § 344 (1), the party to the court proceedings has the right of appeal, and based on § 345 (1), notification of the wish to exercise this right must be submitted to the district court.

4.2.1.8. Involvement of the ARO in the confiscation procedure

The participation of the ARO within the Investigation Bureau in these proceedings is based on the internal working organization of the service. After the confiscation ruling is made, the service is not directly involved in the enforcement of the decision. The enforcement of court rulings and court orders is also referred to in § 408 CCP.

4.2.1.9. Additional information related to possibilities for confiscation referred to in Article 3(2) of Framework Decision 2005/212/JHA of 24 February 2005

Estonia has transposed the Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property¹.

The provisions of an amendment to the Penal Code, which entered into force on 1 February 2007, include the necessary national measures to comply with this Framework Decision.

¹ OJ, L68, 15.03.2005, p.49-51.

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4.2.1.10. Confiscation of property owned by corporations

In case a company is declared to be a third party (e.g. where the corporation has not been prosecuted, but the court assumes the property is owned by beneficial owners who have been convicted), the court has the right to confiscate assets acquired by criminal means or assets that are subject to extended confiscation similarly to the suspect (accused). This assumes that the provisions for confiscation specified in §83¹ (2) PC have been fulfilled.

As an exception, a court may confiscate the assets or substance specified in subsection (1) of § 83¹ (2) PC if these belong to a third person at the time of the judgment or ruling, and if:

4. these were acquired, entirely or essentially, on account of the offender, as a present or in any other manner for a price which is considerably lower than the normal market price, or
5. the third person knew that that the assets were transferred to the person in order to avoid confiscation.

In cases where the court assumes the property is owned by beneficial owners who have not been convicted, special arrangements for confiscation of property forming the object of money laundering, provided for in § 40 (7) of the Money Laundering and Terrorist Financing Prevention Act, may apply: the Prosecutor's Office and investigation authority may apply to an administrative court for permission to transfer property into state ownership if, within a period of one year from the property being seized, it has not proven possible to establish the owner of the property and if the possessor of the property declares that the property does not belong to the possessor and relinquishes possession thereof. In the event that possession of movable property or immovable property is relinquished, the property may be sold pursuant to the procedure provided in the act regulating the execution proceeding. Acts regulating enforcement procedure and the state can then be implemented to receive the value derived from the sale (revenue). The owner of the property has the right to reclaim an amount equivalent to the value of the property within a period of three years from the date on which the property was transferred to state revenues.

4.2.2. Confiscation at European level

Up to the time of the report the Code of Criminal Procedure has not been brought completely into compliance with the provisions of Framework Decision 2006/783/JHA. The evaluation team was informed during the visit that the amendments to the Code of Criminal Procedure to implement

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Council Framework Decision 2006/783/JHA will be submitted to the Estonian Government during the latter half of 2010.

At present for example, Estonia cannot enforce a confiscation order issued by default. Though according to the Framework Decision this did not constitute an exclusion clause, § 477 (1), clause 3) CCP excluded the recognition of such orders.

For recognition and execution of court orders and orders of other authorities, the order or a certified copy of it is submitted to the Ministry of Justice which forwards it with a certificate to the requested state by post, by e-mail or in a form enabling written reproduction (cf. § 488 (6) CCP). Recognition of a court order from a foreign state is decided on by Harju County Court (cf. § 481 CCP).

The current legal basis used for cooperation in the execution of a confiscation order is the Convention established by the Council in accordance with article 34 TEU, on mutual assistance in criminal matters between the Member States of the European Union¹ of 2000 which entered into force on 23 August 2005.

As Estonia has not yet fully implemented Framework Decision 2006/783/JHA her authorities have advised that, in principle, it is possible for a competent authority of a Member State where the Framework Decision has been implemented to issue a confiscation order together with a certificate and forward it to Estonia for it to be treated as a request for judicial cooperation under the "normal" regime. However, in practice no such case has occurred yet.

In order to fully implement the framework decision, the Ministry of Justice is planning to submit relevant amendments to the Code of Criminal procedure to the Estonian Parliament during the second half of 2011.

4.3. Conclusions

- The general framework as regards legislation and competent authorities seems to be appropriate; nevertheless the experts found that certain details of the Estonian legislation could be improved; these have been reflected in a number of detailed suggestions contained in Chapter 6 (Recommendations) of this report.

