

MARCH 2022

RESILIENT BALKANS

SOCIAL REUSE OF CONFISCATED ASSETS



SAŠA ĐORĐEVIĆ



RESILIENT BALKANS

This brief is part of the Global Initiative Against Transnational Organized Crime (GI-TOC's) Resilient Balkans series, which looks at topics of common interest to civil society organizations (CSOs) in the Western Balkans dealing with issues related to organized crime. This brief focuses on the confiscation of the assets of crime and their social redistribution.

This report is an output of the GI-TOC's Observatory of Illicit Economies in South Eastern Europe and the GI-TOC's Resilience Fund.

The report is based on data, information and analyses collected and shared by civil society actors based in the Western Balkan region. In particular, we would like to thank Walter Kemp for his support and guidance; other members of the Observatory, especially Anesa Agović, Aleksandar Srbinovski and Fatjona Mejdini for their inputs and help; and the GI-TOC's Resilience Fund grantees based in the region for their frank and constructive engagement throughout the process.

This publication was produced with the financial support of the German Foreign Office. Its contents are the sole responsibility of the GI-TOC and do not necessarily reflect the views of the government of Germany.

© 2022 Global Initiative Against Transnational Organized Crime.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without permission in writing from the Global Initiative.

Cover: © David Franklin / Alamy Stock Photo; Ivan Aleksic via Unsplash

Please direct inquiries to:

The Global Initiative Against Transnational Organized Crime

Avenue de France 23

Geneva, CH-1202

Switzerland

www.globalinitiative.net

CONTENTS

SUMMARY AND RECOMMENDATIONS	2
TAKING THE PROFIT OUT OF CRIME	5
SOCIAL REUSE OF ASSETS	10
LEGAL AND INSTITUTIONAL FRAMEWORKS FOR SOCIAL REUSE	11
MILESTONES IN SOCIAL REUSE OF CONFISCATED ASSETS AND CASE STUDIES	15
GIVING BACK TO THE COMMUNITY	21
NOTES	22





Entrance to a safe space for juvenile ex offenders in Novi Sad, Serbia, before renovations begin. Civil society can use confiscated property for social and community purposes, even in poor conditions. © Restart

SUMMARY AND RECOMMENDATIONS

Social reuse of confiscated criminal assets opens the possibility of strengthening resilience to organized crime and building bridges between civil society and the authorities in the Western Balkans Six (WB6): Albania, Bosnia and Herzegovina, Kosovo,¹ Montenegro, North Macedonia and Serbia. This report looks at the practice of the social reuse of confiscated assets, and the role of civil society in this process and as beneficiaries of it. It also examines how civil society fits into existing legal and institutional frameworks for the social reuse of confiscated assets, and highlights good practices in the WB6, particularly in Albania and Serbia, as well as structural weaknesses.

The research builds on semi-structured interviews with civil society activists and experts, observations made during resilience dialogues held in each of the WB6 capitals between September and December 2021, analysis of secondary data and participation in workshops with civil society on using confiscated assets for good causes organized by the Organization for Security and Co-operation in Europe (OSCE),² and Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey (TACSO).³

This brief is a follow up to the policy brief *Stronger Together: Bolstering resilience among civil society in the Western Balkans*.⁴ The brief is designed to raise awareness about the social reuse of the assets of crime, highlight the experiences of civil society organizations (CSOs), and widen and improve this practice in the WB6.

The main findings and recommendations are as follows:

- Social reuse of confiscated assets should be considered, promoted and practised more comprehensively in the WB6 as a way of showing that crime does not pay and as a method of generating resources to support crime victims and build resilience to organized crime.
- Confiscated assets should be used more readily to compensate and support crime victims, as is the case in Serbia, where the Centre for the Protection of Victims of Trafficking received a confiscated facility to use as a safe house for victims of human trafficking.
- Social reuse of assets should be more widely publicized to make civil society aware of the possibilities of applying for access to these assets or funds. Procedures regulating the disposal of confiscated proceeds of crime should be made more transparent and accessible by providing at least a description of the asset for disposal, its location and condition, and by appointing a contact point within the relevant government agency.
- Government authorities and civil society should work together to ensure transparency of procedures around seized assets and effective asset management, for example through a publicly accessible web portal like *Confiscati bene 2.0*,⁵ and by drawing on good practices and lessons learned in Albania and European Union (EU) countries (such as Estonia, Italy and Romania).
- Social reuse of assets requires trustful cooperation between governments and civil society to identify needs and opportunities, and to ensure transparency and accountability in the disbursement of the recovered assets. Discussions on what funds are available and how they can be used can build bridges between civil society and the government, and increase government resources to support the work of CSOs (not least as service providers that complement or supplement state activities).

Governments and civil society should work together to ensure transparency of procedures around seized assets and effective asset management.





Civil society should be involved in monitoring and assessing the impact of the social reuse of seized assets.

- Civil society and asset management agencies should generate and empower local communities to take care of the confiscated assets.
- Initiatives using recovered assets should be considered in the context of promoting sustainable small- and medium-sized enterprises, entrepreneurship, job training and community development, which can benefit the community as a whole in a sustainable way.
- The EU-funded project titled Confiscated Assets Used for Social Experimentation (CAUSE), which worked well in Albania, could be replicated in other WB6 countries.
- Civil society should be involved in monitoring and assessing the impact of the social reuse of seized assets.
- The private sector (particularly banks and accounting firms), as well as organizations with relevant know-how, like the United Nations Office on Drugs and Crime, and the OSCE, should help WB6 governments strengthen their capacity to seize assets and work with CSOs to help reuse these resources in the community.
- Initiatives and organizations such as the Balkan Asset Management Interagency Network and the OSCE, should work both with government agencies and CSOs to enhance the practice of asset reuse for social purposes to strengthen resilience against organized crime.
- The symbolic and psychological effect of the social reuse of confiscated assets should be highlighted by showcasing how giving back properties, companies or green spaces to communities affected by organized crime not only redistributes criminal proceeds for public utility, but also undermines the image of criminal and corrupt actors as being rich and untouchable. It also shows that crime does not pay.



KinFolk Coffee Library in Durres, Albania, is a recovered criminal asset now used for preparing food and as a multicultural community centre. © KinFolk Coffee Library via Facebook

TAKING THE PROFIT OUT OF CRIME

The ideal business model for any criminal is one that delivers an optimal balance of low risk and high reward. By going after the proceeds of crime through asset recovery, the risk of carrying out the crime may still be low, but so too are the potential benefits accrued to the perpetrator. This makes crime less rewarding and therefore less attractive in the end. CSOs in the Western Balkans often express their frustration with seeing criminals and corrupt politicians profiting from illicit activities and keeping their ill-gotten gains. They also lament lack of funding needed to carry out their work and help support their communities. Confiscating the proceeds of crime and using them to fund projects in the community helps to address both of these issues at the same time.

