



2022/0167(COD)

30.3.2023

OPINION

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council
on Asset recovery and confiscation
(COM(2022)0245 – C9-0186/2022 – 2022/0167(COD))

Rapporteur for opinion: Vlad Gheorghe

PA_Legam

SHORT JUSTIFICATION

Combatting organised crime on the European Union (EU) level and enabling effective criminal assets confiscation is one of the current legislative term's priorities. Europol findings show though that Member States' asset recovery systems are not well equipped to effectively address the complex *modus operandi* of criminal organisations.

Therefore, we welcome the new measures aiming to reinforce the capacities of national asset recovery offices, to support asset tracing investigations, to guarantee a rapid exchange of information among competent authorities, to facilitate the treatment of criminal assets, to fight the violation of Union restrictive measures and to minimise the costs incurred by competent authorities for the criminal assets management and other measures.

In order to achieve the goals of this Directive, the confiscation of criminal assets must be based on evidence and the Rule of Law and occur rapidly, with best possible cooperation and information exchange among the Member States and with minimum costs to their national budgets. At the same time, the Directive should be more nuanced on the allocation of confiscated assets. As the reintroduction of criminal assets into the legal economy is the ultimate goal of confiscation, the destination of the recovered assets must be specified. In order to maximise the efficiency of confiscation and reuse of assets, this Budget Committee opinion introduces a series of proposals:

- In light of the current geopolitical context, the scope of the Directive needs to be complemented with further crime types, such as the crime of aggression or facilitation of aggression against Ukraine subject to the adoption of the relevant Council Decisions identifying and defining those crimes in accordance with Article 83 TFUE.
- While it is preferential to ease the financial burden for the Member States by putting the management costs on the beneficial owner or by proceeding with an interlocutory sale, still Member States need to guarantee sufficient budgetary resources to properly manage frozen property in view of the final confiscation, as to limit the cases of state liability for the deterioration in value of the seized property.
- In order for the asset recovery offices and the asset management offices to initiate actions and fulfil their tasks, it is essential that they are equipped with sufficient staff, budgetary, technical and technological resources. Moreover, Member States need to guarantee regular training for relevant staff, in particular on ethics and anti-corruption measures.
- The crimes considered under this Directive often have the scope of illicit obtention of gains and are connected to the EU financial interests, therefore the EPPO should have the same level of access to information, as national competent authorities do, also in view of a potential extension of the EPPO competence to the fight against sanction evasion.
- Confiscated assets stem from criminal activities, which vary in nature and extent across the EU Member States. This variability makes it difficult to anticipate concrete amounts of costs and revenues resulting from confiscation. Making them a new Own Resource to the EU Budget mutualises risks and benefits and brings best European added value. To this end, we expect the Commission to make a detailed assessment of the use of resources stemming from criminal offences.

- Where the confiscated assets are related to the aggression against Ukraine and other associated crimes, including the violation of the EU restrictive measures, the monetary value of such assets should serve the goal of building and rebuilding of the infrastructure in Ukraine, as well as the compensation for the victim population. The opinion suggests that the compensation takes place with the use of a dedicated victims' claims registry and claims commission. As for the rebuilding of the infrastructure, such financial support should be based on projects and be implemented based on the principle of sound financial management in particular with the inclusion of anti-corruption measures. Such projects shall be subject to the scrutiny of the EU budgetary authority.

On April 7, the European Parliament called for the confiscation of Russian assets owned by Russian individuals and entities, frozen as a result of EU restrictive measures, in order to finance Ukraine's reconstruction. This opinion follows-up on this call and suggests to channel the proceeds through the EU budget as an External Assigned Revenue that would feed into the Neighbourhood, Development and International Cooperation Instrument. Following the Commission's assessment, monetary value of the confiscated assets can be channelled through another special dedicated budgetary instrument, such as Rebuild Ukraine Facility, provided that this instrument implies similar decision and supervisory power to the budgetary authority as the NDICI programme.

Such use of confiscated assets will constitute a concrete action of solidarity and justice. It will also help to address the global financial impact of Russia's aggression, including its indirect consequences for the EU.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The main motive for cross-border organised crime, including high-risk criminal networks, is financial gain. Therefore, to tackle the serious threat posed by organised crime, competent authorities should be given the means to effectively trace and identify, freeze, confiscate and manage the instrumentalities and proceeds of crime and

Amendment

(2) The main motive for cross-border organised crime, including high-risk criminal networks, is financial gain. Therefore, to tackle the serious threat posed by organised crime, competent authorities should be given the means to effectively trace and identify, freeze, confiscate and manage the instrumentalities and proceeds of crime and

property that stems from criminal activities.

property that stems from criminal activities. *The net revenues resulting from the liquidation of such confiscated assets should be reintroduced into the legal economy. Where the confiscated assets stem from the criminal offences listed in Article 2(1), (2) and (3) and relate to the Russian aggression against Ukraine or in Article 2(3a), the net revenues resulting from their liquidation should serve the goal of building and rebuilding back better the infrastructure in Ukraine such as energy and food security, infrastructure and public services, including through the use of the financial instruments, as well as the compensation for the victim population.*

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) An effective asset recovery system requires the swift tracing and identification of instrumentalities and proceeds of crime, and property suspected to be of criminal origin. Such proceeds, instrumentalities, and property should be frozen in order to prevent its disappearance, following which it should be confiscated upon conclusion of criminal proceedings. An effective asset recovery system further requires the effective management of frozen and confiscated property to maintain its value for the State or for the restitution for victims.

