Basic information

2022/0167(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Asset recovery and confiscation **Subject** 7.30.30 Action to combat crime 7.30.30.06 Action to combat economic fraud and corruption 7.30.30.08 Capital outflow, money laundering 7.40.04 Judicial cooperation in criminal matters **Legislative priorities** Joint Declaration 2022 Joint Declaration 2023-24	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	VINCZE Loránt (EPP)	10/10/2022
	Shadow rapporteur REUTEN Thijs (S&D) AZMANI Malik (Renew) LAGODINSKY Sergey (Greens/EFA) KANKO Assita (ECR) FEST Nicolaus (ID)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	GHEORGHE Vlad (Renew)	01/09/2022
JURI Legal Affairs (Associated committee)	LAGODINSKY Sergey (Greens/EFA)	26/10/2022

Council of the European Union

European Commission

Commission DG	Commissioner
Employment, Social Affairs and Inclusion	-- --
Migration and Home Affairs	-- --

Key events

Date	Event	Reference	Summary
25/05/2022	Legislative proposal published	COM(2022)0245	Summary
22/06/2022	Committee referral announced in Parliament, 1st reading		
15/12/2022	Referral to associated committees announced in Parliament		
23/05/2023	Vote in committee, 1st reading		
23/05/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
26/05/2023	Committee report tabled for plenary, 1st reading	A9-0199/2023	Summary
31/05/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
12/06/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
23/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2024)000385 PE759.655	
13/03/2024	Decision by Parliament, 1st reading	T9-0141/2024	Summary
13/03/2024	Results of vote in Parliament		
12/04/2024	Act adopted by Council after Parliament's 1st reading		
24/04/2024	Final act signed		
02/05/2024	Final act published in Official Journal		

Technical information

Procedure reference	2022/0167(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Rules of Procedure EP 57_o Treaty on the Functioning of the European Union TFEU 087-p2 Treaty on the Functioning of the European Union TFEU 083-p1-a1 Treaty on the Functioning of the European Union TFEU 082-p2 Treaty on the Functioning of the European Union TFEU 083-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/09140

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE742.501	14/02/2023	
Amendments tabled in committee		PE745.293	10/03/2023	
Committee opinion	JURI	PE740.764	24/03/2023	
Committee opinion	BUDG	PE739.737	03/04/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0199/2023	26/05/2023	Summary
Text agreed during interinstitutional negotiations		PE759.655	23/02/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0141/2024	13/03/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)000385	18/01/2024	
Draft final act	00003/2024/LEX	24/04/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2022)0245	25/05/2022	Summary
Document attached to the procedure	SEC(2022)0245	25/05/2022	
Document attached to the procedure	SWD(2022)0245	25/05/2022	
Document attached to the procedure	SWD(2022)0246	25/05/2022	
Commission response to text adopted in plenary	SP(2024)350	22/07/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2022)0245	12/09/2022	
Contribution	CZ_SENATE	COM(2022)0245	07/12/2022	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N9-0079/2022 OJ C 425 08.11.2022, p. 0002	19/07/2022	
EESC	Economic and Social Committee: opinion, report	CES3642/2022	14/12/2022	