Asset recovery, however, is not a straightforward procedure. It is, broadly, a four-stage process (see Figure 1). In the first, pre-investigative stage, investigators collect data on the proceeds of crime. In the second stage, they determine ownership through financial inquiries and prepare the case for the third, judicial, stage, where the accused person is either convicted or acquitted, and the decision on confiscation is made. In the fourth stage, the state disposes of the confiscated assets, including by reusing them for social purposes.⁶

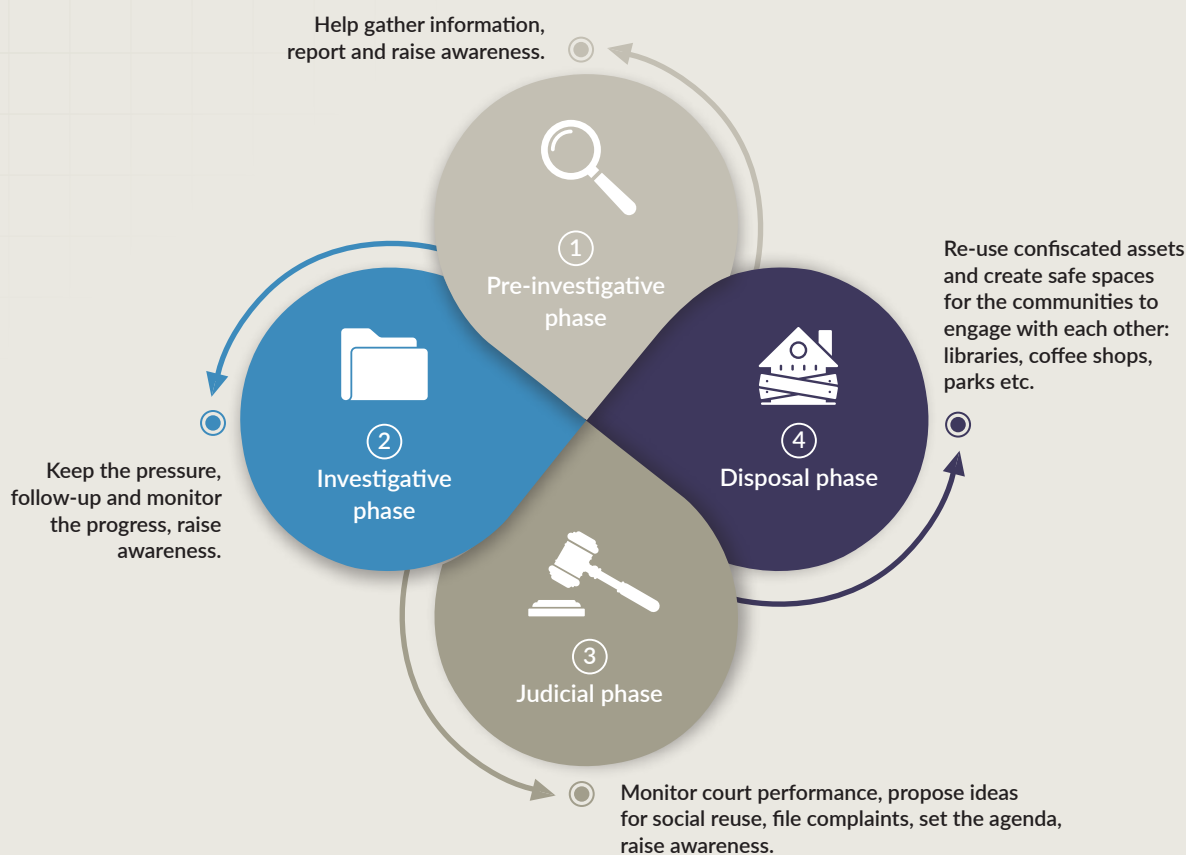


FIGURE 1 The role of civil society in the four stage asset recovery process.





























































The logic behind asset recovery is that organized criminal groups are generally motivated by profit. They traffic illicit commodities, like drugs and weapons, or smuggle licit ones like fuel, food or people. The proceeds are usually laundered into property or businesses, moved off-shore or converted into cash, cryptocurrency or high-value goods, such as cars, yachts, works of art, jewellery and the like. The value of these assets dwarfs the budgets of most CSOs and even some local governments. For example, the value of a confiscated vehicle worth €15 000 is comparable to that of an NGO's project grant, while business premises or a high-end apartment could cover the cost of the budget that a medium-sized municipality (like Peja in Kosovo) allocates to culture, youth and sports in a year (€500 000).⁷ Given the scale of the value of such investments, even modest reuse of confiscated assets is clearly a boon for communities across the WB6 region.

The 2021 Global Organized Crime Index shows that four of the WB6 countries (Albania, Bosnia and Herzegovina, Montenegro and Serbia) are among the top ten highest-scoring countries in Europe in terms of organized criminality. Moreover, the scope, scale and impact of illegal markets in these four countries are all above the global average.⁸ That means that there is a substantial number of criminals in or from the WB6 making a great deal of money. Yet very few of their criminal assets are being seized. This can be attributed in part to the low resilience scores among the WB6 that reflect weak or compromised criminal justice systems, and poor government transparency and accountability. Indeed, 92% of citizens in the Western Balkans perceive serious, organized and financial crime as the most pressing security challenge that the region should address.⁹

Confiscation and seizure of assets are a centrepiece of the international legal instruments used to fight crime, like the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption. In addition, the EU encourages measures allowing confiscated property to be used for public interest or social purposes.¹⁰ Despite the non-binding nature of the 2014 EU Directive on social reuse, 19 of the 27 member states include specific legislation for confiscating property for public interest or social purposes,¹¹ which could be an incentive for the WB6 governments and parliaments. The OSCE has also put a strong emphasis on the social reuse of assets, not least in south-eastern Europe.

All WB6 countries have introduced legislation on asset recovery and have financial intelligence units or specialized anti-money laundering units that have a mandate and the skills necessary to go after the proceeds of crime. With the exception of Bosnia and Herzegovina at the state level,¹² all countries in the region have national laws in place that allow for the confiscation of property belonging to a convicted person when the crime is liable to economically benefit the criminal and/or the circumstances of the case indicate that the property is derived from criminal conduct. They have also established national bodies mandated to administer confiscated assets and publish statistics on the confiscation of cash and other assets. These legal frameworks are summarized in Figure 2.

In Albania, there is legislation (modelled on Italian best practice known as the Rognoni-La Torre Law of 1982) that shifts the burden of proof from the prosecution to the defendant and enables authorities to act against criminal assets, and not just criminal actors.¹³ Montenegro is preparing amendments to improve its law on confiscating proceeds of crime, focusing on early initiation of financial investigations and stronger cooperation and coordination between institutions.¹⁴ However, civil society and the prosecution in Montenegro have warned of lack of institutional capacity to implement the new proposals and called for additional consultations.¹⁵

		ALBANIA	BOSNIA AND HERZEGOVINA	KOSOVO	MONTENEGRO	NORTH MACEDONIA	SERBIA
LEGISLATION	Law on the confiscation of illegally gained assets						
	Specific provisions on confiscation within anti-organized crime laws						
	Legislation provides for the extended confiscation (of proceeds of crime)						
	Legislation enables the government to reuse confiscated assets						
	Legislation provides for the social reuse of confiscated assets						
	National agency/body for confiscated assets		 (only on entity level)				
IMPLEMENTATION	Confiscation of assets						
	Extended confiscation of assets						
	Government re-use of confiscated assets						
	Social re-use of confiscated assets						




 Law in place
 Law implemented
 Not in place/implemented

FIGURE 2 The role of civil society in the four stage asset recovery process.


Source: Based on information available on the current legislation on asset recovery in each country and a review of reports on its implementation.