Amendment

(3) An effective asset recovery system requires the swift tracing and identification of instrumentalities and proceeds of crime, and property suspected to be of criminal origin. Such proceeds, instrumentalities, and property should be frozen in order to prevent its disappearance, following which it should be confiscated upon conclusion of criminal proceedings. An effective asset recovery system further requires the effective management of frozen and confiscated property to maintain its value for the State or for the restitution for victims. *As such, the reuse of confiscated assets for the compensation and support of victims of crime and for affected communities has the potential to build resilience and thereby prevent further organised crime.*

Amendment 3

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Therefore, the existing legal framework should be updated, so as to facilitate and ensure effective asset recovery and confiscation efforts across the Union. To that end, the Directive should lay down minimum rules on tracing and identification, freezing, confiscation and management of property within the framework of proceedings in criminal matters. In this context, proceedings in criminal matters is an autonomous concept of Union law interpreted by the Court of Justice of the European Union, notwithstanding the case law of the European Court of Human Rights. The term covers all types of freezing and confiscation orders issued following proceedings in relation to a criminal offence. It also covers other types of orders issued without a final conviction. Proceedings in criminal matters could also encompass criminal investigations by the police and other law enforcement authorities. It is necessary to reinforce the capacity of competent authorities to deprive criminals of the proceeds from criminal activities. For this purpose, rules should be laid down to strengthen asset tracing and identification, as well as freezing capabilities, to improve management of frozen and confiscated property, to strengthen the instruments to confiscate instrumentalities and proceeds of crime and property derived from criminal activities of criminal organisations, and to improve the overall efficiency of the asset recovery system.

Amendment

(5) Therefore, the existing legal framework should be updated, so as to facilitate and ensure effective asset recovery and confiscation efforts across the Union. To that end, the Directive should lay down minimum rules on tracing and identification, freezing, confiscation and management of property within the framework of proceedings in criminal matters. In this context, proceedings in criminal matters is an autonomous concept of Union law interpreted by the Court of Justice of the European Union, notwithstanding the case law of the European Court of Human Rights. The term covers all types of freezing and confiscation orders issued following proceedings in relation to a criminal offence. It also covers other types of orders issued without a final conviction. Proceedings in criminal matters could also encompass criminal investigations by the police and other law enforcement authorities. It is necessary to reinforce the capacity of competent authorities to deprive criminals of the proceeds from criminal activities. For this purpose, rules should be laid down to strengthen asset tracing and identification, as well as freezing capabilities, to improve management of frozen and confiscated property, to strengthen the instruments to confiscate instrumentalities and proceeds of crime and property derived from criminal activities of criminal organisations, and to improve the overall efficiency of the asset recovery system. ***Likewise, reinforcing the capacity of competent authorities requires Member States to guarantee sufficient human and financial resources for carrying out tasks laid down in this Directive. The additional revenue generated by measures enhancing the asset recovery system can***

serve as a means to cover costs incurred in connection with obligations under the Directive, and thereby support its effective implementation across the Union.

Amendment 4

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Moreover, the adoption of unprecedented and far-reaching Union restrictive measures triggered by the Russian invasion into Ukraine revealed the need to step up efforts to ensure the effective implementation of both sectorial and individual Union restrictive measures across the Union. While not criminal in nature, nor requiring criminal conduct as a pre-condition for their imposition, Union restrictive measures also rely on freezing of funds (i.e. targeted financial sanctions) and sectorial measures, and should thus benefit from strengthened capabilities in the context of identification and tracing of property. For such purpose, rules should be established to enhance the effective identification and tracing of property owned or controlled by persons and entities subject to such restrictive measures, and to promote greater international cooperation of asset recovery offices with their counterparts in third countries. Measures related to freezing and confiscation under this Directive, notably those under Chapters III and IV, remain however limited to situations where property stems from criminal activities, such as the violation of Union restrictive measures. This Directive does not regulate the freezing of funds and economic resources under Union restrictive measures.

Amendment

(6) Moreover, the adoption of unprecedented and far-reaching Union restrictive measures triggered by the Russian invasion into Ukraine revealed the need to step up efforts to ensure the effective implementation of both sectorial and individual Union restrictive measures across the Union. While not criminal in nature, nor requiring criminal conduct as a pre-condition for their imposition, Union restrictive measures also rely on freezing of funds (i.e. targeted financial sanctions) and sectorial measures, and should thus benefit from strengthened capabilities in the context of identification and tracing of property. For such purpose, rules should be established to enhance the effective identification and tracing of property owned or controlled by persons and entities subject to such restrictive measures, and to promote greater international cooperation of asset recovery offices with their counterparts in third countries. Measures related to freezing and confiscation under this Directive, notably those under Chapters III and IV, remain however limited to situations where property stems from criminal activities, such as the violation of Union restrictive measures. This Directive does not regulate the freezing of funds and economic resources under Union restrictive measures. ***In that regard, a legal regime should be established to enable the confiscation of private and state-owned Russian assets frozen by the Union in response to***

Russia's war of aggression against Ukraine and the subsequent use of those assets for the reconstruction of Ukraine.

