

# euocrim

2021 / 3

THE EUROPEAN CRIMINAL LAW ASSOCIATIONS' FORUM



## **Protection of the EU's Financial Interests in the Current Multiannual Financial Framework** **La protection des intérêts financiers de l'UE dans l'actuel cadre financier pluriannuel** **Der Schutz der EU-Finanzinteressen im derzeitigen mehrjährigen Finanzrahmen**

Guest Editorial

*Beatriz Sanz Redrado*

Italian Recovery and Resilience Plan and the Protection of EU Financial Interests

*Marta Cartabia*

Protecting the EU's Financial Interest in the New Recovery and Resilience Facility

*Clemens Kreith and Charlotte Arwidi*

The New Union Anti-Fraud Programme

*Georg Roebeling and Sorina Buksa*

Protecting the EU's Financial Interests through Criminal Law

*Wouter van Ballegooij*

Negotiation and Transposition of the PIF Directive

*Markus Busch*

The European Anti-Fraud Office and the European Public Prosecutor's Office

*Nadine Kolloczek and Julia Echanove Gonzalez de Anleo*

Typologies of EU Fraud

*Anca Jurma and Aura Amalia Constantinescu*

The Associations for European Criminal Law and the Protection of Financial Interests of the EU is a network of academics and practitioners. The aim of this cooperation is to develop a European criminal law which both respects civil liberties and at the same time protects European citizens and the European institutions effectively. Joint seminars, joint research projects, and annual meetings of the associations' presidents are organised to achieve this aim.

## Contents

### News\*

#### European Union

##### Foundations

- 134 Fundamental Rights
- 138 Area of Freedom, Security and Justice
- 139 Schengen
- 140 Legislation

##### Institutions

- 141 Council
- 142 European Court of Justice
- 143 OLAF
- 144 European Public Prosecutor's Office
- 146 Europol
- 147 Eurojust
- 148 European Judicial Network
- 148 Frontex

##### Specific Areas of Crime / Substantive Criminal Law

- 149 Protection of Financial Interests
- 153 Corruption
- 153 Money Laundering
- 156 Tax Evasion
- 157 Organised Crime
- 157 Cybercrime
- 158 Terrorism
- 158 Racism and Xenophobia

#### Procedural Criminal Law

- 158 Procedural Safeguards
- 161 Victim Protection

#### Cooperation

- 161 Police Cooperation
- 161 European Arrest Warrant
- 162 European Investigation Order
- 162 Financial Penalties
- 164 Law Enforcement Cooperation

#### Council of Europe

##### Foundations

- 165 Human Rights Issues

##### Procedural Criminal Law

- 167 European Commission for the Efficiency of Justice

### Articles

#### Protection of the EU's Financial Interests in the Current Multiannual Financial Framework

- 169 Italian Recovery and Resilience Plan and the Protection of EU Financial Interests  
*Marta Cartabia*
- 171 Protecting the EU's Financial Interest in the New Recovery and Resilience Facility  
*Clemens Kreith and Charlotte Arwidi*
- 175 The New Union Anti-Fraud Programme  
*Georg Roebing and Sorina Buksa*
- 177 Protecting the EU's Financial Interests through Criminal Law  
*Wouter van Ballegooij*
- 182 Negotiation and Transposition of the PIF Directive  
*Markus Busch*
- 187 The European Anti-Fraud Office and the European Public Prosecutor's Office  
*Nadine Kolloczek and Julia Echanove Gonzalez de Anleo*
- 191 Typologies of EU Fraud  
*Anca Jurma and Aura Amalia Constantinescu*

\* The news items contain Internet links referring to more detailed information. These links are embedded into the news text. They can be easily accessed by clicking on the underlined text in the online version of the journal. If an external website features multiple languages, the Internet links generally refer to the English version. For other language versions, please navigate using the external website.

# Italian Recovery and Resilience Plan and the Protection of EU Financial Interests

## Enhancing the Criminal Justice System in the Age of Structural Reforms

After long months of deadlock due to the coronavirus pandemic, the time has come to make use of valuable resources and valuable possibilities. All necessary energies and means must be invested to ensure that support for national economies from European and national funds do not lead to the undue enrichment of a few. Perpetrators of organized crime are attracted by easily available sources of wealth and money. We can neither allow the EU's recovery funds to end up in the wrong hands nor permit illegal interests that thwart this extraordinary opportunity for a new beginning. More than ever, it is necessary to develop coherent projects and reforms, which should also include initiatives aimed at making the application of criminal law more rational and more efficient.