However, despite having the necessary laws and institutions in place, in many jurisdictions in the WB6, the criminal justice process – from the initial detection of the crime to the final verdict and seizure of an asset – is slow and can take up to several years. Financial investigations are not always carried out in conjunction with criminal investigations. Even where there are successful prosecutions, few or no assets are seized and there is little information on what has been confiscated.¹⁶

The situation in North Macedonia is illustrative of a broader trend in the region. Between 2010 and 2019, 670 out of 2 496 monitored criminal cases were brought before the Department for Prosecution of Organized Crime and Corruption in the Basic Court (now the Criminal Court) in Skopje. Of these 670 cases, property was confiscated in only 36.¹⁷ According to a 2019 study by the Skopje-based Coalition-All for Fair Trials, between 2015 and 2019, courts ordered the confiscation of property from just 1% of all convicted criminals.¹⁸ As a result, criminals serve their time and then regain access to their loot, or their assets depreciate in warehouses and are of little use to either them or society after several years.

Indeed, relatively few assets are confiscated in the WB6. In 2020, the estimated value of preliminary confiscated assets was €19 million in Kosovo,¹⁹ €11.5 million in Bosnia and Herzegovina,²⁰ and €4.7 million in Albania.²¹ Around €9 million was seized in North Macedonia between 2015 and 2019.²² The numbers show that, paradoxically, the two countries – Bosnia and Herzegovina, and Kosovo – that are least equipped to deal with the social reuse of assets, seized the most proceeds of crime. In Serbia, courts accepted two requests for permanent confiscation of assets against four people,²³ while in Montenegro, 12 decisions on temporary seizures were issued, including for real estate, vehicles, bonds and money.²⁴

Western Balkan criminal justice authorities should improve performance in the seizure and confiscation of criminal assets.





Young people use a cultural centre in Nis, Serbia, as a theatre to perform a play about loan sharking and building resilience among youth. © Protecta via Facebook

SOCIAL REUSE OF ASSETS

In most cases, when assets are recovered they are confiscated by the state and the value is transferred to the public purse. Assets are also used to support local projects, which is the focus of this brief. Direct social reuse of assets is the process whereby the authorities provide confiscated assets for public use – an example being converting a house that was the former property of a criminal into a playground or kindergarten at the request of eligible beneficiaries, including CSOs or the authorities. This practice has been common in Italy since the mid-1990s.

Indirect reuse, on the other hand, is when the proceeds of crime are distributed through special funds to compensate crime victims, invest in crime prevention, drug treatment projects or to support law enforcement.²⁵

Regulations allow for reuse of confiscated assets for social benefit in all the WB6 countries, with the exception of Kosovo. The most robust legal framework is in Albania, where indirect reuse applies – a special fund for crime prevention has been established from which money from confiscated assets can be used for state and social community crime prevention and legal education projects.²⁶ In Bosnia and Herzegovina, Montenegro and Serbia, the priority is to sell the confiscated asset. For example, the asset management authority can announce a bid to lease or sell immovable

property, which is then awarded to the highest bidder. If this process is not completed within a year, there is an option to donate the assets for humanitarian purposes or entrust an official authority to reuse them.²⁷ In North Macedonia, the asset management authority may designate to civil society food, clothing and drinks that were seized (for example, because they were sold on the black market, were smuggled or are counterfeit).²⁸

Social reuse is not without its challenges. In some cases, there are threats or problems arising from the former asset owners, but networking among all stakeholders, including the local community, can help to secure a successful outcome. The agencies, as the administrators of these state assets, are obliged to provide their support throughout the process.²⁹



LEGAL AND INSTITUTIONAL

FRAMEWORKS FOR SOCIAL REUSE

CSOs have a key role to play in the social reuse of confiscated assets. For one, CSOs can attract wider attention to the practice, encouraging governments to make confiscation and social reuse a priority, for example as part of their anti-corruption strategies. They can advocate for asset-recovery-related legislation, ensure that the law provides for the social reuse of criminal assets, and call for institutional and policy reform changes.

CSOs can also support legal actions and promote legal procedures and arrangements for managing assets. For example, the Serbian association of prosecutors has proposed a more precise, court order relating to property, which transfers the ownership of assets derived from criminal activity to the state.³⁰ At the same time, MANS, an NGO that tackles corruption and organized crime in Montenegro, has published a set of legal recommendations on asset confiscation in the absence of the conviction of the wrongdoer or civil confiscation.³¹

CSOs can support legal actions and promote legal procedures and arrangements for managing assets.



Furthermore, civil society can play a watchdog function by carrying out external monitoring and evaluation of asset management processes,³² as Transparency International has done in Bosnia and Herzegovina.³³ This ensures that data on permanently confiscated criminal assets is collected and made publicly available. This type of monitoring is important, since one of the biggest challenges in the WB6 when it comes to the social reuse of assets is to ensure transparency around confiscated assets, especially those permanently confiscated, by noting at least the description of the asset, its location and condition. CSOs from Serbia report that they currently do not have access to this information.

Effective, efficient and transparent management of assets confiscated from criminals is crucial to maintaining the integrity of, and public confidence in, the process. Good practice (for example from Estonia or Romania) in this regard is to maintain publicly accessible lists (such as on a website) of goods available for social reuse and enable eligible beneficiaries to submit applications to use them.³⁴ Conversely, integrity can be damaged by lack of transparency: investigations in Palermo, Italy, have recently revealed corruption within the judiciary related to the management of seized assets.³⁵



A house near Novi Sad, Serbia, confiscated from criminals, is now used as a home for people with autism.
© Radio Free Europe

Civil society can also work with governments to discuss strategic programmes rather than one-off activities, to ensure that the social reuse of assets is done in a way that is sustainable.

However, best practices and interviews with experts show that several requirements should be fulfilled before civil society can be involved in the social reuse of confiscated assets.³⁶ Prerequisites that must be met for civil society to use confiscated property include the following:


- Asset recovery is a government policy objective involving a wide number of stakeholders, including civil society.
- The entity that manages confiscated criminal assets should be operational.
- Institutions that seize moveable assets, real estate and corporate assets from criminals, must be able to reuse them for social benefit.
- The regulations should provide an option to reuse criminal assets for a good cause following confiscation.

For civil society organizations to have more opportunities to participate in the use of confiscated criminal assets, it helps if:

- The social reuse of confiscated criminal assets is one of the government's policy objectives.
- CSOs at the national level continually advocate for confiscation and social reuse of criminal assets.
- Data on permanently confiscated criminal assets is collected and made available in a transparent way that enables people and CSOs to search, explore, link, download and reuse the data.
- Operational procedures to involve civil society are ready and applied.

Figure 3 provides an overview of the current situation in the WB6 concerning the role of civil society and the social reuse of confiscated assets. It shows how minimum requirements are largely being met by countries in the region. However, with the notable exception of Albania, which has a relatively advanced approach, there is room for improvement. Indeed, it shows that there is little transparency around confiscated assets and that the procedures to involve civil society are either unclear or non-existent show priority attention is required in these areas.

The social reuse of confiscated criminal assets should be a policy objective for governments in the Western Balkans.



	ALBANIA	BOSNIA AND HERZEGOVINA	KOSOVO	NORTH MACEDONIA	MONTENEGRO	SERBIA
CONDITION						
MINIMUM						
Asset recovery is a policy objective						
Asset recovery authority functions						
Criminal assets are confiscated						
Law provides social reuse of criminal asset						
ADVANCED						
Social reuse is a policy objective						
Social reuse is continuously advocating						
Data on confiscated assets are transparent						
Procedure to involve civil society						

In place
 Partially in place
 Not in place

FIGURE 3 Fulfilment of requirements for civil society involvement in social reuse of confiscated criminal assets in the WB6.