Amendment 5

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The existing legal framework should also be updated to enable the channelling of the net revenues resulting from the liquidation of the confiscated assets into the Union budget in the form of a new own resource in accordance with Article 311 TFEU, following a Commission preliminary impact assessment and without prejudice to restitution and compensation to the victims and public concerned. The impact assessment should elaborate on how the net revenues resulting from the liquidation of assets confiscated or recovered by Member States pursuant to this Directive could be made available to the Union budget as an own resource, in accordance with Article 311 TFEU, while at the same time safeguarding the capacity of Member States to effectively implement the Directive and measures aimed at compensation and support for victims of crime. The Commission assessment should also evidence the European added value of such approach including by exploring how an own resource would enable to mutualise the risks and benefits deriving from the unpredictability and volatility of such revenues. The confiscation of assets can occur more often in some Member States than others and possible windfall gains, investments and efforts which need to be taken to curb criminal offences and to finally confiscate assets are inseparable and unpredictable at the moment. Finally, the Commission assessment should detail

how such a new own resource could support Union priorities and the adequate financing of Union expenditure, while reducing the share of GNI-based contributions in the financing of the Union budget and facilitating efficiency gains compared to national spending.

Amendment 6

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Where the assets stem from the criminal offences listed in Article 2(1), (2) and (3) and relate to the Russian aggression against Ukraine or Article 2(3a), these revenues should be made available in the form of external assigned revenue until the relevant Own Resources Decision enters into force and without prejudice to restitution and compensation to the victims and public concerned. Such revenue should be mainly assigned to the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the Eastern Neighbourhood line (14 02 01 11) or, where appropriate, to the NDICI - Global Europe -provisioning of the common provisioning fund (14 02 01 70) line and the successor budget lines in the next MFF if needed. This revenue should be used to support projects to build and rebuild infrastructure in Ukraine and to provide compensation to the Ukrainian victim population. The Commission can assess the feasibility and relevance of channelling the external assigned revenues related to the Russian aggression against Ukraine to the [Rebuild Ukraine Facility], should the set up of the Facility serve the objectives of supporting projects to build and rebuild infrastructure in Ukraine and of providing compensation to the Ukrainian

victim population and provide similar decision and supervisory power to the budgetary authority as the NDICI programme.

Amendment 7

Proposal for a directive Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) The proposals for projects to be financed from external assigned revenue related to the Russian aggression against Ukraine should be submitted to the Commission by the Ukrainian authorities after consulting domestic civil society organisations and other relevant stakeholders. The projects should include deliverables and spending guidelines that allow their implementation to be assessed. The European Parliament and the Commission should be able to monitor the impact of the projects and scrutinise, with the involvement of the civil society and by the means of regular reporting and of the discharge procedure, the implementation of the projects to ensure that the partners responsible for implementation respect the principle of sound financial management in particular anti-corruption measures. Compensation to the Ukrainian victim population can be provided through a dedicated mechanism for the compensation of Ukrainian victims implemented under the Eastern Neighbourhood line (14 02 01 11) and aiming at the improvement of the living conditions of the victims. It could be based on a Ukrainian victims' claims registry and dedicated claims commission.

Amendment 8

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Measures aiming at increasing capabilities of tracing and identification of relevant property in relation to persons or entities subject to Union restrictive measures, as well as complementary measures to ensure that such property is not transferred or hidden to evade Union restrictive measures, contribute to the prevention and detection of possible violation of Union restrictive measures and enhanced cross-border cooperation in investigations into possible criminal offences.

Amendment

(7) Measures aiming at increasing capabilities of tracing and identification of relevant property in relation to persons or entities subject to Union restrictive measures, as well as complementary measures to ensure that such property is not transferred or hidden to evade Union restrictive measures, contribute to the prevention and detection of possible violation of Union restrictive measures and enhanced cross-border cooperation in investigations into possible criminal offences. ***For such purposes, increased efforts for preventing the evasion of Union restrictive measures should be explored, including through the establishment of joint sanctions enforcement structures, with a view to supporting Member States in the implementation of Union restrictive measures.***

Amendment 9

**Proposal for a directive
Recital 11**

Text proposed by the Commission

(11) [In order to ensure the effective implementation of Union restrictive measures, ***it is necessary to extend*** the scope of the Directive ***to*** the violation of Union restrictive measures].

Amendment

(11) ***Similarly, the violation of Union restrictive measures is most notably motivated by considerations of financial gain. While generating profits, the circumvention of restrictive measures enables the continued use of frozen assets in ways which undermine the objectives of those restrictive measures.*** In order to ensure the effective implementation of Union restrictive measures, ***their violation should be included in*** the scope of the Directive ***in so far as they constitute criminal offences within the meaning of Directive (EU) [.../...]*** [Directive on the definition of criminal offences and penalties for the violation of Union

restrictive measures]. ***Criminal law measures adopted in the Union, and the freezing and confiscation that result therefrom, represent a way to support Ukraine's reconstruction.***

Amendment 10

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The Russian war of aggression against Ukraine has made the urgent mobilisation of substantial resources for the reconstruction of Ukraine crucial. The revised rules on asset recovery and confiscation should be future proof and enable the possibility to channel the net revenues of assets confiscated in the frame of criminal offences related to the war in Ukraine beyond the circumvention of Union's restrictive measures as soon as those offences are identified and defined as Union crimes in accordance with Article 83 TFEU.

