**Appendix 7.1: Organizational patterns of the EU[[1]](#footnote-1)**

The **Austrian** FIU is set up as an organizational unit of the Federal Criminal Police (BKA) and charged with money laundering and financing of terrorism investigations. The FIU is an organizational unit of the Federal Ministry of the Interior and in 2010, in the wake of internal restructurings of the BKA it became part of the newly created department handling white-collar crime, within the Structural Department dealing with Organized Crime.[[2]](#footnote-2) According to the Austrian representative, the FIU is autonomous but belongs to the Federal Criminal Intelligence Service, within the Ministry of the Interior, from which it gets 100% of its budget. It therefore is not budget independent from the Federal Criminal Intelligence Service. Furthermore, the FIU is subject to the directives of the Minister of Interior. With respect to the staff employed in the FIU, there is no distinction between the responsibilities of staff in charge of the FIU and those of staff in charge of police or criminal investigations. FIU members of staff are detectives originally trained for drugs crime, with additional specialization in investigating white-collar crimes and mutual legal assistance.[[3]](#footnote-3)

The **Belgian** FIU has an independent location and falls under the authority of the Ministry of Justice and of the Ministry of Finance. In order to ensure its independence, the Belgian FIU has been given legal personality. As a legal person, the FIU can dispose of its budget freely. The two aforementioned ministries are responsible for setting a ceiling on the budget allocated to the FIU.[[4]](#footnote-4) The Belgian FIU is funded by the reporting entities, whose contributions are directly proportional to their annual turnover, except for some DNFBPs who pay a fixed amount.[[5]](#footnote-5) A similar funding structure is also used for the National Bank of Belgium and the FSMA. At the operational level the FIU is independent. The President of the Belgian FIU, as well as his deputy, are prosecutors that have been detached full time to head the FIU. The Head of the Belgian FIU is appointed in this position by the King and no longer has prosecutorial powers.[[6]](#footnote-6)

In **Bulgaria**, the State Agency for National Security (SANS) was established in 2008.[[7]](#footnote-7) In SANS there are two types of units: specialized directorates and specialized administrative directorates. The former are the sole units responsible for carrying out operative activities (i.e. detecting and preventing or stopping crimes using law enforcement methods). The FIU is now one of the 9 specialized administrative directorates of the SANS and according to the Bulgarian representative is officially called the Specialized Administrative Directorate Financial Intelligence. Following the move of the FIU from the Ministry of Finance to the SANS in 2008, the Bulgarian representatives argued that cooperation with the law enforcement agencies has increased. The SANS (and accordingly the FIU) is accountable to the Council of Ministers. According to the Bulgarian representative, the FIU is an independent administrative entity that has its own budget, within that of the SANS. On the basis of the formulated priorities, basic goals and tasks, each operational unit has to plan the conduct of operations and investigations. The officials at the intermediate level in SANS have to plan on the one hand the distribution and use of the available resources (employees, secret agents, quotas on the use of the technical intelligence resources, technical equipment and financial means), and on the other hand they have to reformulate the requirements which the available resources have to meet.[[8]](#footnote-8)

The **Cypriot** FIU, MOKAS, is an independent body within the Attorney General’s Office. The FIU was designed as a multidisciplinary office, grouping representatives of the institutions that were stakeholders in the fight against AML/CTF. All the members of the FIU are detached from their original institutions. This was initially conceived as a temporary solution. Given the specific knowledge that this office has developed over time, as well as the wide array of tasks that the office was entrusted with, the solution became permanent and the detachment of the officers was extended indefinitely. Although not having an independent budgetary line, the representatives of MOKAS indicated that they are able to undertake all functions with current resources.[[9]](#footnote-9)

In the **Czech Republic**,the FIU is one department of the Ministry of Finance and has its own premises. The tutelage of the FIU is reflected in the staff composition of the FIU, since most of the staff have an economics background. According to the same source, some of the FIU agents also have a police and legal specialization. On the issue of the independence of the FIU some doubt arises. According to MONEYVAL (2011), the Ministry must authorize any recruitment of additional staff.[[10]](#footnote-10) Moreover, despite a differentiated budget for software and hardware purchase, the budget of the FIU is included in that of the Ministry of Finance. Complaints about resource scarcity have been registered in both the 2007b and the 2011c MONEYVAL reports.