¹ OJ C 197 of 12.07.2000 for the Convention and OJ C 197 of 12.07.2005 for the Council Act of 29 May 2005

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- The main resources for tracing proceeds of crime are the specialised unit within the Investigation Bureau and the police officers in the prefectures who focus on proceeds, but also tax and customs officers.¹ Based on the information on case loads it is not possible to evaluate whether these human resources are sufficient to maintain a robust approach to tracing and eventually seizing proceeds of crime.
- The enforcement of court decisions on confiscation in relation to serious financial crime and organised crime should be looked into as such instances require specialised personnel for e.g. revealing fictitious ownership arrangements and for dealing with risks related to preventing organised crime.
- The Code of Conduct on tracing and freezing proceeds of crime which has been developed by the police is also used by the tax and customs authorities and the prosecution service. The experts considered the guide as a good practice providing a common guideline for applying legislation concerning proceeds of crime in a uniform manner across the whole country. Furthermore it may provide a basis for initiating improvements in legal practice.
- Whilst prosecutors within the Prosecutor General's Office maintained that no new case could be initiated before the courts to confiscate criminal assets following the conclusion of a plea-bargaining conviction, officials from the Ministry of Interior and the Ministry of Justice declared otherwise, maintaining that a new case dealing with the confiscation of assets could be initiated before the courts within two years of conviction. The experts were informed after the visit that on average 69 % (2007-2010) of cases dealing with financial crime are settled by plea-bargaining.
- According to the information received, there is a wide discrepancy between the number of frozen and confiscated assets.
- The Estonian system appears to be deficient when it comes to the management of seized criminal assets. Hence, every Department even within the same law enforcement agency is independently responsible for the management of seized assets and it is very clear that different departments have a different system, thus lacking homogeneity. The experts would therefore welcome the establishment of a single entity in charge of managing seized assets and have noted the signals with regard to taking such steps.

¹ The Estonian authorities have clarified after the visit that also Tax and Customs Board has capacity and resources to trace proceeds of crime and provided the following statistical numbers: In 2009 the seized property was in the total value of 72.9m EEK and in 2010 a in the total value of 21.5m EEK.

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- In this respect the experts also considered it advisable to analyze whether it would be beneficial to introduce broader possibilities for selling seized property without the consent of a suspect before a court decision on confiscation has been issued.
- Estonia has not yet fully implemented Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders. However, the experts were informed that in order to fully implement the framework decision, the Ministry of Justice is planning to submit relevant amendments to the Code of Criminal procedure to the Estonian Parliament during the second half of 2011.

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5. PROTECTION OF THE FINANCIAL INTERESTS OF THE COMMUNITIES

5.1. Available mechanisms, particularly cooperation with OLAF

On 23 November 2004 the *Riigikogu* adopted the Act on Accession to the Convention on the Protection of the European Communities' Financial Interests and its Protocols, which entered into force on 16 January 2005.

5.1.1. Measures to ensure pro-active transmission of information to OLAF

The International Criminal Cooperation Division of the Investigation Department of the Tax and Customs Board deals with the transmission of international information. Its functions are specified by the statutes of the Investigation Department. The Prosecutor's Office has organised training for the officials of the Division. One of the employees of the Division is posted as a liaison officer with the Criminal Police Department of the Police and Border Guard Board, which ensures the transmission of information to OLAF on behalf of the police.

Estonia has adopted the Act of accession of Estonia to the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the use of information technology for customs purposes and its protocols (passed 26.1.2005; RT II 2005, 5, 14; entered into force 27.2.2005) and designated the Tax and Customs Board as the Estonian authority that has national responsibility for the Customs Information System. The functions of the Investigation Department in the pre-trial investigation of criminal offences related to violations of taxation laws and customs rules are specified in the statutes of the Estonian Tax and Customs Board. The Investigation Department is the administrator of the FIDE (Customs Files Identification System) investigation database and the data input into the FIDE database regarding the department's proceedings concerning serious violations, which are mostly related to customs and tax law aspects, is performed by the officials of the department. The responsible user of the FIDE database participated in the training programme organised by OLAF in Brussels.

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5.1.2. Possible role of the European Commission in a criminal investigation involving fraud against the financial interests of the Communities

In accordance with § 37 CCP, a legal person who has suffered material loss directly caused by a criminal offence can be a victim. Thus, in the case of benefit fraud (in accordance with § 210 PC, “benefit” means a payment made without charge, or partly without charge, out of the funds of the state budget or a local government or other public funds to a person engaging in economic activities, or a tax incentive for promoting economic activities), the EU as legal person (represented by the European Commission) can be an injured party.