From this perspective, the European Public Prosecutor's Office (EPPO) plays a fundamental role, because it is an essential tool to combat financial crime, tax fraud, and all forms of misuse of European funds. In various European forums, I have already expressed my appreciation for the progress already made by the EPPO with regard to the nearly completed recruitment of staff, the signing of bilateral agreements with other European Union bodies, the initiatives taken regarding judicial cooperation with third countries and, above all, the results already achieved since June 2021 with the launch of investigations into criminal acts that have caused an estimated loss of more than €4 billion to the Union budget.

Italy's commitment to the effective operation of the EPPO was manifested with the approval and entry into force of Legislative Decree no. 9 of 2 February 2021 and subsequent legislative acts adjusting domestic legislation to the EPPO Regulation. I am confident that the virtuous and loyal cooperation between the European Delegated Prosecutors and the national judicial and law enforcement authorities will benefit the effectiveness of their respective actions and the results achieved.

Effective criminal protection also needs a speedy and efficient (criminal justice) process, which the reform recently approved by the Italian parliament, Law no. 134 of 27 September 2021, ensures by making essential improvements in this regard. A number of reform measures serve this purpose, which are intended to apply at every stage of criminal procedure – from the beginning of the investigation, to the trial phase, and even to the stage of appeal. In particular, the provisions on “bar to prosecution for having exceeded the maximum duration of appeal proceedings” are intended to strengthen the guarantee of a reasonable length of trial. Other significant improvements concern pecuniary penalties, the particular tenuousness of the fact (*de minimis* offence provision), probation, restorative justice as well as a series of measures aimed at promoting digitalization. In addition to regulatory measures, organisational improvements have also been made, such as the investment in the Trial Office (*Ufficio per il Processo*), which has more than 16,000 employees and constitutes a major innovation in the way justice is organised.



Marta Cartabia

“Reform commitments in the Italian Recovery and Resilience Plan modernize the criminal justice system and increase the effectiveness and efficiency of criminal protection against EU fraud, in line with constitutional rights and guarantees.”

I would like to mention that this reform effort is part of the commitment made with the approval of the Italian Recovery and Resilience Plan. While it is true that national recovery and resilience plans are indeed all about reform, the inclusion of the criminal justice chapter in the “structural” or “contextual” reforms signals a direction aimed at consolidating the results that can be accomplished with the extraordinary resources from the Recovery and Resilience Fund, above and beyond the time horizon marked by the National resilience and recovery plan. In short, reform commitments in the Italian Recovery and Resilience Plan are sure to modernize the criminal justice system and increase the effectiveness and efficiency of criminal protection against EU fraud, in line with constitutional rights and guarantees.

*Marta Cartabia, Italian Minister of Justice*

# Imprint

## Impressum

Published by:

**Max Planck Society for the Advancement of Science**

**c/o Max Planck Institute for the Study of Crime, Security and Law**

(formerly Max Planck Institute for Foreign and International Criminal Law) represented by Director Prof. Dr. Ralf Poscher

Guenterstalstrasse 73,  
79100 Freiburg i.Br./Germany

Tel: +49 (0)761 7081-0

Fax: +49 (0)761 7081-294

E-mail: [public-law@csl.mpg.de](mailto:public-law@csl.mpg.de)

Internet: <https://csl.mpg.de>

Official Registration Number:

VR 13378 Nz (Amtsgericht

Berlin Charlottenburg)

VAT Number: DE 129517720

ISSN: 1862-6947



**Editor in Chief:** Prof. Dr. Dr. h.c. mult. Ulrich Sieber

**Managing Editor:** Thomas Wahl, Max Planck Institute for the Study of Crime, Security and Law, Freiburg

**Editors:** Dr. András Csúri, Vienna University of Economics and Business; Anna Pingen, Max Planck Institute for the Study of Crime, Security and Law, Freiburg; Cornelia Riehle, ERA, Trier

**Editorial Board:** Prof. Dr. Lorena Bachmaier, Complutense University Madrid, Spain; Peter Csonka, Head of Unit, DG Justice and Consumers, European Commission Belgium; Prof. Dr. Esther Herlin-Karnell, University of Gothenburg, Sweden; Mirjana Juric, Head of Service for combating irregularities and fraud, Ministry of Finance, Croatia; Philippe de Koster, Director FIU Belgium; Prof. Dr. Katalin Ligeti, University of Luxembourg; Prof. Dr. Ralf Poscher, Director at the Max Planck Institute for the Study of Crime, Security and Law, Freiburg, Germany; Lorenzo Salazar, Deputy Prosecutor General to the Court of Appeal of Naples, Italy; Prof. Rosaria Sicurella, University of Catania, Italy