In **Denmark**, the FIU is the Money Laundering Secretariat of the Office of Public Prosecution for Serious Economic Crime. The FIU staff enjoy complete independence in their work, a fact confirmed by the Director of the Office of Public Prosecution for Serious Economic Crime.[[11]](#footnote-11) The staff of the FIU consists of prosecutors, police officers and members of the tax administration. The FIU does not have an independent budget. Nevertheless, here the understaffing problem, caused by an increase in additional tasks assigned to the FIU, has been met by an increase in staff as well as by a new IT system. According to the Danish representative, the new IT system was expected to reduce the labour costs associated with the registering of STRs, whereas additional staff would accommodate the larger volume of investigated STRs.

In **Estonia**, the FIU is an independent bureau inside the Police and Border Guard Board. From 1 January 2010 the FIU has been an autonomous structural unit of the Police and Border Guard Board, which was established by joining the Police Board, Central Criminal Police, Personal Protection Service, Border Guard Administration and the Citizenship and Migration Board. Access to criminal data was given specific consideration when locating the FIU within the police. The FIU is not independent in terms of budget and all of its analysts have a police background. The FIU receives its budget from the Police and Border Guard Board. Besides the analysts, the FIU is also staffed with customs officers that have financial and tax backgrounds, and with IT experts.[[12]](#footnote-12)

In **Finland**, the FIU is located within the Criminal Intelligence Division of the National Bureau of Investigation of the Finnish police. The FIU has full budgetary independence and is accountable to the Chief of the National Bureau of Investigation and to the Ministry of Interior. The composition of the staff of the FIU reflects once again its core duties as well as its additional task of conducting pre-trial investigations. The majority of the staff consists of police officers with experience in investigating financial and economic crimes who also have work experience either within the financial sector, the prosecuting authorities or tax and customs authorities.[[13]](#footnote-13)

The **French** FIU (TRACFIN) has its own separate location and, according to the FIU representatives, the FIU has operational independence. The budget is reviewed and approved by two ministries (the Ministry of the Economy, Finance and Employment and the Ministry for the Budget, Public Accounts and State Reform). Nevertheless, the executive cannot influence the flows of information being initiated by the FIU. Furthermore, these authorities seem to recognize the expansion of the scope of the activities of the FIU and have therefore repeatedly increased its budget.[[14]](#footnote-14)

According to the **German** representatives, the FIU enjoys full autonomy despite being part of the Federal Criminal Police (BKA). It operations are not subject to outside direction. According to FATF (2010e), the FIU does not have its own separate budget. Its resources are provided by the BKA, and consist mostly of salaries and operational and IT costs. The budgets are set through a process of request, consultation and negotiation. FIU staff are recruited from members of the BKA or from the Ministry of the Interior. The Head of the FIU can choose the new staff members, but the final decision rests with the human resources department of the BKA.[[15]](#footnote-15)

In 2003, in **Greece**, a new category of obliged entities entitled ‘the obliged persons category’ was designed for the purpose of fighting corruption.[[16]](#footnote-16) Legal and natural persons falling under this category have to declare their funds to the General Public Prosecutor (PPO). However, soon after the law was passed, it became clear that the PPO did not have the means to analyse them and so the Greek authorities decided that the most efficient way to make the system of obliged wealth declarations work was to use the AML/CTF mechanisms. According to the Greek representative, the FIU was located within the Ministry of Finance during 1997 to 2004. Afterwards it was supervised by the Ministry of Finance but for independence purposes it was ultimately placed under a newly formed AML/CTF/SFI Authority. The FIU reports to the Parliament and to several ministries[[17]](#footnote-17) and has an independent budget provided by the Ministry of Finance. The FIU staffing is also somewhat atypical as the FIU has no permanent staff – all members are detached from their original institution (police, prosecution, customs, tax authorities, etc.). It is the Chairman of the AML/CTF/SFI Authority that proposes to the Ministry of Finance which persons the FIU needs for which unit.

