This project was funded by the European Union's HERCULE III programme

BOOK OF ABSTRACTS

DRAMP International Conference
Restorative Justice, Mediation and Protection of EU Financial Interests

University of Perugia, Italy, 28-29 April 2022

.....

Protecting the financial interests of the EU: a three decades journey

Francesco de Angelis
Honorary Director General, European Commission

OUTLINE: Difficulties in handling frauds cases to detriment of the European funds: disparities in national legislations : the assimilation principle: Judicial cooperation.
The associations of the European criminal law in the area of the protection of the EU financial interest (in French PIF: *protection intérêts financiers*)
Towards the Corpus Juris: a unifying text (1997)
The debates around the Corpus Juris
The 2000 Florence version
The Commission's Green book
The way to the Final Decision
The 2017 Council Decision
The EPPO in action
Proportionality principle: New attributions to the EPPO?
Conclusive remarks: Need fo convergent instruments:
. Unification of the substantive criminal law (see *Corpus Juris*)
. Unification of the Procedural Criminal Law
. European minded judicial training.

The E.P.P.O. and the Charter of Fundamental Rights

Simone Vezzani
Professor of International and EU Law, University of Perugia, DRAMP Scientific Board Member
simone.vezzani@unipg.it

The presentation deals with the impact on fundamental rights of the investigation and prosecution activities carried out by the EPPO. Preliminarily, it discusses the applicability of the Charter of Fundamental Rights of the European Union to the activities of EPPO and to the trials following its investigations. Special attention is paid in this context to the rights to a fair trial and to an effective remedy. Then, the presentation tackles some issues concerning the allocation of responsibility for violation of human rights obligations, between the EU and the Member States -where the investigative measures are conducted and where the trial takes place.

1ST SESSION

Simplified and alternative procedures in the prosecution of EU financial crimes in Romania. Regulation and controversies

Anca Jurma
Prosecutor at the National Anticorruption Directorate of Romania, President of the Romanian Association for Research of the European Criminal Law
ajurma@pna.ro

Traditionally, the Romanian criminal legal system did not recognize any form of negotiated justice or alternative dispute resolutions. Along the principles of legality and of finding the truth, the negotiated justice did not seem to find its place in the criminal law.
A first breakthrough was brought in 2006 with the law on mediation. Later on, the so-called "small reform law" introduced the accelerated settlement of the criminal trial when the defendant admitted the accusation at the first hearing.
New simplified and alternative procedures have been regulated by the new Criminal Procedure Code which entered into force in 2014. The Code regulates: the mediation, the waiving of the exercise of criminal action in case of lack of public interest, the agreement of admission of guilt and the abbreviated procedure in case of admission of the accusation. Together with the impunity clause based on the recovery of the damage of a certain value caused in a tax evasion case, these represent the set of simplified and alternative dispute resolutions currently applicable in the criminal legislation in Romania.
With the exception of the mediation, all the other procedures are applicable and are applied in practice in the cases regarding offenses against the financial interests of the European Union.
The presentation will introduce each of these procedures, their specifics, the context of their adoption, the main jurisprudential developments and some of the controversies that have been raised by the practitioners

The role of the alternative dispute resolution for the effectiveness of the criminal proceedings

Radovan Blazek
Ph.D., assoc. prof. Cornelius University Bratislava, Slovak Republic, Cornelius University Bratislava, Slovak Republic
radovan.blazek@flaw.uniba.sk

The presentation is focused on the alternative dispute resolutions in the Slovak Republic and the influence of those procedures on the quality and speed of the proceedings. The main idea is to answer the questions if those procedures are aimed to promote accused position or victim's rights, however, sometimes they are not so efficient for the prosecution and they don't have the positive impact on the effectivity and speed of the proceedings. The presentation should answer the question, what should be the primary goal and which interests prevail.

Reasonable and justified divergences in prosecution of digital economic crimes

Olga Sovová
assoc. prof, Police Academy of the Czech Republic, Law Faculty, Charles University, Prague
olga.sovova@seznam.cz

The paper examines new phenomena of the 21st century. Economic crime becomes invisible and non-violent. The era of digitisation brings new content to financial criminality. The paper highlights how the globalised world and the worldwide cyberspace change the prosecution of economic crimes. Based on the example of the Czech Republic, the paper describes the mandatory prosecution and the formal concept of a crime in the criminal code.