Additional information		
Source	**Document**	**Date**
European Parliament	Briefing	28/05/2024
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	**Role**	**Committee**	**Date**	**Interest representatives**
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Centre for Economic Strategy
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Institute for Economic Research and Policy Consulting
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Institute of Analytics and Advocacy
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Rise Ukraine Coalition
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Institute for Economic Research and Policy Consulting
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	DiXi Group
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	CEE Bankwatch
GHEORGHE Vlad	Rapporteur for opinion	BUDG	26/04/2023	Budgetary Committee of Ukrainian Rada
LAGODINSKY Sergey	Rapporteur	JURI	26/04/2023	CEE Bankwatch Network Centre for Economic Strategy Institute for Economic Research and Policy Consulting Institute of Analytics and Advocacy Rise Ukraine Coalition Dixi Group
GHEORGHE Vlad	Rapporteur	BUDG	27/02/2023	MPs Ukrainian Parliament
AZMANI Malik	Shadow rapporteur	LIBE	13/02/2023	European Public Prosecutor's Office (EPPO)
LAGODINSKY Sergey	Rapporteur for opinion	JURI	10/02/2023	Permanent Representation of the Federal Republic of Germany to the European Union
LAGODINSKY Sergey	Rapporteur for opinion	JURI	31/01/2023	CiFAR - Civil Forum for Asset Recovery e.V. Transparency International Liaison Office to the European Union
GUSMÃO José	Shadow rapporteur	LIBE	31/01/2023	Transparency International
GHEORGHE Vlad	Rapporteur	BUDG	25/01/2023	MPs Ukrainian Parliament
AZMANI Malik	Shadow rapporteur	LIBE	25/01/2023	MP's Parliament of Ukraine, Budget Committee
HEINÄLUOMA Eero	Shadow rapporteur for opinion	BUDG	16/01/2023	Finnish permanent representation

Final act

Directive 2024/1260
OJ OJ L 02.05.2024

Summary

Asset recovery and confiscation

2022/0167(COD) - 02/05/2024 - Final act

PURPOSE: to facilitate confiscation of property in proceedings in criminal matters.

LEGISALTIVE ACT: Directive (EU) 2024/1260 of the European Parliament and of the Council on asset recovery and confiscation.

CONTENT: to tackle the serious threat posed by organised crime, the Directive lays down EU-wide minimum rules on the **tracing, identification, freezing, confiscation and management of criminal property** in connection with a wide range of crimes.

Asset-tracing investigations

To facilitate cross-border cooperation, Member States will take measures to enable the swift tracing and identification of instrumentalities and proceeds, or of property which is, or might become, the object of a freezing or confiscation order in the course of proceedings in criminal matters. Where an investigation is initiated in relation to a criminal offence that is liable to give rise to substantial economic benefit, **asset-tracing investigations should be carried out immediately by competent authorities**.

Asset recovery offices

Each Member State will set up at least one asset recovery office to facilitate cross-border cooperation in relation to asset-tracing investigations. Asset recovery offices will have the following tasks:

- to trace and identify instrumentalities, proceeds or property where necessary to support other national competent authorities responsible for asset-tracing investigations pursuant to the European Public Prosecutors Office (EPPO);

- to trace and identify instrumentalities, proceeds or property which are or might become the object of a freezing or confiscation order issued by a competent authority in another Member State;

- to cooperate and exchange information with asset recovery offices in other Member States and the EPPO in the tracing and identification of instrumentalities, proceeds or property which are or might become the object of a freezing or confiscation order.

Recovery offices will have access to the relevant databases and registers in order to carry out these tasks (e.g. national property registers, national citizenship and population registers, national registers of motor vehicles, aircraft and watercraft, commercial registers and national registers of beneficial owners).

Freezing and confiscation

Member States will enable the freezing of property and, in the event of a final conviction, the confiscation of instrumentalities and proceeds stemming from a criminal offence. In addition, they should adopt rules allowing them to **confiscate property of a value corresponding to the proceeds of a crime**.

Member States will take the necessary measures to allow:

- the confiscation of proceeds or property the value of which corresponds to that of proceeds that have been transferred, directly or indirectly, to third parties by a suspected or accused person Where criminal assets or property of the same value are **transferred to a third party**, it will be possible to confiscate them if the third party knew or should have known that the purpose of the transfer or acquisition was to avoid confiscation;

- the confiscation of property belonging to a person convicted of a criminal offence, where the offence committed is likely to give rise, directly or indirectly, to economic gain and where a national court is satisfied that the property was derived from criminal activity;

- confiscation of instrumentalities, proceeds or property where criminal proceedings have been initiated but **cannot be pursued** because of one or more of the following circumstances: (a) illness of the suspected or accused person; (b) absconding of the suspected or accused person; (c) death of the suspected or accused person;

- the **confiscation of unexplained wealth** where the assets concerned are linked to activities carried out as part of a criminal organisation and generate significant economic gain;

- tracing and identifying assets to be frozen and confiscated, even after a final conviction for a criminal offence or at the end of confiscation procedures.