Amendment 11

Proposal for a directive Recital 17

Text proposed by the Commission

Amendment

(17) In order to perform effective asset tracing investigations, and to swiftly respond to cross-border requests, asset recovery offices should have access to the information that allows them to establish the existence, ownership or control of property that may become object of a freezing or a confiscation order. Therefore, asset recovery offices should have access to the relevant data such as fiscal data, national citizenship and population registries, commercial databases and social

(17) In order to perform effective asset tracing investigations, and to swiftly respond to cross-border requests, asset recovery offices should have access to the information that allows them to establish the existence, ownership or control of property that may become object of a freezing or a confiscation order. Therefore, asset recovery offices should have access to the relevant data such as ***bank accounts data***, fiscal data, national citizenship and population registries, commercial

security information. This should include law enforcement information in so far as data such as criminal records, vehicles stops, property searches and previous legal actions such as freezing and confiscation orders or seizures of cash can be of value to identify relevant property. Access to information should be subject to specific safeguards that prevent the misuse of the access rights. These safeguards should be without prejudice to Article 25 of Directive (EU) 2016/680 of the European Parliament and of the Council²³. The direct and immediate access to this information does not prevent Member States from making access subject to procedural safeguards as established under national law while taking due account of the need for asset recovery offices to be able to swiftly reply to cross-border requests. The implementation of the procedural safeguards for access to databases should not affect the ability of asset recovery offices to respond to requests from other Member States, especially in case of urgent requests. Access to relevant databases and registries under this Directive should complement access to bank account information pursuant to Directive (EU) 2019/1153 of the European Parliament and of the Council²⁴ and to beneficial ownership information pursuant to Directive (EU) 2015/849 of the European Parliament and of the Council²⁵.

²³ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision

databases and social security information. This should include law enforcement information in so far as data such as criminal records, vehicles stops, property searches and previous legal actions such as freezing and confiscation orders or seizures of cash can be of value to identify relevant property. Access to information should be subject to specific safeguards that prevent the misuse of the access rights. These safeguards should be without prejudice to Article 25 of Directive (EU) 2016/680 of the European Parliament and of the Council²³. The direct and immediate access to this information does not prevent Member States from making access subject to procedural safeguards as established under national law while taking due account of the need for asset recovery offices to be able to swiftly reply to cross-border requests. The implementation of the procedural safeguards for access to databases should not affect the ability of asset recovery offices to respond to requests from other Member States, especially in case of urgent requests. Access to relevant databases and registries under this Directive should complement access to bank account information pursuant to Directive (EU) 2019/1153 of the European Parliament and of the Council²⁴ and to beneficial ownership information pursuant to Directive (EU) 2015/849 of the European Parliament and of the Council²⁵.

²³ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision

2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

²⁴ Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p. 122).

²⁵ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 (OJ L 141 5.6.2015, p. 73).

Amendment 12

Proposal for a directive Recital 18

Text proposed by the Commission

(18) To ensure the security of the information shared between asset recovery offices, the use of the Secure Information Exchange Network Application (SIENA), managed by Europol in accordance with Regulation (EU) 2016/794 of the European Parliament and of the Council²⁶, should be mandatory for all communications among asset recovery offices under this Directive. Therefore, in order to be able to fulfil all the tasks assigned by this Directive, all asset recovery offices should be able to directly access SIENA.

²⁶ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA,

2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

²⁴ Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p. 122).

²⁵ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 (OJ L 141 5.6.2015, p. 73).

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²⁶ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA,

Amendment 13

Proposal for a directive Recital 22

Text proposed by the Commission

(22) Freezing measures should be without prejudice to the possibility for a specific property to be considered evidence throughout the proceedings, provided that it would ultimately be made available for effective execution of the confiscation order. In the context of criminal proceedings, property may also be frozen with a view to its possible subsequent restitution or in order to safeguard compensation for the damage caused by a criminal offence.

Amendment

(22) Freezing measures should ***include measures aimed at preserving and optimising the value of concerned property until its disposal*** and be without prejudice to the possibility for a specific property to be considered evidence throughout the proceedings, provided that it would ultimately be made available for effective execution of the confiscation order. In the context of criminal proceedings, property may also be frozen with a view to its possible subsequent restitution or in order to safeguard compensation for the damage caused by a criminal offence.