The paper gives examples of the most typical economic crimes, which could be committed digitally. It is necessary to point out the difference between criminal and administrative responsibility of persons and legal entities. The paper points out the notion of divergency in the Czech legal order, focusing on criminal procedure. The paper concludes with a discussion about possible divergencies to restore damages and prevent digital criminality.

Diversion of the criminal procedure vs. adequate criminal policy in Serbia

Jelena Kostić
Ph.D, Senior Research Associate, Institute of Comparative Law, Belgrade
suputjelena@yahoo.com
Marina Matić Boskovic
Ph.D., Research Fellow, Institute of Criminological and Sociological Research, Belgrade
m.m.boskovic@roldevelopmentlab.com

As the candidate country for the EU membership, the Republic of Serbia has access to EU pre-accession funds for more than two decades. To effectively protect the financial interests of the European Union, Serbia is also obliged to prescribe sanctions for conduct that caused harm. For some of these criminal offences it is necessary to prescribe stricter criminal sanctions, that could improve the effectiveness of general prevention and prevent the possibility of criminal prosecution becoming obsolete even before such an act is detected by the competent authorities. Furthermore, the statute of limitations in the national legislation for financial crimes is extremely short and due to the complex procedure in detecting the irregularities, often expires before initiation of criminal proceedings.
According to legal framework the deferred prosecution is possible for criminal offenses for which prescribed sanctions are fine or up to 5 years of imprisonment. Although this effectively ends criminal proceedings, the use of institutes to divert criminal proceedings has a limited scope, since the offender is not included in the criminal registry, and he does not plea. When it comes to crimes that harm the financial interests of the EU, deferred prosecution should take into account caused damage or the illegally spent money when deciding of the measure that will be proposed. Starting from the legal theory and application of the legal-dogmatic method in this paper authors try to make a proposal for improving both national legislation and practice, to ensure effective protection of the EU financial interests as well as national financial interests with which they are closely linked.

Negotiated justice for crimes against the EU's financial interests - a Croatian perspective

Elizabeta Ivičević Karas
Prof. of Criminal Procedural Law, Faculty of Law, University of Zagreb
elizabeta.karas.ivicevic@pravo.hr
Marin Bonačić
Ass. Prof. of Criminal Procedure Law, Ph.D., University of Zagreb, Croatia
marin.bonacic@pravo.hr
Zoran Burić
Ass. Prof. of Criminal Procedural Law, Faculty of Law, University of Zagreb
zoran.buric@pravo.hr

Contemporary Croatian criminal procedural law embraces the concept of negotiated justice, therefore there are various forms of consensual procedures which may serve different purposes, including restorative purposes. This paper deals in particular with the conditional deferral of criminal prosecution, a Croatian model of diversion, which can be applied in cases of certain criminal offences against the EU's financial interests. It first contains analysis of measures adopted to implement the PIF Directive in Croatian law, and of domestic provisions on financial crimes relevant to the EPPO. Further on, the paper is focused on conditional deferral of criminal prosecution which serves a

particular restorative purpose, but it also gives overview of other consensual forms which serve to simplify the criminal procedure. Special attention is given to defence rights, victims' rights and the role of diversion in the Croatian criminal justice system.

2ND SESSION

Finnish restorative and mediation procedures from the perspective of financial crimes

Riikka Laitinen
Doctoral Candidate in the University of Helsinki, District Court Judge
riikkaemilia.laitinen@gmail.com

The Finnish legal system provides for simplified procedures and non-jurisdictional settlements in criminal matters, such as so called "plea bargaining", which is provided as part of the criminal justice system. The procedures based on the guilty plea were implemented to the Finnish legal system in the beginning of the year 2015 and can thus be considered rather recent development in the repertoire of handling criminal offenses. As the plea bargaining can be seen as the hard core of the restorative measures dealing with financial crimes, other restorative measures being linked to the criminal justice system are the victim-offender mediation (VOM), which is institutionally part of the social and welfare services and is, as such, carried out outside of the criminal justice system, and the mediation process carried out in the court, however it is only applied to civil matters. Also, what cannot be excluded from the discussion on restorative measures from the viewpoint of the criminal justice system, is the discretionary power of the prosecutor to waive charges, which in Finland can be seen as quite extended and may in some cases be applied in similar situations as plea bargaining. In this presentation I will discuss these restorative and mediation measures and how they are carried out in Finland, especially from the perspective of financial crimes.