Source: Based on information available on the current legislation on asset recovery in each country and a review of reports on its implementation.

MILESTONES IN SOCIAL REUSE OF CONFISCATED ASSETS AND CASE STUDIES

How can CSOs make direct or indirect reuse of seized assets? In Italy, where civil society networks like Libera have been pioneers in this field, assets are used to fund public awareness campaigns around crime and corruption; finance the start-up of small businesses; support youth groups and youth activities; provide social services (for example to drug users); and promote the renewal of local communities.³⁷

Since 2004, one Italian CSO, Al di là dei Sogni, has used land recovered from the mafia to carry out organic farming in Sessa Aurunca, a town in southern Italy. The project aims to establish a sustainable, social agriculture model through training and employment of disadvantaged and marginalized groups and involvement of the local community in awareness-raising campaigns.³⁸ Another CSO, Comitato don Peppe Diana, runs a project that provides a 'laboratory' for young people to learn about social innovation run from a property confiscated from the mafia.³⁹

Social reuse of assets may be a more recent development in the WB6 than in other parts of the world, but there are already some good examples, and this can be seen particularly in Serbia and Albania. Figure 4 shows a timeline of some major developments and activities in the region.



A former nightclub in Fier, Albania, was repurposed; it is now the KeBuono bakery. © Partners Albania via YouTube



The project, worth approximately €450 000, helped establish a good model of sustainable reuse of confiscated assets from organized crime for the benefit of the community.

In Serbia, a law on the seizure and confiscation of the proceeds of crime was adopted in 2009 and promoted as an innovative and effective tool against organized crime.⁴⁰ At the same time, civil society activists began discussing their role in asset recovery and social reuse with the support of Freedom, Legality and Rights in Europe (FLARE), a civil society anti-crime network. In 2010, FLARE opened a regional office in Serbia,⁴¹ while FLARE member PROTECTA held conferences on social reuse with the support of the OSCE Mission to Serbia. In August 2011, the Anticriminal Action (ACRIMA) civil society network was launched. ACRIMA was the first network from Serbia created to oppose organized crime and corruption, and reaffirm the principle of legality. Despite a promising start, lack of donor support combined with political changes in 2012 that affected cooperation between the directorate responsible for seized assets and civil society ultimately led to the closure of activities.⁴² ACRIMA also ceased operations.

However, other organizations in Serbia, like the National Association of Parents of Children with Cancer (NURDOR), were more successful. NURDOR's objective was to establish a treatment centre in Novi Sad, Serbia, where children suffering from cancer could stay with their families while receiving therapy. Obtaining a confiscated house was not an easy task, and the authorities initially rejected the idea. Nevertheless, the persistence of the initiator, Jolanda Korora, paid off when NURDOR was given a confiscated house previously owned by Darko Šarić, a convicted drug smuggler.⁴³

Albanian civil society has also triggered a debate on the social reuse of confiscated assets. The CSO Partners Albania for Change and Development has been a driving force advocating for the sustainable reuse of confiscated criminal assets and their transformation into spaces for social, cultural and rehabilitation purposes.⁴⁴ Partners Albania organized training workshops for civil society in five cities.⁴⁵ These were held as part of the EU-funded CAUSE project, which Partners Albania implemented together with two Italian CSOs, Project Ahead and Comitato Don Peppe Diana, from 2016 to 2020. The project, worth approximately €450 000, helped establish a good model of sustainable reuse of confiscated assets from organized crime for the benefit of the community, and which that could be replicated elsewhere.

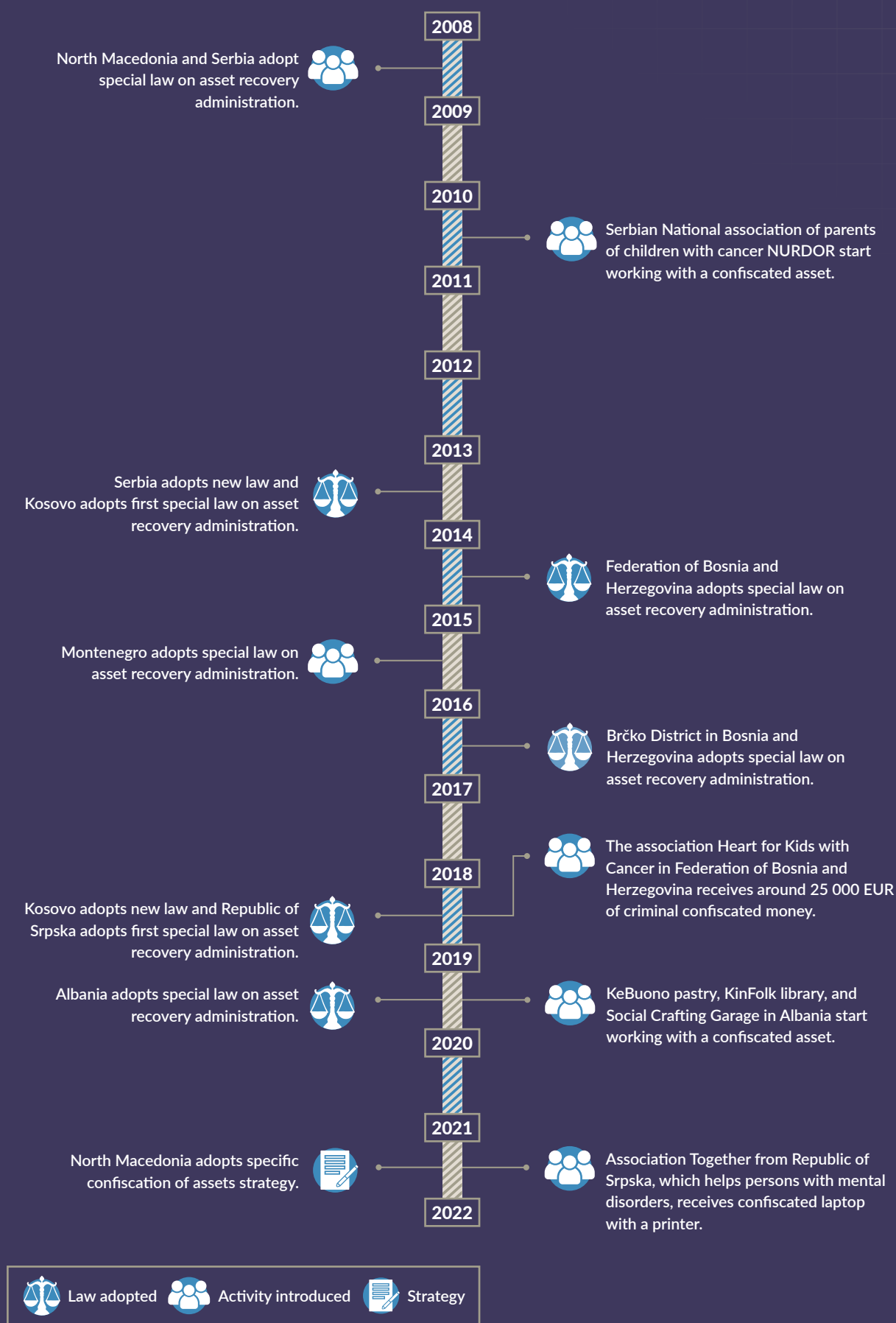


FIGURE 4 Timeline of key miles related to the confiscation of assets and social reuse in the Western Balkans.

