

Committee:	Economic and Social Council
Issue:	International cooperation in the investigation and prosecution of economic fraud and identity-related crime
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INTRODUCTION

Identity-related crime is a term used for any punishable activity that has identities as its main targets. It is “the fraudulent use of another person’s personal identification to gain advantage, obtain property, disadvantage another person, avoid arrest or defeat or obstruct the course of justice.” (Cross Border Forum 2010.2) Financial fraud and crime on the other hand are a form of theft that occurs when a person or entity decides to obtain money or property, in order to abuse them, use them in an illegal way, with the intention of benefit. To financial fraud and crime belong crimes such as but not limited to: bribery, embezzlement, money laundering, mortgage fraud, tax evasion and extortion. Identity-crime includes two sub-categories, identity- theft and identity- fraud. Identity-related crime and financial fraud are also connected to cybercrime, since nowadays computers are often used as main instruments of criminals that intend to organize a crime. Categories that belong to this type of crime can be illicit tampering with systems, programs or data or -the more traditional ones- theft, fraud, and forgery. In order to tackle these forms of crimes special knowledge along with understanding is required, as information on identity management systems and their function is a complex matter. In many countries it has been acknowledged that identity- related crime, as a sub-category of cybercrime, is one of the fastest growing crimes. Unfortunately, investigating and fighting all identity- related crimes or financial fraud crimes, represents a major difficulty as victims of these crimes avoid reporting their case due to the fact that it causes embarrassment and shame. The most common emotional reactions of victims are guilt, anger and anxiety. After the crime has taken place the victims usually seek to obtain information in order to avoid being victimized again in the future. This means that there is a lack of public awareness since people are not yet comfortable with this type of crime and this is why they are not yet able to offer their contribution for combating financial fraud and identity-related crime.

Nations around the world are very concerned about economic fraud and ID related crime, a concern shared by many international organizations, including the United Nations, the G-8, the European Union and the Council of Europe. The most important reason of concern is perhaps the law enforcement difficulty competent officials and prosecutors

encounter in their attempt to apply existing laws on these crimes which represent a sub category of the cyber space crime.

Law enforcement officials cannot take action against such crime, unless countries first enact laws which criminalize the specific activities in which these offenders engage. But the existence of such laws is a fundamental prerequisite for investigation and prosecution. Hence all nations would have or would indicate their will to establish such cybercrime laws in their legal and judicial systems.

The UN through ECOSOC, UNODC and its various working groups of experts and with the cooperation of a big number of member states, attach great importance to the fight against economic fraud and identity-related crime. All the work done so far through special Committees and Working Groups as well as the relevant UN Resolutions, highlight the necessity of carefully developing comprehensive, multifaceted, and coherent strategies that encompass targeted and well-planned interventions, aimed at improving legislative responses, enhancing the law enforcement and investigative capacity of competent institutions to deal effectively with economic fraud and identity-related crime, strengthening international cooperation to combat those forms of crime, developing and implementing effective preventive policies, developing partnerships between the public and private sectors in the field of prevention, investigation, and prosecution of those crimes, and promoting training and technical assistance activities.



Eleni Melani, the wife of the terrorist Ksiros. This is a false identity and her action is an example of identity-related crime

DEFINITION OF KEY TERMS

- **Identity fraud:** scenarios in which identities were used to deceive others
- **Identity theft:** scenarios in which genuine identity information or documents are illegally taken or misappropriated
- **Fraud and Financial Crimes:** a form of larceny that occurs when a person or entity takes money or property or abuses them with the intention to benefit from it.
- **Cyber crime:** Computer crime or Cybercrime refers to any crime that is committed via a computer or a network or otherwise aided by various forms of computer. It is also known that these crimes have the ability to happen in two or more places simultaneously, no matter the distance. This makes the tracking of the criminal very difficult.