**Language Consultant:** Indra Tie, Certified Translator, Max Planck Institute for the Study of Crime, Security and Law, Freiburg

Typeset: Ines Hofmann, Max Planck Institute for the Study of Crime, Security and Law, Freiburg

**Produced in Cooperation with:** Vereinigung für Europäisches Strafrecht e.V. (represented by Prof. Dr. Dr. h.c. mult. Ulrich Sieber)

**Layout:** JUSTMEDIA DESIGN, Cologne

**Printed by:** Stückle Druck und Verlag, Ettenheim/Germany

The publication is co-financed by the  
European Commission, European  
Anti-Fraud Office (OLAF), Brussels



© Max Planck Institute for the Study of Crime, Security and Law, 2021. All rights reserved: no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical photocopying, recording, or otherwise without the prior written permission of the publishers.

The views expressed in the material contained in eucrim are not necessarily those of the editors, the editorial board, the publisher, the Commission or other contributors. Sole responsibility lies with the author of the contribution. The publisher and the Commission are not responsible for any use that may be made of the information contained therein.

### Subscription:

eucrim is published four times per year and distributed electronically for free.

In order to receive issues of the periodical on a regular basis, please write an e-mail to:

[eucrim-subscribe@csl.mpg.de](mailto:eucrim-subscribe@csl.mpg.de).

For cancellations of the subscription, please write an e-mail to:

[eucrim-unsubscribe@csl.mpg.de](mailto:eucrim-unsubscribe@csl.mpg.de).

For further information visit our website: <https://eucrim.eu>  
or contact:

Thomas Wahl

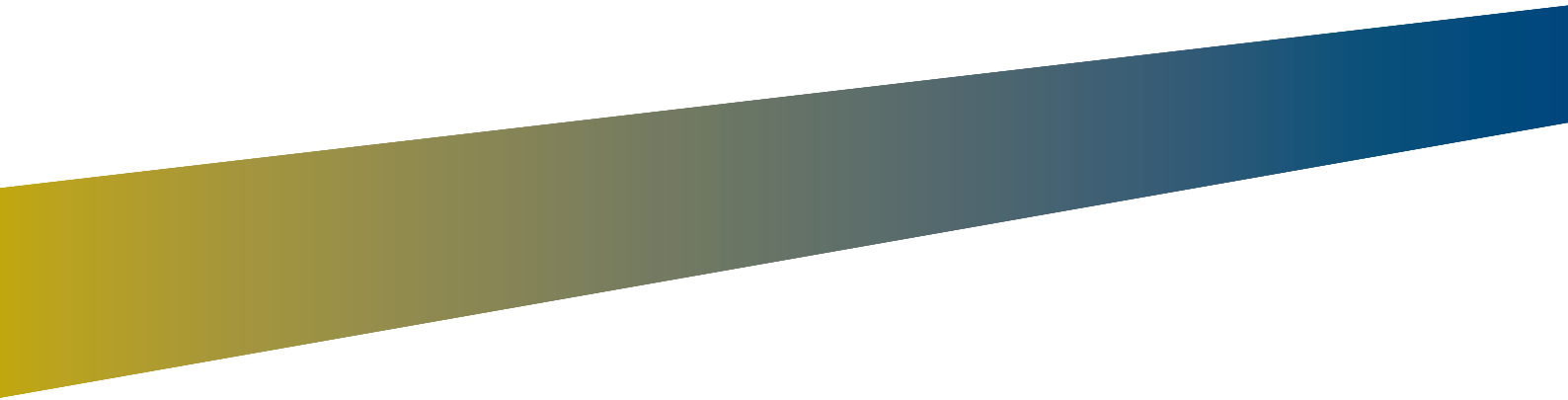
Max Planck Institute for the Study of Crime, Security and Law  
Guenterstalstrasse 73,

79100 Freiburg i.Br./Germany

Tel: +49(0)761-7081-256 or +49(0)761-7081-0 (central unit)

Fax: +49(0)761-7081-294

E-mail: [info@eucrim.eu](mailto:info@eucrim.eu)



**MAX PLANCK INSTITUTE**  
FOR THE STUDY OF  
CRIME, SECURITY AND LAW