The **Hungarian** FIU was formerly part of the Hungarian National Police and thereafter became part of the Customs department, within the Customs Criminal Investigations Bureau. When the Tax and Customs organizations were united in 2011, the FIU became an independent directorate within the Criminal Directorate General of the National Tax and Customs Administration. The reasons for these changes were of a political nature. The Hungarian authorities considered that the economic offences were already being investigated by customs authorities. The former employees of the FIU from within the police staffed the new asset recovery department. As no staff from the former (police) FIU joined the new FIU, in order to make it operational, customs officers were drafted in as support staff. Members of the FIU have varied backgrounds and skills (lawyers, economists, accounting experts, officers with mid-level education).[[18]](#footnote-18) Some are customs officers with investigative or administrative backgrounds, some come from the central administration or other authorities, and new entrants have also been hired. In the course of the 2010c MONEYVAL evaluation, the HFIU’s independence and autonomy were questioned. This was because the head of the FIU was appointed and could be dismissed by the Commissioner of the FIU’s ‘parent institution’, because the FIU did not have its own budget and furthermore could not decide without the approval of the Commissioner on the spending of the budget or on the appointment of new staff. Following the new organizational reforms that the FIU was subject to, it may be that these aspects have been taken into consideration.

**Ireland** has one police force, the An Garda Síochána (hereafter the Garda) which falls under the overall National Support Services. The National Support Services incorporate more agencies among which are the Immigration Office and the Criminal Assets Bureau.[[19]](#footnote-19) The FIU is a small part of the Garda and works in close contact with two police investigative units that also fall under the Garda. According to the Irish representative, the FIU is staffed with police agents only. The FIU is physically located in the direct vicinity of these investigative units. According to the FIU representative, the budget is part of the entire budget of the Irish police. In this sense there is no budgetary independence.

The **Italian** FIU had, prior to its establishment within the Bank of Italy in 2008,[[20]](#footnote-20) been located within the Italian Foreign Exchange Office (UIC). The FIU is an autonomous and independent body within the Bank of Italy, and it is governed by a Bank of Italy regulation.[[21]](#footnote-21) With respect to its resources, the FIU uses human, technical and financial resources and instrumental goods provided by the Bank of Italy.[[22]](#footnote-22)

According to the **Latvian** representative, the FIU reports directly to police and a copy of the report is sent to the Prosecutor’s Office. The Prosecutor’s Office therefore no longer oversees the reports of the FIU, but only the criminal investigation. The Latvian representative considers the organizational and budgetary independence of the FIU as very important. The FIU has its own separate budget. As to physical location of the FIU, this does not seem to have been planned for in Latvia. A choice had to be made between locating it within the Central Bank or the Prosecutor’s Office and the latter was the voted outcome in government. The mixed staff composition of the Latvian FIU seems to support this statement, as staff include police officers, prosecutors and financial experts.[[23]](#footnote-23)

In **Lithuania**, the Money Laundering Prevention Division (MLPD) of the Analysis and Prevention Board is the main unit within the Financial Crime Investigation Service (FCIS) that is responsible for the prevention and analysis of money laundering and terrorist financing. The MLPD is the Lithuanian FIU. The Lithuanian representative agreed that the original settlement of the FIU within the tax office allows the FIU to handle tax fraud better. Currently, the staff of the FIU have a police background. According to the Lithuanian representative, the budgetary dependence on the FCIS does not pose any operational problems, nor does the accountability of the FIU to the FCIS.