Amendment 14

Proposal for a directive Recital 39

Text proposed by the Commission

(39) An effective recovery system requires concerted efforts of a wide range of authorities, from law enforcement, including customs authorities, tax authorities and tax recovery authorities to the extent that they are competent for asset recovery, asset recovery offices, judicial authorities and asset management authorities, including asset management offices. In order to ensure coordinated action by all competent authorities, it is necessary to establish a more strategic approach to asset recovery and promote a greater cooperation between the relevant

Amendment

(39) An effective ***asset tracing***, recovery ***and reuse*** system ***as well as maintaining the value of frozen assets*** requires concerted efforts of a wide range of authorities, from law enforcement, including customs authorities, tax authorities and tax recovery authorities to the extent that they are competent for asset recovery, asset recovery offices, judicial authorities and asset management authorities, including asset management offices. In order to ensure coordinated action by all competent authorities, it is necessary to establish a more strategic

authorities, and to obtain a clear overview of the results of asset recovery. For this purpose, Member States should adopt and regularly review a national strategy on asset recovery to guide actions in relation to financial investigations, freezing and confiscation, management as well as final disposal of the relevant instrumentalities, proceeds, or property. Furthermore, Member States should provide competent authorities with the necessary resources to be able to fulfil their tasks effectively. Competent authorities should be understood as the authorities entrusted with the carrying out of the tasks as outlined under this Directive and according to national set-ups.

approach to asset recovery and promote a greater cooperation between the relevant authorities, and to obtain a clear overview of the results of asset recovery. For this purpose, Member States should adopt and regularly review a national strategy on asset recovery to guide actions in relation to financial investigations, freezing and confiscation, management as well as final disposal of the relevant instrumentalities, proceeds, or property. Furthermore, Member States should provide competent authorities with the necessary resources to be able to fulfil their tasks effectively. Competent authorities should be understood as the authorities entrusted with the carrying out of the tasks as outlined under this Directive and according to national set-ups.

Amendment 15

Proposal for a directive Recital 41

Text proposed by the Commission

(41) To ensure consistent approaches among Member States in the collection of statistics, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission to supplement this Directive by adopting more detailed rules on the information to be collected and the methodology for the collection of the statistics.

Amendment

(41) To ensure consistent approaches among Member States in the collection of statistics, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission to supplement this Directive by adopting more detailed rules on the information to be collected and the methodology for the collection of the statistics. ***In this scope, a relevant platform should be in place at Union level to support effective evaluation in the information collection process.***

Amendment 16

Proposal for a directive Recital 43

Text proposed by the Commission

(43) To provide a more comprehensive

Amendment

(43) To provide a more comprehensive

overview of the action taken to freeze and confiscate, Member States should establish a central register of frozen, managed and confiscated instrumentalities, proceeds, or property, and collect the necessary statistics on the implementation of the relevant measures. Centralised registries of frozen and confiscated instrumentalities, proceeds, or property should be established at national level for the purpose of facilitating the management of the specific file. The aim of establishing centralised registries is to assist all the relevant authorities responsible for the recovery of criminal property with an accessible record of the property which is frozen, confiscated, or under management, from the moment it is frozen until it is returned to the owner or it is disposed of. Information entered in the registries should be retained only for as long as it is necessary for the purposes of management of the specific case, or for the purposes of gathering statistical data collection. For case management purposes, it should not be kept for longer than after the final disposal of the property following a confiscation order, or after its return to the owner in case of acquittal. Access to the information recorded in the centralised registries should be given only to authorities responsible for the recovery of criminal property, such as asset recovery offices, asset management offices, national courts or otherwise appointed authorities according to national dispositions.

overview of the action taken to freeze and confiscate, Member States should establish a central register of frozen, managed and confiscated instrumentalities, proceeds, or property, and collect the necessary statistics on the implementation of the relevant measures. Centralised registries of frozen and confiscated instrumentalities, proceeds, or property should be established at national level for the purpose of facilitating the management of the specific file. The aim of establishing centralised registries is to assist all the relevant authorities responsible for the recovery of criminal property with an accessible record of the property which is frozen, confiscated, or under management, from the moment it is frozen until it is returned to the owner or it is disposed of. Information entered in the registries should be retained only for as long as it is necessary for the purposes of management of the specific case, or for the purposes of gathering statistical data collection. For case management purposes, it should not be kept for longer than after the final disposal of the property following a confiscation order, or after its return to the owner in case of acquittal. Access to the information recorded in the centralised registries should be given only to authorities responsible for the recovery of criminal property, such as asset recovery offices, asset management offices, national courts or otherwise appointed authorities according to national dispositions. ***The Commission can provide specific guidelines for Member States on the collection and treatment of this information. Those guidelines can also set out the rules for the scope and practices of information exchange with third countries when the property concerned is frozen or confiscated under the Union sanctions regime.***

Amendment 17

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Asset recovery offices should also closely cooperate with EU bodies and agencies, including Europol, Eurojust and the European Public Prosecutor's Office, in accordance with their respective mandates, insofar as it is necessary to trace and identify property within the cross-border investigations supported by Europol and Eurojust or within the investigations undertaken by the European Public Prosecutor's Office. Asset recovery offices should also cooperate with Europol and Eurojust, in accordance with their respective mandates, insofar as it is necessary to trace and identify property to prevent, detect or investigate criminal offences related to the violation of Union restrictive measures.