There is no information on this kind of case in practice.

5.1.3. Participation of OLAF officials in a criminal investigation

If OLAF has specific expertise in the area under investigation its agents can participate as experts in the criminal investigation. Pursuant to § 95 CCP, an OLAF agent is an expert who uses his or her specific non-legal expertise to perform an expert assessment in cases pursuant to the procedure provided by this Code. The rights, obligations and spheres of responsibility of the experts are specified by the Code of Criminal Procedure.

The use of an OLAF agent as an expert in a criminal investigation has not yet occurred in practice.

The Intelligence Department of the Tax and Customs Board is the coordinating body for contacts with OLAF in specific cases. The Intelligence Department and International Criminal Cooperation Division of the Investigation Department of the Estonian Tax and Customs Board have together developed close cooperation with other law enforcement authorities.

5.1.4. OLAF participation in a joint investigative team (JIT)

The Estonian authorities advised that it was possible for OLAF agents to take part in a joint investigative team, if the agent is listed as a member of the team in the convention or other legal document setting up the team. The domestic restriction on OLAF participation is based on the treatment of surveillance information as a state secret.

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5.1.5. Experience with JITs dealing with fraud against the financial interests of the European Communities

In Estonia, there have not been any joint investigative teams that dealt with fraud against the financial interests of the Communities.

5.1.6. Support expected from OLAF in cases related to fraud against the financial interests of the Communities

Estonia expects OLAF to coordinate cooperation with the law enforcement authorities of Member States involved in cases related to fraud and the transmission of risk information that refers to fraud.

5.1.7. Protection of the euro

Estonia will implement the changeover from the Estonian Kroon (EEK) to the euro at the beginning of 2011. The National Counterfeit Centre (NCC) and Counterfeit Monitoring System (CMS) are located in the Cash and Security Department of The Bank of Estonia. The Estonian Forensic Science Institute has been acting as National Analysis Centre (NAC) and Coin National Analysis Centre (CNAC) for the European Central Bank since 2004.

The Bank of Estonia predicts that the changeover will increase the potential for crime.

According to the Estonian Forensic Science Institute in 2007 the ratio was one counterfeit euro banknote for 41 875 Estonian citizens whereas the equivalent average in Europe was one per 869 citizens. The Institute estimates that this figure will increase significantly, up to one counterfeit note for 5 000 Estonians in 2011.

In preparation for the changeover bank personnel have been given intensive training and risk assessments have been prepared.

5.2. Conclusions

- The protection of the financial interests of the Communities seems to be at an appropriate level in Estonia and the overall legal framework and the competences and resources of authorities seem to be sufficiently geared up for this purpose.
- Despite a threat assessment having been established for the introduction of the euro in Estonia on 1 January 2011, there still seems to be a need to raise the awareness of the general public in regard to specific risks involved with the changeover.¹

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¹ The Estonian authorities have informed after the visit that the actual transition had not caused particular problems and that the preparations were such that Estonia has managed well.

6. RECOMMENDATIONS

6.1. Recommendations to Estonia

Given the present legal and organisational set-up, while taking into account the specificities of the Estonian governmental and administrative services, the evaluation team came to the conclusion that cooperation between the different players works well in general terms. All practitioners met seemed to be highly motivated and dedicated to their duties. Nevertheless the evaluation team thought fit to make a number of suggestions for the attention of the Estonian authorities.

The experts would like to summarise their suggestions in the form of the following recommendations:

1. Should take steps to put into practice the proceeds-oriented policies that are in place; (cf. 2.3)
2. Should consider revising the following mechanisms with regard to **international co-operation**:
 - (d) Should utilize direct contacts between the judicial authorities issuing an MLA request (or a freezing order) and the competent judicial authority for execution and have the central authorities focus on methodology and the most complex cases; (cf. 3.4)
 - (e) Should draw up “a manual – internal instruction – good practice” with templates for local prosecutors and judges concerning international cooperation; (cf. 3.4)
 - (f) Should re-consider its reservation to the 1959 Convention concerning the dual criminality principle and keep such a principle, at most, only for searches and seizure of property (Art 5 of the 1959 Convention); (cf. 3.4)
 - (g) Should consider ratifying the 2001 Protocol to the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 16 October 2001 (OJ C 326 of 21.11.2001, p. 1); (cf. 3.1.3.1)
 - (h) Should consider ratifying the following Council of Europe conventions:
 - - Additional Protocol to the Criminal Law Convention on Corruption (CETS No.: 191); (cf. 3.1.3.1 and 3.4)
 - - Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No.: 198); (cf. 3.4);