- **Extortion:** the crime of obtaining money or property by threat to a victim's property or loved ones, intimidation, or false claim of a right.
- **Bribery:** the act of accepting or offering something of value in exchange for influence or power in connection to an elected position or public employment.
- **Embezzlement:** a crime that occurs when an individual steals money or property that he or she has been entrusted to manage.
- **Tax Evasion:** the crime of not paying one's legally required share of either federal or state taxes, which is punished severely and can lead to asset forfeiture or prison.
- **Mortgage fraud:** Explanation of the various different illegal schemes related to the misrepresentation or misstatement of mortgage documents for the purpose of defrauding another party, such as a lender or a homeowner.
 - According to the terminology applied in the Study elaborated by the Intergovernmental Expert Working Group appointed by UNODC in 2007, even in the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, there was no definite and final definition of the terms "economic crime" and "financial crime". The term "financial crime" was considered by the Intergovernmental Expert Group as applying to crimes committed using major financial systems or against such systems. That could include money-laundering, some forms of corruption affecting financial structures, and most major economic crimes in which financial structures were used or illicitly exploited. The term "economic crime" was taken as a more focused concept, referring only to crimes in which the motive was some form of economic gain or financial or other material benefit. That would include all economic fraud and most, but not all, identity-related crime. Some States listed identity crimes such as the falsification of passports and visas for travel purposes, which did not necessarily contain an economic element or motivation.
 - The term "fraud" according to said terminology of the above mentioned experts group, has two meanings. In almost all countries, legislation limits "fraud" to cases where there was economic loss to victims, but the terms "fraud" and "fraudulent" are also commonly used as terms of art by officials, academics and others to describe conduct involving the use of dishonesty or deception, but not necessarily any financial or other material loss or benefit. For example, the means of recruitment of victims of trafficking may include non-economic fraud, and fraud on the part of a negotiating State may invalidate a treaty. A decision was made, to use the terms "fraud" and "economic fraud" in cases of fraud in the established economic meaning and to use the term "identity fraud" for the rest of the cases within the scope of the study.
 - Initially, the experts decided to use the term "identity fraud" when discussing the criminal misuse and falsification of identity; however, in reviewing the evidence, it became apparent that the terms "identity

theft" and "identity fraud" were not used consistently and that they did not fully encompass the scope of the identity-related problems covered by the study. In the present report, scenarios in which genuine identity information or documents are actually taken or misappropriated are described as "identity theft", while scenarios in which identities were used to deceive others are referred to as "identity fraud". Cases in which

- Identities or related information were simply fabricated are not analogous to either fraud or theft, although some States considered those to be identity fraud based on subsequent misuse of the identities. Accordingly, in the present report, the term "identity-related crime" is used as a general reference, and the more specific terms "identity theft" or "identity fraud" are used where contextually appropriate.
- The terms "commerce", "commercial crime" and "commercial fraud" also have diversity in their meanings. Commerce and commercial practice acquire various types and forms in different countries and regions, and the term "commerce", refers to any type of monetary or barter transaction, ranging from very large commercial dealings to the smallest bargain made in the marketplace. This way, practically all types of economic fraud can be considered crimes of commerce. Most experts, however, consider commercial crime or commercial frauds to be more limited in scope, including only fraudulent conduct that involves, affects or targets
- Major commercial systems and that is a significant departure from legitimate commercial practice. The study uses the term in the narrower sense, as does UNCITRAL (Commission that formulates and regulates international trade in cooperation with the World Trade Organization) in its work on commercial fraud.

BACKGROUND INFORMATION

1. ECOSOC, with resolution 2004/26 of 21 July 2004, entitled "International cooperation in the prevention, investigation, prosecution and punishment of fraud, the criminal misuse and falsification of identity and related crimes", called for the establishment of an intergovernmental expert group represented by the regional participants of the Commission on Crime Prevention and Criminal Justice and open to any Member State wishing to be present, to prepare a study regarding fraud and the crimes related to identity documents. With the kind support of the Government of Canada, a first meeting of this Intergovernmental Expert Group took place in Vienna on 17 and 18 March 2005. The Intergovernmental Expert Group set the scope of the study, decided the method of work and approved inclusion in the study of information from Member States, the private sector and the experts. A questionnaire was prepared and distributed, in two parts, one related to the collection of information on economic fraud and one on ID related crimes.

The work was finalized on 31 December 2006 with a considerable number of States having participated and provided responses, among which Algeria, Belarus, Canada, Costa Rica, Croatia, Egypt, Finland, Germany, Greece, Hungary, Italy, Japan, Jordan, Lebanon, Madagascar, Malta, Mexico, Monaco, Morocco, Netherlands, Nicaragua, Oman, Panama, Peru, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and others. Many of those States also provided copies of relevant legislation to be evaluated in the context of the study.