Amendment

(45) Asset recovery offices should also closely cooperate with EU bodies and agencies, including Europol, Eurojust and the European Public Prosecutor's Office, in accordance with their respective mandates, insofar as it is necessary to trace and identify property within the cross-border investigations supported by Europol and Eurojust or within the investigations undertaken by the European Public Prosecutor's Office. Asset recovery offices ***should closely cooperate with the central and decentralised levels of the European Public Prosecutor's Office (EPPO) with regard to the Member States that participate in the enhanced cooperation on the establishment of the EPPO if applicable under Regulation (EU) 2017/1939^{1a}. Asset recovery offices should therefore incur the reporting obligations under the EPPO Regulation, reporting to the EPPO in the same way as they do to national competent authorities and Financial Intelligence Units. Asset recovery offices*** should also cooperate with ***EPPO***, Europol and Eurojust, in accordance with their respective mandates, insofar as it is necessary to trace and identify property to prevent, detect or investigate criminal offences related to the violation of Union restrictive measures.

^{1a} ***Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).***

Amendment 18

Proposal for a directive
Article 2 – paragraph 1 – point m

Text proposed by the Commission

(m) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties as defined *in* Directive 2008/99/EC of the European Parliament and of the Council⁵⁰, as well as offences related to ship pollution as defined in Directive 2005/35/EC as amended by Directive 2009/123/EC⁵¹;

⁵⁰ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

⁵¹ Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).

Amendment 19

**Proposal for a directive
Article 2 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

(m) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties as defined in Directive 2008/99/EC of the European Parliament and of the Council⁵⁰, as well as offences related to ship pollution as defined in Directive 2005/35/EC as amended by Directive 2009/123/EC⁵¹;

⁵⁰ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

⁵¹ Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).

3a. This Directive shall apply to the crimes of aggression or the facilitation of aggression against Ukraine subject to the adoption of the relevant Council Decisions identifying and defining those crimes in accordance with Article 83 TFEU.

Amendment 20

**Proposal for a directive
Article 3 – paragraph 1 – point 1**

Text proposed by the Commission

(1) ‘proceeds’ means any economic advantage derived directly or indirectly from a criminal offence consisting of any form of property, and including any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

Amendment

(1) ‘proceeds’ means any economic advantage derived directly or indirectly from a criminal offence consisting of any form of property, and including any subsequent reinvestment or transformation of direct proceeds and any valuable benefits, ***including cryptocurrency***;

Amendment 21

Proposal for a directive

Article 3 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) ‘assets’ means the moveable and immovable property, savings in bank accounts, liquid money and business ownership associated with a crime or a suspected crime, whereby such assets are illegally obtained, are used to commit a crime, or exist as a result of a crime;

Amendment 22

Proposal for a directive

Article 5 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) cooperate and exchange information with other Member States’ asset recovery offices in the tracing and identification of instrumentalities and proceeds, or property which may become or is the object of a freezing or confiscation order;

(c) cooperate and exchange information with other Member States’ asset recovery offices, ***as well as with the EPPO***, in the tracing and identification of instrumentalities and proceeds, or property which may become or is the object of a freezing or confiscation order;

Amendment 23

Proposal for a directive

Article 5 – paragraph 2 – point d

Text proposed by the Commission

(d) exchange information with other asset recovery offices in the Member States related to the effective implementation of Union restrictive measures where necessary to prevent, detect or investigate criminal offences.

Amendment

(d) exchange information with other asset recovery offices in the Member States related to the effective implementation of Union restrictive measures, ***as well as with the EPPO***, where necessary to prevent, detect or investigate criminal offences.

Amendment 24

**Proposal for a directive
Article 5 – paragraph 3**

Text proposed by the Commission

3. Asset recovery offices shall be empowered to trace and identify property of persons and entities subject to EU targeted financial sanctions where necessary to prevent, detect or investigate criminal offences. To that effect, they shall cooperate with asset recovery offices and other relevant competent authorities in other Member States and exchange relevant information.

Amendment

3. Asset recovery offices shall be empowered to trace and identify property of persons and entities subject to EU targeted financial sanctions where necessary to prevent, detect or investigate criminal offences. To that effect, they shall cooperate with asset recovery offices and other relevant competent authorities in other Member States, ***as well as with the EPPO***, and exchange relevant information.

Amendment 25

**Proposal for a directive
Article 6 – paragraph 1 – point a**

Text proposed by the Commission

(a) fiscal data, including data held by tax and revenue authorities;

Amendment

(a) ***data on bank accounts and financial transactions***, fiscal data, including data held by tax and revenue authorities;

Amendment 26

**Proposal for a directive
Article 7 – paragraph 2**

Text proposed by the Commission

Amendment

2. Member States shall ensure that staff of the asset recovery offices comply with the rules on confidentiality and professional secrecy as provided for under applicable national law. Member States shall also ensure that staff of asset recovery offices have the necessary specialised skills and abilities to perform their roles effectively.

2. Member States shall ensure that staff of the asset recovery offices comply with the rules on confidentiality and professional secrecy **and ethics** as provided for under applicable national law. Member States shall also ensure that staff of asset recovery offices have the necessary specialised skills and abilities to perform their roles effectively.

Amendment 27

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that appropriate technical and organisational measures are in place to ensure the security of the data in order for asset recovery offices to access and search the information referred to in Article 6.