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- (i) Should implement Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders; (cf. 4.2.2 and 4.3)
3. Should consider reviewing the following **provisions, contained in its national legislation** (cf. 4.3):
- (j) Should re-consider the necessity of § 469 para. 1 (2) CCP - it being clear that Estonian authorities can ask for assistance regarding their criminal matters while it is not possible to set rules of procedure for foreign states (information on the law of other states could be a part of methodology for practitioners);
 - (k) Should consider transferring the provision contained in § 469 (2) CCP to § 470 CCP - Estonia as a requested state must protect the rights of third persons on its territory;
 - (l) Should consider creating a separate provision concerning the handing over of material evidence abroad for evidence purposes - it must be handed over abroad without delay (it could be postponed only if evidence is needed in Estonia) – and material evidence must be returned to Estonia unless her authorities waive this requirement;
 - (m) Should consider clarifying § 470 (1) of the Estonian CCP - the provision should be focused on repatriation of items to legitimate owners;
 - (n) Should consider extending the scope of § 470 (6) of the Estonian CCP to all items that are traced (at least items within the scope of Art 100 of the Schengen Implementing Treaty);
 - (o) Should consider harmonising § 85 (1) of the Estonian Penal Code and § 487 (2) of the Estonian Criminal Procedure Code;
 - (p) Should consider bringing § 508² para 1 (3) of the Estonian Criminal Procedure Code into line with Art 10 (1)(c) of FD 2003/577/JHA;
 - (q) Should consider amending the Criminal Code to create the possibility of confiscating proceeds of crime even it is not possible to sentence an offender;
4. Should analyze the possibility of establishing a central index of bank accounts; (cf. 3.1.2.1)
5. Should consider reinforcing the staff resources of the Asset Recovery Office; (cf. 2.3.1)
6. Should enhance cooperation between the Asset Recovery Office and investigators dealing with cases; (cf. 3.4)
7. Should analyze the reasons for the very low value of confiscated assets in comparison to the value of seized property; (cf. 3.2.3 and 4.3)

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8. Should consider bringing together the management of seized assets under one authority; (cf. 2.3 and 4.3)
9. Should analyze whether it would be beneficial to introduce broader possibilities to sell seized property without the consent of a suspect before a court decision on confiscation has been issued; (cf. 4.3)
10. Should establish a training curriculum for financial crime investigators and encourage criminal investigators from other fields to participate in training on financial investigations focusing on proceeds of crime. Training should be conducted jointly, not only with prosecutors but also the administrative bodies that have a role to play in the subject under revision; (cf. 2.3.4)
11. Should promote CARIN among practitioners - present findings of CARIN in the area of asset tracing to them; (cf. 2.3.1)
12. Should promote wider use of the Eurojust; (cf. 3.3.2 and 3.4)
13. Should conduct a follow-up on the recommendations given in this report eighteen months after the evaluation and report on progress to the Working Party on General Affairs, including Evaluations (GENVAL).

6.2. Recommendations to the European Union, its Member States, institutions and agencies

14. EU institutions and agencies are invited to support all actions undertaken by Estonia in order to implement the recommendations listed above;
15. Should study the possibility of the Estonian FIU temporarily freezing transactions on bank accounts (to the extent of cooperation prior to delivery of a MLA request) as a good practice lending more efficiency to financial investigations; (cf. 2.1.1.3 and 2.3.1)
16. Should study the practice of Estonian banks for providing banking information to the investigative services in electronic form; (cf. 3.1.2.1 and 3.4)
17. Should study the E-File project as an example of good practice; (cf. 3.1.1.1 and 3.4)
18. Should study the Estonian application of plea-bargaining as a means for improving the efficiency of legal proceedings; (cf. 3.3.3 and 4.3)
19. Should consider the Estonian model of common interagency guidelines concerning searching for, seizing and confiscating the proceeds of crime in order establish common practice on proceeds of crime; (cf. 3.4 and 4.3)

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ANNEX A: PROGRAMME FOR VISIT

Monday, 6 September

Arrival of experts and observers from the General Secretariat, the Commission / OLAF and EUROJUST according to the flight schedule. Transfer from Tallinn Airport to the hotel

Tuesday, 7 September

Meetings in the Ministry of the Interior (Pikk 61) and the Police and Border Guard Board (Tööstuse 52)