Legal issues of VAT fraud – The Lithuanian experience

Justas Namavičius
Assist. Prof. Dr. European Criminal Law, University of Vilnius
justas.namavicius@tf.vu.lt

The mechanism of the collection of the value added tax (VAT) has the characteristics that the supplier charges it on behalf of the end-consumer. This can be a trigger for dishonest business people to manipulate the taxation process and to enrich themselves to the detriment of the state budget.
The simple version of fraud is when the supplier sells goods and charges the VAT from the buyer, but does not declare or declares the lower output VAT to the tax authority. Indeed, avoiding of the output tax payment can be part of a transnational carrousel fraud (*missing-trader* fraud).
A popular form in Lithuania is the manipulation of the VAT in the stage of the deduction of the input VAT. The idea is that a fictive company or companies include in their accounts the contracts about not existing goods or services with a company, which conducts real commercial activities. The real company declares a fictive input VAT to the tax authority and, in such a way, increases its revenues by the fraudulent deduction of the input VAT. It is noteworthy that in such a case formally the fictive supplier would have to pay the output VAT, but, in reality, this does not happen. Avoiding of this formal obligation by the fictive company cannot be qualified as tax fraud, because the fictive trade does not accumulate any value. In some other cases the buyer of a fictive contract pays real money to the alleged seller. But, in the fraud scheme, such a mechanism would only make sense, if money came back to the real undertaking. This operation of the return of the money

cannot be sanctioned, because the money *de facto* has never changed the owner. In that case, the fictive supplier just keeps the money "in transition". It is also not uncommon that the fraudulent company transfers the illegally accumulated money away. Such operation also cannot be assessed as a crime, because this revenue is already acquainted by the criminal offence of the VAT fraud. So, the (additional) sanctioning may infringe the *non bis in idem* principle; only the third persons as beneficiaries may be punished.

Diversion as the ideal simplified prosecution procedure for PIF crimes in Austria and Germany

Julia Innerhofer
Ass. Mag. Institut für Strafrecht und Kriminologie, Universität Wien
julia.innerhofer@univie.ac.at

Council Regulation (EU) 2017/1939 established the "EPPO" to combat and prosecute the PIF crimes, which are set out in Directive (EU) 2017/1371 and concern the Union's financial interests. Article 40 of the mentioned regulation states that simplified prosecution procedures found in national laws may be applied in accordance with the conditions provided for in national law. This article discusses the most relevant simplified prosecution procedures in Austria and Germany and their possible use by the "EPPO". Diversion as entailed in section 198 of the Austrian CCP and the equivalent regulated in section 153a of the German CCP are thus explained and compared. First, the paper examines if these simplified procedures are applicable to the PIF crimes and clarifies the necessary conditions. Next, it lays out the process from the proposal until the final closure of the proceedings and the impact of this form of resolution for the accused and the damaged party. At the end, the pros and cons of these simplified prosecution procedures in respect to the PIF crimes are highlighted.

EPPO and ADR in criminal procedure: A Belgian perspective

Sem Careel
Ph.D Fellow Fundamental Research at Research Foundation Flanders (FWO), Institute of Criminal Law KU Leuven
sem.careel@kuleuven.be
Jente De Smedt
Ph.D candidate at Institute of Criminal Law, KU Leuven
jente.desmedt@kuleuven.be

This presentation will address the simplified prosecution procedures aiming at the final disposal of a case for criminal offences falling under EPPO's competence, as provided under Belgian law. After giving some background on the Belgian criminal justice system, the transaction, penal mediation and measures procedure, guilty plea and rewarded cooperating witness/offender regime will hence briefly be discussed. Next, some remarkable features and issues will be highlighted and the practical relevance of each ADR procedure for PIF crimes will be more closely examined.
In the second part of our presentation, we will focus exclusively on the transaction, which is also known as the abandonment of prosecution upon payment, since this is arguably the most relevant ADR procedure for criminal offences falling under EPPO's competence. The conditions for admissibility to the transaction as well as the consequences of a successful or failed transaction will be discussed. Thereafter, the possibility of judicial review and the rights of the suspect in this ADR procedure will be scrutinized. Finally, the impact of the *ne bis in idem*-principle will be analysed.