Compensation of victims

Member States will take appropriate measures to ensure that 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, such claims are taken into account within the relevant asset-tracing, freezing and confiscation proceedings.

Where a victim is entitled to the restitution of property that is or might become subject to a confiscation measure provided for under this Directive, Member States should take the necessary measures to return the property concerned to the victim.

Early sale

The new legislation also provides for the sale of frozen property, under certain conditions and even before final confiscation, for example when the property is perishable or when the costs of storing or maintaining the property are disproportionate to its market value.

Legal remedies

Member States must ensure that persons affected by freezing orders and confiscation orders have the right to an effective remedy and a fair trial in order to uphold their rights. The rights of defence, including the right of access to the file, the right to be heard on issues of law and fact and, where appropriate, the right to interpretation and translation, must be guaranteed to the persons concerned who are suspected or prosecuted.

Lastly, Member States must adopt a **national strategy** for asset recovery by 24 May 2027 at the latest, and update it at regular intervals of no longer than five years.

ENTRY INTO FORCE: 22.5.2024.

TRANSPOSITION: no later than 23.11.2026.

Asset recovery and confiscation

2022/0167(COD) - 13/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 598 votes to 19, with 7 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on asset recovery and confiscation.

This Directive establishes **minimum rules on the tracing and identification, freezing, confiscation and management of property** within the framework of proceedings in criminal matters.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Subject matter

This Directive will apply to a wide range of crimes, such as organised crime, terrorism, trafficking in human beings and drug trafficking

Member States are in particular encouraged to ensure that the crimes of counterfeiting and piracy of products, illicit trafficking in cultural goods, forgery and trafficking of administrative documents, murder or grievous bodily injury,

illicit trade in human organs and tissue, kidnapping, illegal restraint or hostagetaking, organised or armed robbery, racketeering and extortion, trafficking in stolen vehicles, tax crimes relating to direct taxes and indirect taxes, arson, fraud and swindling, illicit trafficking in nuclear or radioactive materials and crimes which fall within the jurisdiction of the International Criminal Court are included in the scope of this Directive.

Asset-tracing investigations

To facilitate cross-border cooperation, Member States should take measures to enable the swift tracing and identification of instrumentalities and proceeds, or of property which is, or might become, the object of a freezing or confiscation order in the course of proceedings in criminal matters.

Asset recovery offices

Each Member State should set up at least one asset recovery office to **facilitate cross-border cooperation** in relation to asset-tracing investigations.

Asset recovery offices should also be able to trace and identify instrumentalities, proceeds or property where necessary to support other national competent authorities responsible for asset-tracing investigations or the European Public Prosecutors Office.

In order to perform their tasks, asset recovery offices should be entitled to request the relevant competent authorities, in accordance with national law, to cooperate with them where necessary for the tracing and identification of instrumentalities, proceeds or property.

Asset recovery offices shall be empowered to trace and identify property of persons and entities subject to **Union restrictive measures** where necessary to facilitate the detection of criminal offences.

Member States should ensure that asset recovery offices have **immediate and direct access** to the following information, provided that such information is stored in centralised or interconnected databases or registers held by public authorities: (i) national real-estate registers or electronic data retrieval

systems and land and cadastral registers; (ii) national citizenship and population registers; (iii) national motor vehicle, aircraft and watercraft registers; (iv) commercial registers, including business and company registers; (v) national beneficial-ownership registers in accordance with Directive (EU) 2015 /849; (vi) centralised bank-account registers.