At the 2009–10 FATF evaluation, one of the conclusions of the FATF was that the **Luxembourg** FIU was understaffed. The FIU was also considered to be under-diversified and to overly focus on prosecution.[[24]](#footnote-24) As a result the FIU has considered expanding its staff and also becoming more heterogeneous. During the interviews, the FIU representatives made it clear that currently the Luxembourg FIU has, in addition to administrative staff, full-time analysts and prosecutors who are exercising all of their prosecutorial duties and who are specialists in the fight against financial crime more broadly. The prosecutors working at the FIU are assigned from the Economic Crime Department of the Prosecutor’s Office of Luxembourg. The prosecutors working part-time for the FIU are also assigned to prosecute all other types of economic crimes and work in parallel with the ML/TF specialized prosecutors. According to the FIU representative, the FIU is currently focusing more on the analysis of suspicion of ML/TF (on financial intelligence) rather than being generally assigned to FIUs. FIU Luxembourg occupies one floor within the Prosecution’s Office in Luxembourg (PL). It is a secured premise in which the FIU was located in 2008. The FIU has in the meantime been assigned a secure and independent location that is geographically close to the PL, which according to the representatives is expected to be operational in 2012–13. The Luxembourg FIU does not have an independent budget. Its budget is part of the budget of the judiciary, which, in turn, is part of the general budget of the State. The FIU is, nevertheless, according to the Luxembourg representatives, financially well endowed. The FIU has an open financial line for its funding. If there is a financial need, the FIU has to request additional funds and the Prosecutor’s General Office will forward this demand to the budgetary authorities with its approval. The PG and the FIU are currently working on defining an independent FIU budget. When it comes to operational autonomy, the FIU is fully independent. Despite the fact that for finances the FIU is part of the general budget of the judiciary, both the Prosecutor General (hereafter PG) and the PL have no competence in influencing the FIU on operational matters. The PG cannot give an order of non-prosecution to the FIU/PL. It can however give an order to prosecute, but this is rare.

The **Maltese** FIU was set up in 2002 under the Prevention of Money Laundering Act.[[25]](#footnote-25) Although the FIU falls within the structure of the Ministry of Finance, the Economy and Investment, it is an independent agency and enjoys full autonomy in its operational activities. The FIU staff is composed mostly of financial analysts and legal experts. Despite having a police liaison officer, this officer does not belong to the FIU staff and does not have an office within the premises of the FIU.

The **Dutch** FIU has undergone significant changes in its organization. With a view to enhancing the use of financial information by the law enforcement community, the Netherlands has placed the FIU-NL within the Dutch Police Agency (KLPD) under the Ministry of Interior and with the aim of creating a new structure, the FIU-NL.[[26]](#footnote-26) The Minister of Justice continues to have legal responsibility for the overall management, organization and administration of the FIU-NL, but has delegated it to the Minister of the Interior. The new structure was meant to operate in a ‘test phase’ but the situation developed into a status quo.[[27]](#footnote-27) Since 2010 the Ministry of Interior has no longer been involved, and it is formally the Ministry of Security and Justice and the Ministry of Finance that are responsible for the Dutch FIU. The FIU governance model is quite complex. Nevertheless, responsibility for deciding whether an UTR should be classified as an STR rests clearly and solely with the head of the FIU-NL, without any interference. Furthermore, the head of the FIU is appointed, suspended and discharged by royal decree, on the recommendation of the Minister of Security and Justice, in agreement with the Minister of Finance.[[28]](#footnote-28) On budgetary independence, however, there are still difficulties. Financial resources are made available to the FIU-NL by the Ministry of Justice and are partly supplemented by the Ministry of Finance. The budget is set in accordance with Article 12(5) WWFT, according to which ‘the Minister of Justice shall determine the budget of the FIU, in agreement with the Minister of Finance’. The Head of the FIU takes part in the negotiations.[[29]](#footnote-29)

The **Polish** FIU is located within the Ministry of Finance. The General Inspector of Financial Information (GIFI) performs its duties through the Department of Financial Information, an organizational unit established to that end within the structure of the Ministry of Finance. Together, they constitute the Polish FIU.[[30]](#footnote-30) The staff of the FIU have legal, economic or information technology education.[[31]](#footnote-31) The FIU is not financially independent as its budget is part of that of the Ministry of Finance. According to the Polish representative the recent increase in tasks – i.e. supervision, including sanctioning and drafting of legislation – has not been accompanied by an expansion in resources, which leaves the FIU understaffed and struggling to meet its obligations.

The **Portuguese** FIU is currently characterized in Law No. 37/2008 of 6 August, approving the new organization of the criminal police, as a service of the National Directorship, enjoying all guarantees for its necessary functional autonomy. According to the Portuguese representatives, the Ministry of Justice provides the budget of the judicial police, and the FIU’s budget is part of the latter.

The **Romanian** FIU is established[[32]](#footnote-32) as an independent autonomous body under the supervision of the government of Romania. It has an independent budget, adopted under the state budget law. According to the Romanian representative, the budget is sufficient to ensure the efficiency of the FIU, as long as it is very well managed.