Amendment

3. Member States shall ensure that appropriate technical and organisational measures are in place to ensure the security of the data in order for **the** asset recovery offices to access and search the information referred to in Article 6.

Amendment 28

Proposal for a directive Article 9 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that their asset recovery offices provide, upon request from an asset recovery office of another Member State, any information that is necessary for the performance of their tasks pursuant to Article 5. The categories of personal data that can be provided are those listed in Section B, point 2 of Annex II to Regulation (EU) 2016/794.

Amendment

Member States shall take the necessary measures to ensure that their asset recovery offices provide, upon request from an asset recovery office of another Member State, **as well as of the EPPO**, any information that is necessary for the performance of their tasks pursuant to Article 5. The categories of personal data that can be provided are those listed in Section B, point 2 of Annex II to Regulation (EU) 2016/794.

Amendment 29

Proposal for a directive

Article 11 – paragraph 2

Text proposed by the Commission

2. Freezing measures shall include immediate action to be taken when necessary in order to preserve the property.

Amendment

2. Freezing measures shall include immediate action to be taken when necessary in order to preserve the *value of frozen assets in particular in cases where there is no possibility to charge the costs for the management of frozen property to the beneficial owner or proceed with an interlocutory sale.*

Amendment 30

Proposal for a directive

Article 17 – title

Text proposed by the Commission

Effective confiscation *and* execution

Amendment

Effective confiscation, execution *and use of the confiscated assets*

Amendment 31

Proposal for a directive

Article 17 – paragraph 2

Text proposed by the Commission

2. Member States shall *consider taking* measures allowing confiscated property to be used for public interest or social purposes.

Amendment

2. Member States shall *take* measures allowing confiscated property to be used for public interest or social purposes, *with a particular focus on the victims wherever possible.*

Amendment 32

Proposal for a directive

Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall decide for which areas of public interest and social purposes the net revenue resulting from the liquidation of confiscated assets may be used except for those established as an own resource in accordance with Article 311(3) TFEU and those stemming from

the criminal offences listed in Article 2(1), (2) and (3) of this Directive when they relate to the Russian aggression against Ukraine and Article 2(3a) of this Directive, which shall constitute external assigned revenue in accordance with Article 21(5) of the Financial Regulation until the establishment of the relevant own resource in accordance with Article 311(3) TFEU and without prejudice to restitution, compensation, to the victims and public concerned and Member States' capacity to implement this Directive.

Amendment 33

Proposal for a directive Article 17 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *The net revenues resulting from the liquidation of confiscated assets stemming from the criminal offences listed in Article 2(1), (2) and (3) of this Directive where those offences relate to the Russian aggression against Ukraine and Article 2(3a) of this Directive shall be mainly assigned to the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the Eastern Neighbourhood line (14 02 01 11) and, where appropriate, to the NDICI - Global Europe - provisioning of the common provisioning fund line (14 02 01 70) under Heading 6 and the successor budget lines in the next MFF. This revenue shall be used to support projects to build and rebuild infrastructure in Ukraine such as energy and food security, infrastructure and public services and to provide compensation to the Ukrainian victim population.*

Amendment 34

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

Where, as a result of a criminal offence, victims have claims against the person who is subject to a confiscation measure provided for under this Directive, Member States shall take the necessary measures to ensure that the confiscation measure ***does not affect*** victims' rights to obtain compensation for their claims.

Amendment

Where, as a result of a criminal offence, victims have claims against the person who is subject to a confiscation measure provided for under this Directive, Member States shall take the necessary measures to ensure that the confiscation measure ***serves the exercise of the*** victims' rights to obtain compensation for their claims. .

Amendment 35

Proposal for a directive

Article 19 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure the efficient management of frozen and confiscated property until its disposal.

Amendment

1. Member States shall ensure the efficient management of frozen and confiscated property until its disposal ***and aim at maintaining the value of the assets in particular in cases where there is no possibility to charge the costs for the management of frozen property to the beneficial owner or proceed with an interlocutory sale.***

Amendment 36

Proposal for a directive

Article 21 – paragraph 2 – point c

Text proposed by the Commission

(c) to cooperate with other competent authorities responsible for the tracing and identification, freezing and confiscation of property, pursuant to this Directive;

Amendment

(c) to cooperate with other competent authorities responsible for the tracing and identification, freezing and confiscation of property, pursuant to this Directive, ***including EPPO, Europol, Eurojust and national law enforcement authorities in other Member States;***

Amendment 37

Proposal for a directive

Article 25 – paragraph 1

Text proposed by the Commission

Member States shall ensure that asset recovery offices and asset management offices performing tasks pursuant to this Directive, have appropriately qualified staff and appropriate financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall ensure that asset recovery offices and asset management offices performing tasks pursuant to this Directive ***as well as the authorities managing the centralised registries***, have appropriately qualified staff, ***in particular by providing them with regular and relevant training activities including on ethics, integrity and anti-corruption***, and appropriate financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. ***Member States shall ensure that the budgetary resources allocated to asset recovery offices and asset management offices are made publicly available.***

Amendment 38

Proposal for a directive Article 26 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that asset recovery offices, asset management offices, and other competent authorities performing tasks pursuant to Article 4, 19 ***and 20***, have the power to enter, access and search, directly and immediately, the information referred to in paragraph 3.