Asset recovery offices should be able to **swiftly obtain, either immediately and directly or upon request**, the following information: (i) fiscal data; (ii) national social security data; (iii) information on mortgages and loans; (iv) information contained in national currency databases and currency exchange databases; (v) information on securities; (vi) customs data; (vii) information on annual financial statements by companies, on wire-transfers and account balances and on crypto-asset accounts.

Freezing and confiscation

According to the amended text, Member States need to take measures to enable the freezing of property in order to ensure an eventual confiscation and to ensure, in the event of a final conviction, the confiscation of instrumentalities and proceeds stemming from a criminal offence. Where criminal assets or property of equal value are **transferred to a third party**, it must also be possible to confiscate them, but only if the third party knew or should have known that the purpose of the transfer or acquisition was to avoid confiscation.

Confiscation of unexplained wealth linked to criminal conduct

A new rule on the confiscation of unexplained wealth will, under certain conditions, allow the confiscation of property identified in the context of an investigation in relation to criminal offences, provided that a national court is satisfied that the identified property is derived from criminal activities committed within the framework of a criminal organisation and that those activities give rise to substantial economic benefit.

Asset management

Member States should set up or designate one or more competent authorities to function as asset management offices with the purpose of establishing specialised authorities tasked with the management of frozen and confiscated property in order to effectively manage the property frozen before confiscation and preserve its value, pending a final decision on the confiscation and the disposal of the property based on such decision.

Compensation of victims

Member States should take appropriate measures to ensure that 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, such claims are taken into account within the relevant asset-tracing, freezing and confiscation proceedings.

Member States are encouraged to take the necessary measures to allow the possibility of using confiscated property, where appropriate, for public interest or social purposes.

Legal remedies

Member States should ensure that persons affected by freezing orders and confiscation have the right to an effective remedy and to a fair trial in order to uphold their rights.

Asset recovery and confiscation

2022/0167(COD) - 26/05/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Loránt VINCZE (EPP, RO) on the proposal for a directive of the European Parliament and of the Council on asset recovery and confiscation.

The confiscation of criminals' illicit profits is considered an effective tool in the fight against organised crime, identified as a major threat to EU security. However, despite the comprehensive set of EU rules on asset freezing and confiscation, there are still obstacles on the path to recovering criminal assets.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Scope

Members proposed **expanding the scope** of the directive to include the following criminal offences:

- illicit trafficking in **nuclear or radioactive** materials;

- crimes within the jurisdiction of the International Criminal Court;

- the unlawful seizure of aircraft or ships;

- sabotage;

- illicit trafficking in hormonal substances and other growth promoters;

- arson;

- rape;

- swindling;

- racism and xenophobia.

Access to information

Member States should ensure that asset recovery offices have appropriate access to any information to the extent that information is necessary for the tracing and identification of proceeds, instrumentalities, proceeds and property.

That access should be expanded to include access to *inter alia*:

- national beneficial ownership registers including registers of beneficial owners of trusts and similar legal arrangements;

- bank account registers, including information on **wire-transfers** and accounts balances;

- information on **mortgages and loans**;

- information on securities;

- customs data, including **cross-border physical transfers of cash**;

- information on **crypto-assets**;

- information on relevant **high value goods** or assets registers.

Efficient freezing

The report proposed that Member States should take the necessary measures to enable the freezing of property necessary to ensure a possible confiscation of that property and to ensure the right to **restitution and compensation to victims**.

Freezing measures should consist of freezing orders and immediate action in the form of **temporary urgent freezing measures**. Immediate action in the form of temporary urgent freezing measures should be taken when necessary, in order to preserve the property concerned.

Where a freezing order under this Directive has been issued by a competent authority other than a judicial authority, Member States should ensure that such an order is validated or annulled by a judicial authority without undue delay.

Further use of the confiscated property

Members suggested that Member States should take the necessary measures to allow confiscated property to be used for public interest or social purposes. Such property may be kept as public property for justice, law enforcement, public service or economic purposes or be transferred to the local or regional authorities responsible for the area in which the property is located, for institutional, social or economic purposes, including for assignment to organisations carrying out work of social interest.