With support from the CAUSE project, three social enterprises were established in Albania in 2018.⁴⁶ One is the KeBuono bakery in Fier, which was established in a property confiscated from organized crime. In addition to its food products, the bakery promotes a culture of legality and non-violence in the community, with particular focus on former prisoners and their families. It also offers vocational courses and activities for young people. About 75% of the staff are people who were endangered by or victims of crime, especially young people and women.⁴⁷ As Anisa Xaka, a KeBuono employee, explained, the venue has become a 'bridge' for the community's needs. What was once a place that hosted criminal activity is increasingly becoming a beacon of redemption for the local community.⁴⁸ 'The real challenge,' said Xaka, 'is to make known to the community that our enterprise is a model of how the community should take over and use properties that belonged to organized crime for good causes.'

The second recovered asset is the KinFolk Coffee Library in Durrës. The cafe also serves as a multicultural centre that offers training, acting courses, discussion groups, chess and language classes, as well as summer and winter schools. In 2019 and 2020, over 150 youngsters participated in educational, artistic and cultural activities at the library.⁴⁹ The project targets youth who are at risk of juvenile delinquency by engaging them in social and cultural activities that provide an alternative to illegal activities and criminal life. When the library was first set up, there were challenges with the former owners and residents in the building where the confiscated property is located. In the end, it turned out well for the library and residents. In the words of the project manager, 'when they saw all the progress, they became regular customers'.⁵⁰

The third Albanian social enterprise set up under the CAUSE project is the Social Crafting Garage in Saranda. This craft workshop, in the premises of a confiscated asset, uses natural stones from the beaches of Saranda for use in hand-crafted artefacts that draw on local cultural heritage. Eight women and girls, all either victims of organized crime or domestic violence, or at risk, were employed after receiving training on crafting with stones. The Crafting Garage provides a platform for social activities and integration.⁵¹

It is worth noting that in the latter two cases, the CSOs that developed the social enterprises both initially encountered problems with the families of the previous owners. Tensions were defused through dialogue. However, the issue of security risk and interactions with previous asset owners are ones that deserve attention from the state agencies responsible for disposal of the confiscated assets.

In October 2021, a fourth social enterprise was opened in Albania as part of a project supported by the Italian Cooperation Agency for Development and the OSCE. The company, called My Craft Tradition, which is located in Elbasan, trains vulnerable women in the community and creates employment through the use of looms to produce traditional carpets.

In Albania, confiscated assets have also been used to support harm reduction for drug users, victims of human trafficking, as well as youth and women.⁵² In several cases, confiscated vehicles have even been converted into mobile libraries.⁵³

The CAUSE project also helped the Albanian Agency for the Administration of Sequestered and Confiscated Assets to prepare procedures for reusing and monitoring the confiscated assets entrusted to civil society.⁵⁴ In December 2020, the agency published the first call for civil society to apply for projects to be financed through the special fund for crime prevention.⁵⁵ In November 2021, it signed contracts with seven CSOs, disbursing almost €800 000 derived from criminal assets mainly for police and the agency, but also for civil society.⁵⁶

Meanwhile, in Serbia the Directorate for the Administration of Seized Assets has continued to provide for the reuse of confiscated assets – particularly real estate – to support humanitarian causes. Several public institutions (like municipalities) and humanitarian organizations have received confiscated property. For example, the city of Novi Sad was awarded two houses to provide a special school offering rehabilitation services to children with disabilities.

However, CSOs in Serbia have been critical of the lack of transparency, both about decisions made by the head of the Directorate in the absence of clear procedures or a competitive process,⁵⁷ as well as in cases where the Directorate did not respond to CSO requests for the reuse of confiscated real estate.⁵⁸

In 2021, the Albanian criminal-asset management authority disbursed almost €800 000 derived from crime mainly for police and the agency, but also for civil society.

There are similarities and differences between the Serbian and Albanian experiences in social reuse. In both countries, civil society has initiated the social reuse of confiscated assets based primarily on the Italian experience and with the support of international organizations, although more funds have been available in Albania. However, the approach and theory of change are different. Civil society in Albania has focused on creating a sustainable environment where social entrepreneurship can profit after the project's completion and advocated for civil society to use funds from confiscated criminal assets managed by the state. In contrast, civil society in Serbia has focused more on networking to advocate for the confiscation of criminal assets and to promote social reuse. But without donor support and given lack of cooperation with the asset management body, confiscated real estate in Serbia remains primarily at the disposal of state institutions and is seldom awarded to civil society.

The other four countries of the region have had limited experience with social reuse of confiscated assets. In North Macedonia, perishable or low-value assets have been donated to charity.⁵⁹ In addition, during the COVID-19 pandemic, the Agency for Management of Confiscated Property provided clothing, footwear, computer equipment, air conditioners, material for making protective masks, curtains and gardening items to public health facilities, hospitals, prisons and kindergartens. An initiative to donate washing machines worth approximately €30 000 is currently underway.⁶⁰ In May 2021, the government of North Macedonia adopted a strategy on financial investigations and criminal asset confiscation, focusing on building institutional capacities, horizontal coordination among state authorities and statistics.⁶¹ North Macedonia is the only country in the region that has adopted a specific policy document on asset recovery. However the latter does not refer explicitly to civil society's role in the process.

In the Federation of Bosnia and Herzegovina and the Republic of Srpska, confiscated proceeds of crime go to the federal budget. For example, from 2010 to 2020, approximately €260 000 in permanently confiscated money was transferred into the public revenue accounts of the Republic of Srpska. In the same period, movable property (like vehicles, computer equipment and firewood) with a total value of €142 000 was given to public institutions and humanitarian organizations.⁶² In two cases, the government (at the suggestion of the Federal Agency for the Management of Confiscated Property of the Federation of Bosnia and Herzegovina) in 2018 donated about €25 000 to the Association Heart for Children with Cancer in Sarajevo, and in 2017 provided construction material to the Alliance of War Invalids.⁶³



Civil society activists from Juventas in Podgorica, Montenegro, talk with youth about human rights, tolerance and media literacy. © Juventas via Facebook

GIVING BACK TO THE COMMUNITY

In conclusion, recovering the proceeds of crime and reusing them in the community makes crime less attractive, denies criminals the assets that could have funded further illicit activities or been used to buy power. Instead, it provides public institutions and civil society with badly needed resources, strengthens a culture of legality, fairness and equality, and creates tangible public goods.

Social reuse of assets takes away the proceeds of crime and redistributes it to communities. It helps not only to build community resilience to organized crime, but also to forge closer partnerships between civil society and governments in the Western Balkans. Thus far, the practice has been used only to a limited extent in the WB6, but with some initial success. The issue deserves closer attention.