Amendment

2. Member States shall take the necessary measures to ensure that asset recovery offices, asset management offices, and other competent authorities performing tasks pursuant to Article 4, 19, ***20 and 21, as well as the Commission and EPPO***, have the power to enter, access and search, directly and immediately, the information referred to in paragraph 3.

Amendment 39

Proposal for a directive Article 26 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the estimated or actual value of the **property** at the moment of the freezing, confiscation and disposal;

(b) the estimated or actual value of the **assets** at the moment of the freezing, confiscation and disposal **as well as the nature of the criminal offences underpinning the freezing, confiscation and disposal**;

Amendment 40

Proposal for a directive Article 27 – paragraph 1

Text proposed by the Commission

1. Member States shall collect and maintain comprehensive statistics at central level on the measures taken under this Directive.

Amendment

1. Member States shall collect and maintain comprehensive **and detailed** statistics at central level on the measures taken under this Directive **including of the net value of proceeds resulting from the liquidation of confiscated assets**.

Amendment 41

Proposal for a directive Article 27 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the statistics referred to in paragraph 1 are collected on a calendar basis and transmitted to the Commission on an annual basis, by **[1 September]** of the following year.

Amendment

2. Member States shall ensure that the statistics referred to in paragraph 1 are collected on a calendar basis and transmitted to the Commission on an annual basis, by **[15 March]** of the following year. **The Commission shall make these statistics publicly available on a regular basis in order to ensure transparency. Within the scope of effectively supporting the evaluation of the collected statistics and in aiding the information collection process, a relevant platform shall be in place at Union level.**

Amendment 42

Proposal for a directive Article 27 – paragraph 3

Text proposed by the Commission

3. The Commission ***may adopt delegated acts in accordance with Article 30 laying*** down more detailed rules on the information to be collected and the methodology for the collection of the statistics referred to in paragraph 1 and the arrangements for their transmission to the Commission.

Amendment

3. The Commission ***shall lay*** down more detailed rules on the information to be collected and the methodology for the collection of the statistics referred to in paragraph 1 and the arrangements for their transmission to the Commission ***and may adopt delegated act in accordance with Article 30 for doing so.***

Amendment 43

**Proposal for a directive
Article 28 – paragraph 1a (new)**

Text proposed by the Commission

Amendment

1a. For the purposes of this Directive and if applicable under Regulation (EU) 2017/1939[1], when the notion of competent authorities refers to investigating and prosecuting authorities, it shall be interpreted as including the central and decentralised levels of the European Public Prosecutor's Office (EPPO) with regard to the Member States that participate in the enhanced cooperation on the establishment of the EPPO. Asset recovery offices shall therefore incur the obligations under the EPPO Regulation, including the obligation to report to the EPPO under Article 24 of the EPPO Regulation, undertaking of measures if instructed as a competent authority under Article 28(1) of the EPPO Regulation and access to information under Article 43(1) of the EPPO Regulation.

¹ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Asset recovery and confiscation
References	COM(2022)0245 – C9-0186/2022 – 2022/0167(COD)
Committee responsible Date announced in plenary	LIBE 22.6.2022
Opinion by Date announced in plenary	BUDG 15.9.2022
Rapporteur for the opinion Date appointed	Vlad Gheorghe 1.9.2022
Discussed in committee	9.2.2023
Date adopted	28.3.2023
Result of final vote	+ : 31 - : 1 0 : 3
Members present for the final vote	Rasmus Andresen, Pietro Bartolo, Olivier Chastel, Andor Deli, Pascal Durand, José Manuel Fernandes, Eider Gardiazabal Rubial, Vlad Gheorghe, Valérie Hayer, Niclas Herbst, Adam Jarubas, Fabienne Keller, Joachim Kuhs, Zbigniew Kuźmiuk, Pierre Larroustourou, Camilla Laureti, Janusz Lewandowski, Margarida Marques, Siegfried Mureşan, Victor Negrescu, Andrey Novakov, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Eleni Stavrou, Nils Torvalds, Nils Ušakovs, Angelika Winzig
Substitutes present for the final vote	Francisco Guerreiro, Monika Vana
Substitutes under Rule 209(7) present for the final vote	Karolin Braunsberger-Reinhold, Daniel Caspary, Daniel Freund, Isabel García Muñoz, Andreas Glück

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

31	+
PPE	Karolin Braunsberger-Reinhold, Daniel Caspary, José Manuel Fernandes, Niclas Herbst, Adam Jarubas, Janusz Lewandowski, Siegfried Mureşan, Andrey Novakov, Karlo Ressler, Eleni Stavrou, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Andreas Glück, Valérie Hayer, Fabienne Keller, Nils Torvalds
S&D	Pietro Bartolo, Pascal Durand, Isabel García Muñoz, Eider Gardiazabal Rubial, Pierre Larroustourou, Camilla Laureti, Margarida Marques, Victor Negrescu, Nils Ušakovs
The Left	Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, Daniel Freund, Francisco Guerreiro, Monika Vana

1	-
NI	Andor Deli

3	0
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca
ID	Joachim Kuhs

Key to symbols:

+ : in favour

- : against

0 : abstention