In **Slovakia** the FIU was originally incorporated in the financial police under the Bureau of the Financial Police. Following several reorganizations of the Slovak police forces, the FIU is now one of the central units of the Bureau of Combating Organised Crime – under the Presidium of the Police Force. The FIU is a department of the specialized police force and therefore belongs to the Slovak Ministry of Interior to which it also accountable. The Slovakian FIU’s budget is part of the police force budget, but the FIU has the authority to propose the execution of its planned budget and so far these propositions have been accepted.[[33]](#footnote-33)

The **Slovenian** FIU was established in December 1994 as one of the six constituent bodies of the Ministry of Finance. Moreover, ‘while the FIU is a part of the Ministry of Finance, it appears to be sufficiently independent. It has its own decisive authority, and it is not under undue influence from the Ministry of Finance or other authorities’.[[34]](#footnote-34) The FIU has therefore to report to the government yearly on its progress and work.[[35]](#footnote-35) According to the Slovenian representative, the budget the FIU receives is more or less sufficient, but there is of course always more to do, for which the FIU does not have the money. The budget is decreasing (due to financial crisis) while the FIU’s tasks do not, so the pressure increases. Nevertheless, the Slovenian representative argues it is good to have an independent budget. To perform this supplementary task one additional post was established and therefore the staff of the FIU increased to 16 members.

In **Spain**, the FIU (hereafter SEPBLAC) was formerly an integral part of the National Bank of Spain. At present SEPBLAC falls under the Commission for the Prevention of Money Laundering and Monetary Offences, a body to which the FIU is also accountable. In order to ensure SEPBLAC’s independence in the performance of its tasks, its budget is integrated into the Bank of Spain as an independent unit. It is thus the Bank of Spain that has powers relating to the economic, budgetary and hiring regime of the Spanish FIU.[[36]](#footnote-36)

In **Sweden**, the FIU is located within the Criminal Police Unit of the National Criminal Police. The National Criminal Police also includes other centrally located resources such as the National Counter Terrorism Unit and the IT Crime Section.[[37]](#footnote-37) According to the Swedish representative, the FIU has operational independence but no budgetary independence. Its budget is part of the overall budget of the National Criminal Police and this is distributed to each police unit by the National Police Board. The head of the FIU is responsible for the internal handling of the budget,[[38]](#footnote-38) though there are government guidelines on how the budget should be used. Nevertheless, in 2009 the FIU’s additional training and asset recovery tasks had not been met by a budgetary increase, which has led the FIU to refuse assistance even in prioritized cases.[[39]](#footnote-39) The staff of the FIU reflects its core attributions as well as its additional tasks. All agents have police training, and some additional financial and IT training.

On 1 April 2006, the Serious Organised Crime and Police Act 2005 (SOCPA) created the **UK’s** Serious Organised Crime Agency (SOCA). The UK FIU is now within SOCA, and SOCA is responsible for performance management of this unit. According to the FATF report,[[40]](#footnote-40) POCA 2002 (as amended by section 104 of SOCPA 2005) and the Terrorism Act (TACT) 2000 (as amended by the TACT 2006) require persons within the regulated sector to make disclosures in the form of suspicious activity reports (SARs) to SOCA when they know or suspect, or have reasonable grounds to know or suspect, that another is engaged in money laundering or terrorist financing. A specific operational division, the Proceeds of Crime Department, has been set up within SOCA to take this forward; the UK FIU was located within the Proceeds of Crime Department and has since moved within the Strategy and Information Department of SOCA. While the law indicates that SARs come to SOCA in general, internal policies and procedures ensure that they come directly to the UK FIU, and are processed, analysed and disseminated solely by UK FIU staff. Finally, the Serious Organised Crime Agency, which includes the UK financial intelligence unit, will transition to the National Crime Agency in October 2013.