NOTES

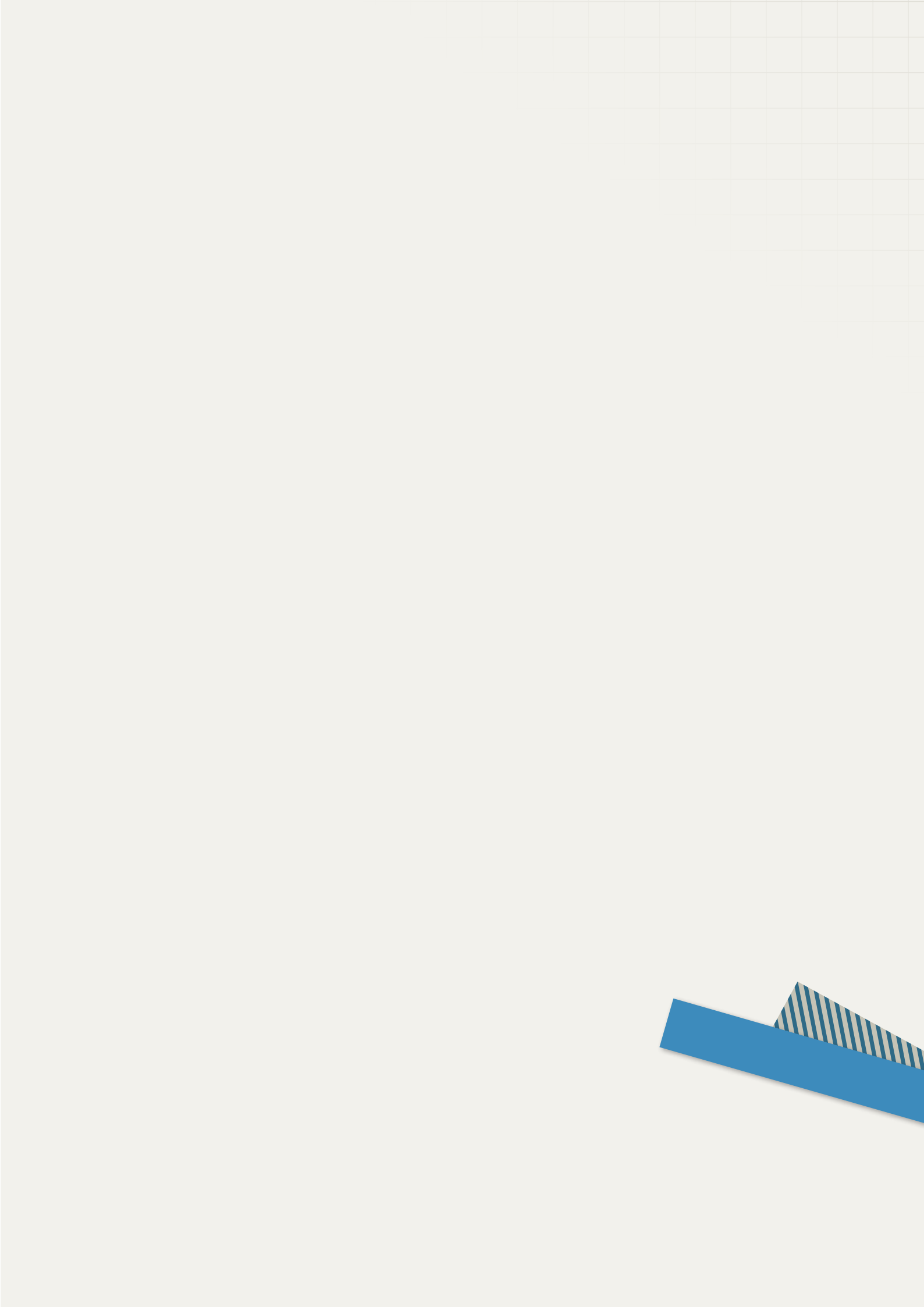
- 1 References to Kosovo in this report are made without prejudice to positions on status, and are in line with UNSCR 1244/1999 and the advisory opinion of the International Court of Justice on Kosovo's declaration of independence.
- 2 Strengthening the fight against transnational organized crime in South-Eastern Europe through improved regional co-operation in asset seizure, confiscation, management and re-use, OSCE Office of the Co-ordinator of OSCE Economic and Environmental Activities, 1 June 2019, <https://www.osce.org/projects/asset-recovery-in-south-eastern-europe>.
- 3 Call for Registration for EU TACSO 3, P2P Regional Event: Using Confiscated Assets for Good Causes, 18 November 2021 (Deadline: 15 November till 17:00hrs CET), Technical Assistance to Civil Society Organisations in the Western Balkans and Turkey (TACSO), 10 November 2021, <https://tacso.eu/call-for-registration-for-eu-tacso-3-p2p-regional-event-using-confiscated-assets-for-good-causes-18-november-2021-deadline-monday-15-october-2021/#>; Using confiscated assets for good causes, TACSO, 22 November 2021, <https://tacso.eu/using-confiscated-assets-for-good-causes/>.
- 4 Kristina Amerhauser and Walter Kemp, Stronger together: Bolstering resilience among civil society in the Western Balkans, Global Initiative Against Transnational Organized Crime (GI-TOC), February 2021, <https://globalinitiative.net/wp-content/uploads/2021/03/WBalkans-CSOs-web.pdf>.
- 5 See <https://www.confiscatibene.it/>.
- 6 Salvatore Costantino, The importance of reuse of confiscated assets for social purposes in fighting the illegal economy, Tackling Illegal Economy project, 2015, <http://www.tieproject.eu/wordpress/wp-content/uploads/tackling/tie5.pdf>.
- 7 Budget analysis for the municipalities of Peja and Pristina, Save the Children, 2015, 17, https://kosovo.savethechildren.net/sites/kosovo.savethechildren.net/files/library/PolicyOption_Eng001.pdf.
- 8 Balkan countries score poorly on the 2021 Global Organized Crime Index, Observatory on Illicit Economies in South Eastern Europe, Risk Bulletin 10, October–November 2021, <https://globalinitiative.net/wp-content/uploads/2021/11/GITOC-SEEOBS-RB-10.pdf>.
- 9 SecuriMeter, Regional Cooperation Council, 2021, https://www.rcc.int/download/docs/WB_SecuriMeter_Infographics_Feedback_preview-IZMJENJENO-lowres.pdf/98da5bf3cdaed5b03d59ce79c6ced2de.pdf.
- 10 Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, 29 April 2014, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0042&from=EN>.
- 11 Asset recovery and confiscation: Ensuring that crime does not pay, European Commission, COM(2020) 217 final, 2 June 2020, https://eur-lex.europa.eu/resource.html?uri=cellar:5776f170-a4b5-11ea-bb7a-01aa75ed71a1.0001.02/DOC_1&format=PDF.