3RD SESSION

Indivdual and collective dimensions of restorative justice (La dimensione individuale e collettiva della restorative justice*)*

Stefania Sartarelli
Professor of Criminal Law, University of Perugia
stefania.sartarelli@unipg.it

In the Italian legal system the concept of Restorative Justice encompasses all those mechanisms for resolving the conflict generated by the crime other than "classic" punishment, therefore substantially based on conduct antagonistic to the criminal conduct held by the individual-offender.
The first experiences of this type occurred with the creation of specific subsystems: the juvenile jurisdiction and the *giudice di pace* jurisdiction (justice of peace). The minor age of the offender in the juvenile system and the fact that the criminal jurisdiction of the judge of peace has a limited scope have forged the *rational* of the restorative justice mechanisms provided for therein.
The need to contain the punitive response and to deflate the procedural burden have inspired the Italian legislator to introduce restorative justice mechanisms also in "adult" criminal law, when the specific and stringent conditions provided for by the law are met. The 'adult' individual-offender can take advantage of a ground for exclusion of punishment because of the minor gravity of the conduct, or of the suspension of the trial with probation (messa alla prova). This could lead to the extinction of the alleged crime thanks to the carrying out of restorative conducts.
The individual dimension of Italian restorative justice is flanked by the presence of remedial mechanisms in the collective dimension of legal person's administrative liability deriving from a crime. In this case restorative justice operates at different levels, both as an element of measurement of the amount of the pecuniary sanction and as a condition for the reduction of the sanction itself: this collective dimension of restorative justice will be the particular subject of the presentation.

Alternatives to the criminal trial for tax offences under the EPPO's competence (*Le alternative al processo penale per i reati tributari di competenza dell'EPPO*)

Simone Francesco Cociani
Professor of Tax Law, University of Perugia
simone.cociani@unipg.it

The presentation analyses the national rules and procedures on alternative dispute settlement and diversion in force in the Italian legal order that are applicable in cases of tax crimes falling under the EPPO's competence in the light of ECHR and EU principles.

Verso un nuovo assetto della giustizia riparativa in Italia: obiettivi e prospettive della riforma Cartabia

Rossella Fonti
Professor of Criminal Procedure, University of Perugia
rossella.fonti@unipg.it

The theme of restorative justice is absolutely central to the "Cartabia" reform. The recent regulatory intervention of the Italian legislator intends to outline a general paradigm of restorative justice. The aim is to achieve a decisive change of pace towards a model of justice which in Italy has had only limited and sectoral experiences. The presentation analyses the principles and guidelines contained in Article 1, paragraph 18, Law no. 134 of 27 September 2021 - which the delegated legislator will have to comply

with in introducing an organic discipline of restorative justice - highlighting the potential of the reform in progress.

Procura Europea e diritti fondamentali: il diritto di difesa. Profili di diritto tributario

Cesare Borgia
Lawyer and Ph.D candidate in Tax Law, Faculty of Law, University of Rome 'La Sapienza'
cesare.borgia@uniroma1.it

The rationale behind the establishment of the European Public Prosecutor's Office is, in accordance with the principle of subsidiarity and proportionality, to combat crimes affecting financial interests. The interest in the effectiveness of investigations must be at least equal to the protection of fundamental rights and the defense of suspects.
Thanks to the integrated protection of rights in the European legal and judicial area, it can be said that fundamental rights must be recognised in every area of legal experience.
A system is "fair" if it is able to provide for measures proportionate to the severity of taxpayers' behaviour and is oriented towards compliance with the *ne bis in idem* principle. As set out in the case law of the European Courts, the principle of proportionality is capable of ensuring the effective protection of subjective tax-related legal situations.
The rights and guarantees of the taxpayer, in terms of the principles of guilt and proportionality, equality and reasonableness, defense and due process, are stated not only in the Italian Constitution but, also, in Community law and in the EDU Convention where, inter alia, as a result of the autonomous and enlarged definition of "penalty", the effect of standardising the fundamental guarantees is determined.
The right to silence can now be considered as a generally recognized international norm that, even in tax matters, is at the heart of the notion of "fair trial".
This right, as reconstructed by the jurisprudence of the European Courts and by the Italian Constitutional Court, is, in fact, the corollary of the right of defense.