- 09.00 Walk from hotel to the Ministry of the Interior
- 09.15-09.30 Welcoming notes by Deputy Secretary-General of the Ministry of the Interior.
Introduction of the national system regarding financial crime and financial investigations
- 09.30-09.45 Overview of criminal policy and the legal framework
- 09.45-10.00 Overview of the role of the Ministry of the Interior
- 10.00-10.40 Discussion
- 10.40 Transport to the Police and Border Guard Board
- 11.00-11.30 Overview of the Police and Border Guard Board – structure, competences, tasks
- 11.30-12.00 Overview of the Investigation Bureau of the Police and Border Guard Board and National Asset Recovery Office – composition, powers, national and international co-operation
- 12.00-13.00 Lunch break
- 13.00-13.30 Overview of the Criminal Intelligence Bureau of the Police and Border Guard Board – structure, composition, tasks, national and international exchange of information and co-operation with partners
- 13.30-13.50 Overview of international co-operation in criminal matters of the Prosecutor's Office
- 13.50-14.20 Overview of the Financial Intelligence Unit of the Police and Border Guard Board – composition, tasks, national and international co-operation
- 14.20-14.50 Overview of the Security Police Board – structure, competences, tasks, national and international co-operation
- 14.50-15.45 Discussion
- 15.45-16.00 Visit to the premises of the Europol National Unit/ Criminal Police Department of the Police and Border Guard Board
- 16.00 Transport to the hotel

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Wednesday, 8 September

Meetings in the Tax and Customs Board (Narva mnt 9j),

Bank of Estonia (Estonia pst 13) and

Estonian Forensic Science Institute (Pärnu mnt 328¹)

- 08.55 Transport from hotel to the Tax and Customs Board
- 09.15-09.50 Overview of the role of Ministry of Finance and authorities within the area of government of Ministry of Finance in securing payment of taxes/ countering financial crime (legal basis)
- 09.50-10.30 Overview of the Tax and Customs Board – structure, competences, tasks
- 10.30-10.45 Coffee break
- 10.45-11.30 Overview of the Investigation Department of the Tax and Customs Board – structure, composition, rights and obligations in proceedings of tax-related crimes, national and international co-operation
- 11.30-12.00 A practical case: Martinson case – the Western Division, co-operation with Latvia
- 12.00-12.30 A practical case: fuel fraud – Northern Division I, co-operation with Financial Intelligence Unit of the Police and Border Guard Board
- 12.30-13.00 Discussion
- 13.00 Transport from the Tax and Customs Board to the MEKK restaurant
- 13.05-14.00 Lunch break
- 14.00 Walk from restaurant to the Bank of Estonia
- 14.15-15.00 Overview of the Bank of Estonia and visit to the Bank of Estonia Museum – e.g. counterfeit money
- 15.00-15.45 Overview of the Financial Supervision Authority – structure, competences, tasks and discussion
- 15.45 Transport from the Bank of Estonia to the Estonian Forensic Science Institute
- 16.15-17.15 Overview of the Estonian Forensic Science Institute – history, structure, expert assessment, international co-operation and discussion
- 17.15-17.45 Visit to the Document Department of the Estonian Forensic Science Institute – money expertise and accounting expertise
- 17.45 Transport to the hotel

¹ The current new official address of the Estonian Forensic Science Institute is Tervise 30]

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Thursday, 9 September

Meetings in the Ministry of Justice (Tõnismägi 5a),
Prosecutor's Office (Wismari 7) and
Harju County Court (Liivalaia 24)

- 09.45 Transport from hotel to the Ministry of Justice
- 10.00-10.20 Overview of the role of Ministry of Justice. Overview of the legal provisions – seizure and confiscation of assets
- 10.20-10.40 Overview of international co-operation and the transposition of European Union Framework Decisions
- 10.40-11.10 Introduction of E-File Project – the integrated system for proceedings, Discussion
Lunch break
- 12.45 Walk from Ministry of Justice to the Prosecutor's Office
- 13.00-13.30 Overview of the Prosecutor's Office – structure, competences, tasks
- 13.30-14.45 Discussion
- 14.45 Transport to the Harju County Court
- 15.00-15.30 Overview of the judicial system, decision on confiscation pursuant to the European freezing order, recognition of foreign judgements
- 15.30-16.00 Discussion
- 16.00 Transport to the hotel

Friday, 10 September

Round table in the Ministry of the Interior (Pikk 61)

- 09.50 Walk from hotel to the Ministry of the Interior
- 10.00-12.00 Debriefing in the Ministry of the Interior