- 12 While Bosnia and Herzegovina does not have state legislation on asset recovery, there are laws at the entity level: the Law on Confiscation of Illegally Acquired Property by Criminal Act (Federation of Bosnia and Herzegovina), the Law on Confiscation of Property Acquired by Criminal Offence (Republic of Srpska) and the Law on Confiscation of Illegally Acquired Property (Brcko District).
- 13 Albania follows the model set by Italy's 1982 Rognoni-La Torre Law, see Barbara Vettori and Boban Misoski, Social reuse of confiscated assets in the EU: Current experiences and potential for its adoption by other EU and non-EU countries, in T Fiti and G Koevski (eds), *Liber Amicorum. Studia in honorem academici Vlado Kambovski septuagesimo anno*, Università Cattolica del Sacro Cuore, 2019, 721–738, <https://publres.unicatt.it/en/publications/social-reuse-of-confiscated-assets-in-the-eu-current-experiences--4>.
- 14 Abazović: 'Anti-mafia' law is aimed at confiscation of property of illegal origin, Government of Montenegro, 18 November 2021, <https://www.gov.me/en/article/abazovic-anti-mafia-law-is-aimed-at-confiscation-of-property-of-illegal-origin>.
- 15 Samir Kajosevic, Montenegro Prosecution, Watchdogs, criticize 'anti-mafia' law changes, BalkanInsight, 1 December 2021, <https://balkaninsight.com/2021/12/01/montenegro-prosecution-watchdogs-criticize-anti-mafia-law-changes/>.
- 16 The lack of clarity is compounded by the fact that different countries in the region follow different methodologies in gathering and presenting data on confiscated assets (value vs list of items; total value ever seized vs disaggregated value per year; etc.) making a regional comparison impossible.
- 17 Конфискација на имот: Лесно се proneверуваат, но тешко се враќаат парите во буџетот, *Focus*, 21 January 2021, <https://fokus.mk/konfiskatsija-na-imot-lesno-se-proneveruvaat-no-teshko-se-vrakaat-parite-vo-budhetot/>.
- 18 Sinisa Jakov Marusic, North Macedonia Promises Better Record on Asset Confiscation, *BalkanInsight*, 9 August 2021, <https://balkaninsight.com/2021/08/09/north-macedonia-promises-better-record-on-asset-confiscation/>.
- 19 Kosovo 2021 Report, European Commission, SWD(2021) 292 final/2, 19 October 2021, 24, https://ec.europa.eu/neighbourhood-enlargement/document/download/ec34a067-8477-4adc-a123-054b7d62abc4_en.
- 20 Bosnia and Herzegovina 2021 Report, European Commission, SWD(2021) 291 final /2, 19 October 2021, 34, https://ec.europa.eu/neighbourhood-enlargement/document/download/b20c3204-68d0-47e7-b344-5e2562a3adce_en.
- 21 Albania 2021 Report, European Commission, SWD(2021) 289 final, 19 October 2021, 40, https://ec.europa.eu/neighbourhood-enlargement/document/download/7532fb68-5bd9-4620-ae9c-1df47d34b919_en.
- 22 Конфискуван имот од 9 милиони евра, главно недвижности на „Трансмет“ на Водно, во Скопје и околината, *Faktor*, 3 December 2020, <https://faktor.mk/konfiskuvan-imot-od-9-milioni-evra-glavno-nedviznini-na-transmet-na-vodno-vo-skopje-i-okolinata>.
- 23 Serbia 2021 Report, European Commission, SWD(2021) 288 final, 19 October 2021, 45, https://ec.europa.eu/neighbourhood-enlargement/document/download/fbe0f0b7-d8ff-4b89-a4ed-af5ccd289470_en.

- 24 Montenegro 2021 Report, European Commission, SWD(2021) 293 final/2, 19 October 2021, 42, https://ec.europa.eu/neighbourhood-enlargement/document/download/6d45cc87-9d19-4f06-a49f-e3690cde3da4_en.
- 25 Barbara Vettori and Boban Misoski, Databases to support asset management and social reuse: The case study of the Republic of North Macedonia, EU and Comparative Law Issues and Challenges Series, 5, 2021, <https://doi.org/10.25234/eclic/18306>.
- 26 Jill Thomas, Combating corruption in the Western Balkans: Strengthening regional cooperation in the field of asset recovery, Advice on Individual Rights in Europe (AIRE) and Regional Anticorruption Initiative (RAI), 2021, https://www.rai-see.org/php_sets/uploads/2021/02/2nd-edition-AR-Report-WB-EN-final.pdf.
- 27 Art. 32, *Zakon o oduzimanju nezakonito stecene imovine krivicnim djelom Federacije Bosne i Hercegovine*, no. 71/2014, <https://www.fazuoi.gov.ba/userfiles/dokumenti/Zakon-o-oduzimanju-nezakonito-stecene-imovine-krivicnim-djelom-fbih-sl.nov.fbih71-14.pdf>; Art. 65, *Zakon o oduzimanju imovinske koristi stecene kriminalnom djelatnoscu*, no. 58/2015, 47/2019, <https://me.propisi.net/zakon-o-oduzimanju-imovinske-koristi-stecene-kriminalnom-djelatnoscu/>; Art. 58, *Zakon o oduzimanju imovine proistekle iz krivicnog dela*, no. 32/2013, 94/2016 i 35/2019, https://www.paragraf.rs/propisi/zakon_o_oduzimanju_imovine_proistekle_iz_krivicnog_dela.html.
- 28 Art. 51, *Закон за управување со конфискуван имот, имотна корист и одземени предмети во кривична и прекршочна постапка*, no. 98/2008, http://www.odzemenimot.gov.mk/VPP/Documents/Zakoni/zakon_upravuvanje_odzeme_imot.pdf.
- 29 Using confiscated assets for good causes, TACSO, 22 November 2021, <https://tacso.eu/using-confiscated-assets-for-good-causes/>.
- 30 *Unapredjenje zakonika o krivicnom postupku, Udruzenje javnih tuzilaca i zamenika javnih tuzilaca Srbije*, 2015, https://uts.org.rs/wp-content/uploads/2007/11/unapredjenje.zkp_.pdf.
- 31 This is also known as non-conviction-based confiscation, see *Preporuke za uvodjenje gradjanskopravnog oduzimanja imovinske koristi stecene kriminalnom djelatnoscu*, MANS, July 2019, <http://www.mans.co.me/wp-content/uploads/2019/09/Preporuke-gradjanskopravno-oduzimanje-imovine.pdf>.
- 32 Guide to the role of civil society organizations in asset recovery, Ukraine Forum on Asset Recovery, https://star.worldbank.org/sites/star/files/cso_user_guide_ukraine_-_english_final.pdf; International Centre for Asset Recovery, Guide to the role of civil society organisations in asset recovery, Basel Institute on Governance, August 2020, https://baselgovernance.org/sites/default/files/2020-08/CSOs_Asset_Recovery.pdf.
- 33 Transparency International Bosnia and Herzegovina, Monitoring report on confiscation of unlawfully acquired property in Bosnia and Herzegovina, December 2016, <https://ti-bih.org/wp-content/uploads/2017/03/Monitoring-Report-on-confiscation-of-Unlawfully-Acquired-Property-in-BIH.pdf>.
- 34 Analysis of the international best practices on the re-use of the confiscated assets by CSOs, Partners Albania for Change and Development, 2017, <https://partnersalbania.org/publication/analysis-of-the-international-best-practices-on-the-re-use-of-the-confiscated-assets-by-csos/>.
- 35 *I beni confiscati e il trolley pieno di soldi, al via il processo d'appello al "cerchio magico" di Silvana Saguto*, La Sicilia, 17 November 2021, <https://www.lasicilia.it/cronaca/news/i-beni-confiscati-e-il-trolley-pieno-di-soldi-al-via-il-processo-d-appello-al-cerchio-magico-di-silvana-saguto-1395907/>; ANSA, Ex-judge Saguto gets 8 ½ yrs, 28 October 2020, https://www.ansa.it/english/news/general_news/2020/10/28/ex-judge-saguto-gets-8-12-yrs_80a20efb-c3d2-499c-a757-0f97ff0b4157.html.