1. This is an online appendix to *The Economic and Legal Effectiveness of the European Union’s Anti-Money Laundering Policy*, Chapter 7. [↑](#footnote-ref-1)
2. FIU Austria (2011), ‘Annual Report’, p. 6. [↑](#footnote-ref-2)
3. FATF (2009c), p. 77. [↑](#footnote-ref-3)
4. FATF (2005), p. 62. [↑](#footnote-ref-4)
5. Royal decree of 11 June 1993. [↑](#footnote-ref-5)
6. Article 22(3) of the Belgian AML/CTF law. [↑](#footnote-ref-6)
7. The State Agency for National Security Act was promulgated in the State Gazette No. 109/20.12.2007, effective as of 01.01.2008, amended SG No. 69/05.08.2008, 94/31.10.2008, supplemented SG No. 22/24.03.2009, amended SG No. 35/12.05.2009, amended and supplemented SG No. 42/05.06.2009, amended SG No. 82/16.10.2009, amended and supplemented SG No. 93/24.11.2009, amended SG No. 16/26.02.2010. [↑](#footnote-ref-7)
8. Concept of the organization and management of the SANS, p. 13 (available at: http://www.dans.bg/images/stories/Concept/concepcia-091021-en.pdf). [↑](#footnote-ref-8)
9. MONEYVAL (2011d),p. 56. [↑](#footnote-ref-9)
10. MONEYVAL (2011c), p. 73. [↑](#footnote-ref-10)
11. FATF (2009d), p. 72. [↑](#footnote-ref-11)
12. MONEYVAL (2008b), p. 82. [↑](#footnote-ref-12)
13. FATF (2007b), p. 65. [↑](#footnote-ref-13)
14. TRACFIN (2010), ‘Annual Report’, p. 5. [↑](#footnote-ref-14)
15. FATF (2010e), p. 101. [↑](#footnote-ref-15)
16. Law 3213/2003. [↑](#footnote-ref-16)
17. Ministry of Finance and Ministry of Justice, Transparency and Human rights, and Citizen Protection. [↑](#footnote-ref-17)
18. MONEYVAL (2010c), p. 62. [↑](#footnote-ref-18)
19. Website of An Garda Siochana (available at: http://www.garda.ie/Controller.aspx?Page=29&Lang=1). [↑](#footnote-ref-19)
20. The FIU was located at the Bank of Italy pursuant to the Legislative Decree 231/2007 (the AML Law). [↑](#footnote-ref-20)
21. Available at: http://www.bancaditalia.it/UIF/regolamento-UIF.pdf. [↑](#footnote-ref-21)
22. Available at: http://www.bancaditalia.it/UIF. [↑](#footnote-ref-22)
23. MONEYVAL (2006), ‘Third Round Assessment Report’, p. 59. [↑](#footnote-ref-23)
24. FATF (2010a), p. 3. [↑](#footnote-ref-24)
25. Chapter 373 of the Laws of Malta. [↑](#footnote-ref-25)
26. The order of the Minister of Justice of 13 December 2006. [↑](#footnote-ref-26)
27. FATF (2011b),pp. 86–7. [↑](#footnote-ref-27)
28. Article 12(4) of the July 2008 AML/CTF Dutch law (WWFT). [↑](#footnote-ref-28)
29. FATF (2011b), p. 100. [↑](#footnote-ref-29)
30. FIU Poland (2010), ‘Annual Report’, p. 3. [↑](#footnote-ref-30)
31. MONEYVAL (2007a), p. 50. [↑](#footnote-ref-31)
32. The FIU is regulated in Law No. 656/2002, Governmental Decision No. 594/2008 on the approval of the Regulation for the application of the provisions of the Law No. 656/2002 and Governmental Decision No. 1599/2008 on the approval of the Regulations for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering. [↑](#footnote-ref-32)
33. MONEYVAL (2011b), p. 64. [↑](#footnote-ref-33)
34. MONEYVAL (2005), ‘Third Round Assessment Report on Slovenia’, p. 55. [↑](#footnote-ref-34)
35. Article 72 of the Slovenian AML/CTF law. [↑](#footnote-ref-35)
36. Section 45(3) of the AML Act. [↑](#footnote-ref-36)
37. Available at: http://www.polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/RKP%20presentation\_en\_2012\_03\_cybercrime.pdf. [↑](#footnote-ref-37)
38. FATF (2006d), p. 55. [↑](#footnote-ref-38)
39. FIU Sweden (2009), ‘Annual Report’, p. 6. [↑](#footnote-ref-39)
40. FATF (2007d), p. 78. [↑](#footnote-ref-40)