4TH SESSION

The protection of the Union's financial interests: a retrospective in perspective (and a comparative overview)

Alfredo Rizzo
Senior Res.Fellow, Istituto INAPP, EU law expert
a.rizzo@inapp.otg

Following allocations of own resources to the European Community, the progressive attainment of a full Union's competence for the protection of such resources has, a bit surprisingly, met some opposition on national governments' side. This has been proved even recently, considering that directive on the protection of EU financial interests has been adopted under art. 83 TFEU (then under the competence of the Union on criminal law) and not on the basis of the more specific treaty's provision devoted to the topic (art. 325 TFEU). Indeed, the pursuit of EU law objectives by means of national coercive measures with a criminal law character is a matter for a long-standing debate also under same Court of justice of the European Union case-law. Ever since the Amsterdam Bulb case, the European Court of Justice (ECJ) outlined the main characters of the national tools that, under both administrative and criminal law, should be established (also under the *effet utile* criterion) for the sake of granting the achievement of relevant EU obligations' aims. An overview of this case-law is helpful to stress the peculiar character of the relevant provisions of the TFEU after the Lisbon reforms and considering the lively debate at doctrinal and jurisprudential

levels that still qualifies the relations between the Union and its own member States as the "*Taricco*" case-law has shown.

The possibilities of plea agreement in E.P.P.O's prosecutions

Miriam Cugat Mauri
Profesora Titular de Derecho Penal, Directora del Servicio de Estudios y Dictámenes Jurídicos, Universitat Autònoma de Barcelona
miriam.cugat@uab.cat

In Spain, a plea agreement is primarily aimed at speeding up the Administration of Justice. However, it can serve to introduce elements of restorative justice (Recommendation CM/Rec (2018)8; Directive 2012/29/EU) if combined with out-of-court mediation between the offender and the victim. From a practical point of view, the main problem lies in the fact that the speed that is sought to be achieved with the plea agreement could be limited given the time needed for mediations, which explains that while the former is very widespread (50% of sentences and 70% of convictions in the Criminal Courts (*Juzgados de lo Penal*), the latter is not. This is the context in which the Law creating the European Public Prosecutor's Office in Spain (LO 9/2021) is framed, which contemplates the possibility of a plea agreement for offences of up to six years' imprisonment, which covers practically all those of the Directive 2017/1371.

The restorative justice in socioeconomic and corruption crimes

Natalia Pérez Rivas
Assistant Professor in Criminal Law University of Santiago de Compostela
natalia.perez.rivas@usc.es

This contribution aims to explore the viability of implementing restorative justice encounters in the field of crimes which protect supra-individual legal interests (of a collective or diffuse nature). In these cases, the response of the traditional penal system is not satisfactory due to these three main reasons: a) neither the community owning the interest nor the associations acting on its behalf are recognised as injured parties; b) the damages are not always direct and economic in nature, but social (social damage), indirect and diffuse (affecting an indeterminate group of people, society as a whole); c) there is no channel for claiming reparation for the damage caused. The criminal process must be complemented by restorative justice. However, socioeconomic and corruption crimes (white-collar crimes) present different characteristics from classic crime -the hard core of criminal law- which represent, at the very least, several challenges for carrying out restorative justice processes. the possibility of applying restorative justice to PFI offences requires addressing the following issues: a) the concept of restorative justice; b) who should be considered a legitimate representative of a supra-individual group of victims and what criteria would guarantee that such representatives will indeed defend these general or collective interests; c) the redefinition of the damages (material and immaterial) of a collective nature resulting from these offences; d) the most ppropriate restorative practice.

The appointment of the Portuguese European Prosecutor: how it impacted trust in the EPPO in Portugal

Tiago Sérgio Cabral
invited Lecturer at the Law School of the University of Minho, PhD Candidate at the University of Minho
tiseac@gmail.com

Article 16 of the Regulation (EU) 2017/1939 establishes the procedure for the appointment of European Prosecutors according to which each

Member State shall nominate three candidates for the position of European Prosecutor, with the Council responsible for selecting one of those candidates based on the reasoned opinion of the selection panel referred to in Article 14(3) of the Regulation.
The appointment of the Portuguese European Prosecutor was contentious, as the selection panel did not consider the person who ended up being appointed to be the most qualified for the job. The Portuguese government was accused of having pressured and/or misled the Council to choose its preferred candidate instead of the most qualified, and the Council's impartiality was also put into question.
This intervention will focus on the controversy that arose in Portugal within this context, with Portuguese opposition politicians, MEPs, academia, and the media all picking up the story and scrutinizing the decision of the Council. In particular, we will assess how this type of situation may erode confidence in the EPPO and potentially lower acceptance in the general population for further similar cooperation mechanisms.