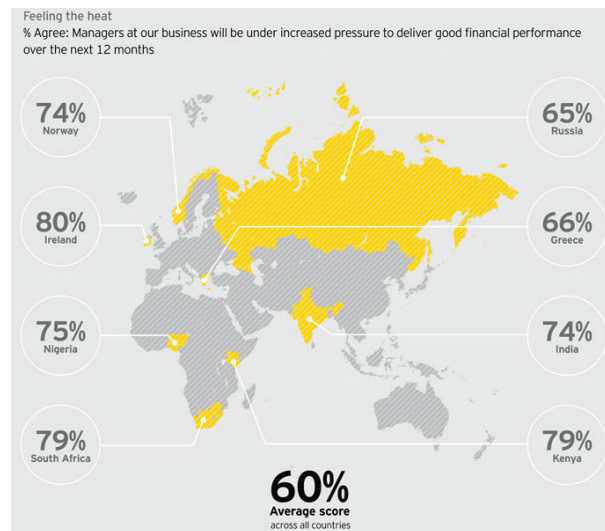
2. In 2007, UNODC launched a study on Fraud and Identity Crime, which was submitted to the United Nations Commission on Crime Prevention and Criminal Justice, in accordance with Economic and Social Council resolution 2004/26. Two important axes can be mentioned regarding this study: First, the introduction of a broad approach to the concept of identity-related crime, with an aim to encompass all types of illegal behavior related to economic fraud and ID falsification of expropriation and second the treatment of identity-related crimes as distinct criminal offenses, where in the past legal provisions dealing with other offences were used for the classification of such an act as criminal violation.
3. Based on findings and recommendations of the above study, UNODC prepared in 2011 the Handbook of Identity Related Crime. Aim of the Handbook was to launch a multitude of options and considerations to be evaluated and adopted in the handling of local criminal cases of ID and economic fraud related crimes with emphasis on international cooperation and collaboration between public and private sectors. The Handbook is intended for use by legal people, Academics, Administrative Officials, Public Prosecutors Judges and lawyers as well as other non-governmental interested and involved parties.
4. Further to the above, on the basis of its mandates arising from ECOSOC resolutions 2004/26 and 2007/20, UNODC has introduced a technical support and consultation forum dedicated to on identity-related crime with the aim to bring together public administrators, private business people, international and regional organizations and other interested parties, to accumulate knowledge, design strategies, place the basis for subsequent research and achieve a consensus as about the required actions to fight and persecute identity-related crime. In this context, a multi-party team of experts on the subject matter in question, was established by UNODC in 2007. The group of experts brings together representatives from Member States and international organizations as well as representatives from the private sector and academic experts. The formation of this working group, has been considered a very successful initiative providing for exchange of views, information and expertise and developing common principles, understanding and cooperation plans



MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

- **COSO:** The Committee of Sponsoring Organizations of the Treadway Commission is a corporate initiative of organizations that belong to the private sector and its goal is to provide by possessing the leading position through the development of frameworks and guidance in order to control and combat financial fraud among enterprises. It was created in 1992 in the United States.
- **UNODC:** Thorough information about this organization and the Handbook of Identity Related Crime is mentioned in the background information.
- **United States of America:** U.S.A. has given to identity-related crime the term of illicit obtaining of personal information that do not belong to the perpetrator with the aim of committing other crimes by using this stolen identity. The Department of Defense and the Department of Justice are trying to combat this phenomenon by any means, since the percentage of identity thefts in 2013 (14%) was very alarming. This percentage of 2013 was equal with the overall percentage of all the previous years. Specific regulations have been implemented until then and with numerous guidelines on identity-related crime and financial fraud the United States are trying to limit these crimes. These guidelines focus on the creation of a national system, the cooperation among countries and between the private and public sector as well. It is a fact that U.S.A. has made and is still making great efforts to combat the issue.
- **United Kingdom:** The actions and efforts of the United Kingdom should be considered as equally intensive with the ones of the United States. Their goals are also the same. United Kingdom has been alarmed by the rapid evolution and

expansion of identity-related crime and financial fraud and this is why it is willing to try hard, in order to prevent it from becoming the most major problem of our age. In order to succeed United Kingdom launched at least two Non- governmental Organizations (NGO's), which are Privacy International and CIFAS, which is also known as the United Kingdom's Fraud Prevention Service. Their main goal is the protection of the personal rights of the people.



TIMELINE OF EVENTS

1991	Sentencing Guidelines by the United States
1992	The creation of COSO(Committee of Sponsoring Organizations of the Treadway Commission) in the U.S.A.
1995	Commonwealth Criminal Code Act → federal framework that includes the parliaments of the <u>Australian</u> states and territories. This common legislation contributes to the effective combat of crime.
1996	Caremark case → one of the most known court cases concerning financial fraud in the U.S. Caremark's employees were accused for violating healthcare fraud laws. As a result they were imposed fines of \$250M.
1997	United Nations → Establishment of UNODC (United Nations Office on Drug and Crime)
1999	Financial Services Action Plan → a key component of the <u>European Union's</u> attempt to create a single market for financial services which was designed to last for six years- until 2004. United States→ U.S. Department of Justice Enforcement Guidance by Eric Holder considering Federal Prosecution of Corporations.