Departure of experts and observers according to the flight schedule. Transport to Tallinn Airport

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ANNEX B: LIST OF PERSONS INTERVIEWED/MET

Ministry of the Interior

Erkki Koort, Deputy Secretary-General for Internal Security

Priit Heinsoo, Head of Law Enforcement and Criminal Policy Department

Maila Pardla, EU adviser

Jenny Jakobson, Adviser, Law Enforcement and Criminal Policy Department

Triin Toompuu, Foreign Relations Adviser, Public and Foreign Relations Department

Representative of the Security Police Board

Police and Border Guard Board

Krista Aas, Police Lieutenant, Criminal Police Department

Pille Hamer, Chief Inspector, Criminal Police Department

Lenno Reimand, Police Lieutenant Colonel, Criminal Police Department

Raul Vahtra, Police Captain, Criminal Police Department

Kaari Tehver, Senior Superintendent, Criminal Police Department

Sirje Kattai, Chief Specialist, International Cooperation Division, Coordination Bureau

Ministry of Justice

Heili Sepp, Deputy Secretary-General (Criminal Policy)*

Kristi Värk, Adviser to the Secretary-General*

Astrid Asi, Head of Penal Law and Procedure Division

Astrid Laurendt-Hanioja, Head of International Judicial Co-operation Division

Margit Kapp, Assistant adviser, Legislative Drafting and Development Division, Department of Judicial Administration

Kristiina Aavik, Adviser, Criminal Policy Department, Penal Law and Procedure Division

Tuuli Ploom, Adviser, Criminal Policy Department, Penal Law and Procedure Division

Centre of Registers and Information Systems

Sven Jensen, Project Manager of Software Development Department, Centre of Registers and Information Systems (RIK)

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Prosecutor's Office

Steven-Hristo Evestus, State Prosecutor

Eve Olesk, State Prosecutor

Piret Paukštys, State Prosecutor

Kristel Siitam-Nyiri, Senior Prosecutor, Economic Crimes/ Corruption Department of the Northern District Prosecutor's Office

Maria Sutt, District Prosecutor, Economic Crimes/ Corruption Department of the Northern District Prosecutor's Office

Tristan Ploom, Senior Prosecutor

Harju County Court

Orvi Tali, Judge

Estonian Forensic Science Institute

Rene Vihalem, Deputy Director

Kaja Rodi, Head of Document Department

Ministry of Finance

Andres Kuningas, Adviser, European Union and International Affairs Department

Kaur Siruli, Head of Financial Control Department

Virve Teppart, Adviser to the Financial Control Department

Tax and Customs Board

Enriko Aav, Director-General

Markko Kard, Head of the Director-General's Office

Rene Kanniste, Head of Investigation Department*

Ardi Mitt, Deputy Head of Investigation Department

Neeme Rohtjärv, Head of Criminal Cooperation Division, Investigation Department

Silver Laas, Chief Inspector, West Division, Investigation Department

Jaan Riima, Head of North I Division, Investigation Department

Viive Uus, interpreter

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Financial Supervision Authority

Kristjan-Erik Suurväli, Head of Market Supervision and Enforcement Division

Andres Palumaa, Head of Anti Money Laundering Unit, Business Conduct Supervision Division

Gerle Reinumägi, Coordinator of International Cooperation

Bank of Estonia

Rait Roosevee, Head of Cash and Security Department

Eha Kulper, Analyst Expert of Cash and Security Department*

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* did not attend the meeting

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ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ACRONYM IN THE ORIGINAL LANGUAGE	ENGLISH TRANSLATION/EXPLANATION
ARO	-/-	Asset Recovery Office
CARIN	-/-	Camden Assets Recovery Inter-Agency Network
CCP	-/-	Code of Criminal Procedure
EEK	Eesti kroon	Estonian Kroon
FIU	-/-	Financial Intelligence Unit
MDG	-/-	Multidisciplinary Group on Organised Crime
MLTFPA	-/-	Anti Money Laundering and Terrorist Financing Prevention Act
OCTA	-/-	Organised Crime Threat Assessment
OLAF	Office européen de lutte anti-fraude	European Anti-Fraud Office
PC	-/-	Penal Code
RIK	-/-	Centre of Registers and Information Systems
ROCTA	-/-	Russian Organised Crime Threat Assessment
SAR	-/-	Suspicious Activity Report
STR	-/-	Suspicious Transaction Report
UCLAF	Unité de Coordination de La Lutte Anti-Fraude	Task Force for the Co-ordination of fraud prevention