- 36 Asset recovery key principles and key elements for an institutional framework, https://www.bmjv.de/SharedDocs/Downloads/EN/G20/Nine%20Key%20Principles%20on%20Asset%20Recovery.pdf?__blob=publicationFile&v=1; Jill Thomas, Combating corruption in the Western Balkans: Strengthening regional cooperation in the field of asset recovery, Advice on Individual Rights in Europe (AIRE) and Regional Anti-corruption Initiative (RAI), 2021, https://www.rai-see.org/php_sets/uploads/2021/02/2nd-edition-AR-Report-WB-EN-final.pdf; Analysis of the international best practices on the re-use of the confiscated assets by CSOs, Partners Albania for Change and Development, 2017, <https://partnersalbania.org/publication/analysis-of-the-international-best-practices-on-the-re-use-of-the-confiscated-assets-by-csos/>; *Fattiperbene: Il Riutilizzo Sociale Dei Beni Confiscati In Italia*, Libera, 2021, https://www.libera.it/documenti/schede/fattiperbene_web_1_1.pdf; Interview with Jill Thomas, global asset recovery advisor, November 2021; Interview with Alberto Pasquero, adjunct professor, Università degli Studi di Milano Statale, November 2021.
- 37 *Fattiperbene: Il Riutilizzo Sociale Dei Beni Confiscati In Italia*, Libera, 2 March 2021, https://www.libera.it/documenti/schede/fattiperbene_web_1_1.pdf.
- 38 Sergio Nazzaro, *Dal bene confiscato alla marmellata biologica: intervista a Paola Perretta*, L'Eurispes, 27 May 2021, <https://www.leurispes.it/dal-bene-confiscato-alla-marmellata-biologica-intervista-a-paola-perretta/>.
- 39 *Le attività di Casa don Diana: Il progetto F.U.C.I.N.A.*, Comitato don Peppe Diana, <https://dongiuseppediana.org/post.php?i=53>.
- 40 *Oduzimanje imovine najjace sredstvo u borbi protiv kriminala*, Ministry of Justice of the Republic of Serbia, 7 July 2010, <https://arhiva.mpravde.gov.rs/lt/news/vesti/oduzimanje-imovine-najjace-sredstvo-u-borbi-protiv-kriminala-7.-jul-2010..html>.
- 41 FLARE mreza, *Otvaranje regionalne kancelarije za Balkan*, Nis, Srbija, 30 April 2010, http://www.protecta.org.rs/public_docs/Regionalna_kanc_zabalkan_info.pdf.
- 42 Interview with Milan Stefanovic, Centre for Civil Society Development PROTECTA, November 2021.
- 43 Joland Korora, *inicijatorica osnivanja Roditeljske kuće: Zelja za životom bolesne dece tera te da se postidis svojih problema*, Moj Novi Sad, 19 February 2016, <https://www.mojnovisad.com/gradske-face/joland-korora-inicijatorica-osnivanja-roditeljske-kuce-zelja-za-zivotom-bolesne-dece-tera-te-da-se-postidis-svojih-problema-id7987.html>.
- 44 See <https://partnersalbania.org/News/training-programs-in-frame-of-the-project-cause-confiscated-assets-used-for-social-experimentation/>; social re-use of confiscated assets from organized crime, a message of trust and social justice, Partners Albania for Change and Development, 13 December 2019, <https://partnersalbania.org/News/social-re-use-of-confiscated-assets-from-organized-crime-a-message-of-trust-and-social-justice/>.
- 45 CAUSE Confiscated Assets Used for Social Experimentation, Partners Albania for Change and Development, July 2020, <http://partnersalbania.org/wp-content/uploads/2020/09/cause-project-brochure-web.pdf>.
- 46 Ibid.
- 47 KeBuono Social Pastry, Partners Albania for Change and Development, 2020, https://partnersalbania.org/wp-content/uploads/2020/02/KeBuono_web.pdf.
- 48 Giulia Baruzzo, *Da club del crimine a pasticceria sociale. L'Albania scopre il riutilizzo dei beni confiscati*, L'Avialibera, 10 March 2021, https://lavalibera.it/it-schede-517-albania_beni_confiscati_pasticceria_sociale.

- 49 KinFolk Coffee Library, Partners Albania for Change and Development, 2020, https://partnersalbania.org/wp-content/uploads/2020/02/Kinfolk_web.pdf.
- 50 Interview with Nensi Dragoti, project manager of the KinFolk Coffee Library in Durres, December 2021.
- 51 Social Crafting Garage, Partners Albania for Change and Development, 2020, https://partnersalbania.org/wp-content/uploads/2020/02/Imzhi_web.pdf.
- 52 For a list of projects, see <https://aapsk.gov.al/wp-content/uploads/2021/05/Financimet-e-fondite-posacem.pdf>.
- 53 Cars confiscated by organized crime groups are returned to the community in the form of mobile libraries, see Agency for Administration of Sequestered and Confiscated Assets (AAPSK), 3 December 2021, <https://aapsk.gov.al/en/cars-confiscated-by-organized-crime-groups-are-returned-to-the-community-in-the-form-of-mobile-libraries/>.
- 54 CAUSE – Confiscated Assets Used for Social Experimentations, EU projects in Albania, <https://euprojects.al/euprojects/cause-confiscated-assets-used-for-social-experimentations/>.
- 55 Call for expressions of interest for NGOs interested in financing projects from the special fund for crime prevention, AAPSK, 7 December 2020, <https://aapsk.gov.al/en/call-for-expressions-of-interest-for-ngos-interested-in-financing-projects-from-the-special-fund-for-crime-prevention/>.
- 56 Ibid.; ceremony of signing contracts with NGOs declared winners of projects funded by money confiscated from crime, by decision of the Inter-Institutional Committee for Measures against Organized Crime, AAPSK, 25 November 2021, <https://aapsk.gov.al/en/ceremony-of-signing-contracts-with-ngos-declared-winners-of-projects-funded-by-money-confiscated-from-crime-by-decision-of-the-inter-institutional-committee-for-measures-against-organized-crime/>.
- 57 The finding is based on direct participation in the OSCE-supported workshop in Serbia on the social reuse of confiscated assets from organized crime held on 5 May 2021. See more about this workshop at <https://www.osce.org/secretariat/485576>.
- 58 Interview with a civil society activist from Serbia, November 2021.
- 59 Jill Thomas, Combating corruption in the Western Balkans: Strengthening regional cooperation in the field of asset recovery, Advice on Individual Rights in Europe (AIRE) and Regional Anti-corruption Initiative (RAI), 2021, https://www.rai-see.org/php_sets/uploads/2021/02/2nd-edition-AR-Report-WB-EN-final.pdf.
- 60 *Агенцијата за управување со одземен имот лани донирала предмети во вредност од над 760.000 евра*, 21TV, 22 August 2021, <https://mk.tv21.tv/agentsijata-za-upravuvane-so-odzemen-imot-lani-donirala-predmeti-vo-vrednost-od-nad-760-000-evra/>.
- 61 *Стратегијата за јакнење на капацитетите за водење на финансиски истраги и конфискација на имот за периодот 2021-2023 година со акциски план*, May 2021, https://vlada.mk/sites/default/files/dokumenti/strategii/strategija_za_jaknenje_na_kapacitetite_za_vodenje_finansiski_istragi_i_konfiskacija_na_imot_za_periodot_2021-2023_godina_so_akciski_plan.pdf.
- 62 Information provided by the Agency for Seized Property Management, Government of the Republic of Srpska, May 2021.
- 63 Information provided by the Federal Agency for the Management of Seized Property, Federation of Bosnia and Herzegovina, May 2021.



resiliencefund.globalinitiative.net