2001	United States → PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) → Act enacted by the Congress in order to arm law enforcement with new tools to detect and prevent terrorism.
2002	<p>United States → The USA PATRIOT Act, the Foreign Corrupt Practices Act, the Sarbanes-Oxley Act → legislation which focuses on antifraud efforts.</p> <p>United States → The Sarbanes Oxley Act: Federal law which set common mandatory standards for companies and management and public accounting firms.</p> <p>United Kingdom → an Act of the Parliament of the United Kingdom which aims the confiscation and civil recovery of the crime revenue and includes the principal money laundering legislation in the UK.</p>
2003	<p>United States → NYSE and NASDAQ Listing Standards → strengthening of corporate governance standards for listed companies.</p> <p>United Kingdom → The Combined Code on Corporate Governance & The Money Laundering Regulations</p> <p>European Union → European Council on Economic Fraud</p> <p>United Nations → The adoption of UNCAC (United Nations Convention Against Corruption).</p>
2004	<p>Australia → The Corporate Law Economic Reform Program (Audit Reform & Corporate Disclosure) → legislation which focuses on antifraud efforts.</p> <p>United Kingdom → Companies (Audit, Investigations, and Community Enterprise) → act focusing on antifraud efforts.</p>
2007	The establishment of Core Group of Experts by the UNODC .

Undetected financial fraud is one of the greatest risks to an organization's viability and corporate reputation, and it has the capacity to draw into its sphere all associated people, not only the guilty.

Jeffrey Lucy

Chairman, Australian Securities and Investments Commission

November 10, 2005

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

- [ECOSOC resolution 2004/26](#) on 'International cooperation in the prevention, investigation, prosecution and punishment of fraud, the criminal misuse and falsification of identity and related crime',
- [ECOSOC resolution 2007/20](#) on 'International cooperation on the prevention, investigation and prosecution and punishment of economic fraud and identity-related crime',
- [ECOSOC resolution 2009/22](#) on 'international cooperation on the prevention, investigation and prosecution and punishment of economic fraud and identity-related crime',
- [ECOSOC resolution 2011/35](#) on 'international cooperation on the prevention, investigation and prosecution and punishment of economic fraud and identity-related crime',
- [ECOSOC resolution 2013/39](#) on 'international cooperation on the prevention, investigation and prosecution and punishment of economic fraud and identity-related crime'

POSSIBLE SOLUTIONS

- 1) It is significant that all member states agree to cooperate, in order to fight financial crime and identity related crime. This could be succeeded by placing tighter regulation, such as international treaties like the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime which can help member states to fight fraud, financial crime, corruption and money-laundering while rebuilding trust in the financial system. UNODC (United Nations Office on Drug Crime), together with the World Bank, can also contribute to the recovery of poor countries' stolen assets through the Stolen Asset Recovery (STAR) initiative, by promoting cooperation between MEDCs and LEDCs and between the public and private sectors, to overcome the damages of the loss of their stolen assets and eliminate every opportunity for dirty money "movement". Prevention, prosecution and protection are extremely necessary to assist victims of such crimes. LEDCs need all the assistance MEDCs can offer, in order to monitor threats, identify criminal activities and disrupt suspicious transactions. At the global level, it essential that all member states have a common approach on the matter, which means that parts of their legislation, should also be common. Moreover, transparency on crime proclivities should be strictly implemented. Some other options that could definitely help fight the phenomenon are focused on the technical sector. It would be effective to create security programs that would aim to make it more difficult to tamper, or subvert, or obtain identification documents.
- 2) In a bullet point format possible solutions and measures towards improvement of current status regarding the subject matter in caption could be among a plethora of them:
 - Provision to the member states of legislative assistance in order to revise legal instruments and draft pertinent laws based on country special

demands and characteristics of the legislative, judiciary and prosecution systems.

- Provision to the member states of technical assistance
- Investing on capacity building of prosecution and judicial Bodies with special training and provision of international cooperation.
- Establishing and improving partnerships between interested parties, providing for internal security of the member states, through the support from international Bodies, such as Interpol, Europol, ITU, OSCE, EU, Council of Europe, UN mandated Organs and the private sector (i.e. Big Audit companies, software companies and internet service providers, Banks etc).

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