ADR mechanisms between expediency and the rule of law: Lessons from addressing financial crime in Greece

Joannis Naziris
Ass. Prof. in Criminal and Criminal Procedure Law, Aristotle University of Thessaloniki, Greece
jnaziris@law.auth.gr

ADR mechanisms have been employed by various jurisdictions in the field of financial crime. Yet the motivation behind the introduction of such mechanisms varies: most legal orders attempt to address the need for expediency while serving the goals of restorative justice. The Greek legal order is an interesting case in point, since the country introduced a number of ADR mechanisms (culminating in the new Criminal Code and the new Code of Criminal Procedure) in order to achieve restorative goals amid an overburdened criminal justice system, a congested prison system, and societal unrest due to the financial crisis of the last decade. This presentation will draw examples from Greek law and practice in attempting to answer whether ADR is in line with the rule of law, and whether harmonization in this field is conceivable, and on what terms.

The Greek legislation on the criminal offences against the Union's financial interests in view of the material competence of the EPPO (and comparative notes from the Bulgarian system)

Athina Giannakoula
Ph.D. EU Criminal Law Aristotle University Thessaloniki, Member of Teaching Board National School of Judges, Greece
athgiannakoula@gmail.com

Greece incorporated Directive (EU) 2017/1371 by adopting a composite system of rules, which is fairly novel in concept compared to other Greek laws transposing EU legislation, and which expressly aims to be effective both in protecting the financial interests of the EU and in upholding the inner consistency of the Greek criminal law. This presentation discusses the logic, the structure and the basic traits of the system, and examines its potential as an optimal transposition model against its function as the framework determining the material competence of the EPPO. In doing so, it also alludes to elements of the Bulgarian legislation on protecting the financial interests of the EU and on ADR procedures, and adds comparative notes to the assessment.

Convention Judiciaire d'Intérêt Public*: boosting EPPO's competency in France by engaging legal persons criminal liability in ADR mechanisms*

Marta Positò
Ph.D candidate in Criminal Procedure, Università di Perugia
marta.posito@studenti.unipg.it

Law No. 2020-1672 of December 24th 2020, on the Establishment of the European Public Prosecutor's Office, the environmental justice and the specialised criminal justice, which applied the Regulation (EU) 2017/1939, triggered a deep renovation of one of the leading French tools in fighting legal entities' financial delinquency: the *Convention Judiciaire d' Intérêt Public* - CJIP.

Recently issued from Law Sapin II in 2016, up to the present day nearly twelve judicial convention of public interest have been achieved by French Prosecutors and specialised French Financial Prosecutor (PRF) with the support of French Anticorruption Agency and Fiscal Administration. Big international companies were involved, for instance in fiscal fraud and laundering inquiries. Based on recent data, this measure has allowed the recovering of around 3,032 billions of euros and the payment of nearly 662 millions of euros to Fiscal Administration by way of compensation.

Undoubtedly CJIP has delivered great recovery results in compliance with French and European criminal policy goals in the field. Nevertheless latter legislative innovations in the mechanism criminal procedure, crossing the European Delegated Prosecutor setting in national law, are likely to raise questions on how some aspects, such as reinforced involvement and cooperation of legal persons and abolition of the guilty plea pre-condition, would now combine each other's with the goal of restoring national budget, also by reason of delicate balance among prosecution purposes and criminal liability of physical persons beneath legal entities. Would the renewed CJIP proceeding fit with PIF crimes repression perspective? In which ways the French European Delegated Prosecutor could equally benefit of the *Convention Judiciaire d'Intérêt Public*?

In such a challenging scenario, this brief contribution, whilst aiming to enhance insights, underlies an overall issue concerning the nature of this peculiar ADR device for legal entities: what is the underlying balance among its deductible empirical purpose (fiscal public recovering) and the primary ADR scope of rehabilitation? If different, what is the ADR scope towards legal persons?