Members also want to ensure that victims are **compensated before confiscation**, especially in cross-border cases, and allow confiscated assets to be used for social or public interest purposes.

Cooperation network on asset recovery and confiscation

A cooperation network on asset recovery and confiscation should be established to support the Commission and to facilitate the exchange of best practices, and operational cooperation in relation to the implementation of this Directive. The network should be composed of representatives from asset recovery offices and asset management offices and should be co-chaired by the Commission and, where appropriate, by Europol.

Asset recovery and confiscation

2022/0167(COD) - 25/05/2022 - Legislative proposal

PURPOSE: to establish minimum rules on tracing and identification, freezing, confiscation and management of property in criminal proceedings.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Europol's 2021 Serious and Organised Crime Threat Assessment (SOCTA) highlighted the rising threat from organised crime and criminal infiltration. The revenues generated by organised crime are considerable. They are estimated at **EUR 139 billion every year** and are increasingly laundered through a parallel underground financial system. The availability of such proceeds from criminal activities poses a significant threat to the integrity of the economy and society, eroding the rule of law and fundamental rights.

The EU Strategy to tackle Organised Crime 2021-2025 aims at addressing these challenges by promoting cross-border cooperation, supporting effective investigations against criminal networks, eliminating proceeds from criminal activities, and making law enforcement and the judiciary fit for the digital age.

In order to **tackle the serious threat posed by organised crime**, it is necessary to provide the competent authorities with the means to effectively trace, identify, freeze, **confiscate** and manage the instruments and proceeds of crime as well as property derived from criminal activities. The **existing legal framework should therefore be updated** to facilitate and ensure the effectiveness of asset recovery and confiscation efforts throughout the Union.

In its resolution of 15 December 2021, the European Parliament called for a strengthening of the rules on asset recovery.

CONTENT: the proposed Directive aims to strengthen the capabilities of competent authorities to **identify, freeze and manage assets**, and reinforce and extend confiscation capabilities so as to cover all relevant criminal activities carried out by organised crime groups, thereby enabling confiscation for all relevant assets.

General provisions on asset recovery and confiscation

The proposed Directive includes not only rules on tracing and identification of assets and their management, but also rules on freezing and confiscation. The proposal broadens the possibilities for confiscation of assets, which will become applicable to a wider range of criminal offences, including the **violation of EU restrictive measures** such as those adopted against Russia and Belarus, once the Commission's proposal to extend the list of EU criminal offences is adopted.

Tracing and identifying assets

The proposal requires Member States to initiate **asset tracing investigations** to facilitate cross-border cooperation, to set up at least one **asset recovery office** and to make certain information directly accessible to asset recovery offices to ensure a rapid response to requests for information from other Member States.

In addition to the current rules, the proposal defines specific tasks of asset recovery offices, including the exchange of information with other asset recovery offices in other Member States. The asset recovery offices should be enabled to take immediate action to temporarily freeze the assets in question.

Freezing and confiscation of assets

The proposal requires Member States to:

- take the necessary measures to ensure that illicit assets can be frozen quickly and, where necessary, with immediate effect to avoid their dissipation;

- enable the confiscation of instrumentalities and proceeds of crime following a final conviction and to enable the confiscation of property of equivalent value to the proceeds of crime;

- enable the confiscation of properties transferred by the accused or suspected person to a third party for the purpose of avoiding confiscation;

- enable the confiscation of property of a convicted person when the national court of a Member State is convinced that that the property derives from a criminal activity;

- provide for the possibility of confiscation where all the evidence for a criminal offence is present, but a conviction is not possible due to a limited number of circumstances.

The proposal introduces a new confiscation possibility where assets are frozen based on suspicion of involvement in organised crime activities and aims to ensure that the right to compensation for victims is not affected by the confiscation measures, similar to the relevant provision in the Confiscation Directive.

Asset management

The proposal requires Member States to (i) ensure that frozen or confiscated assets are managed efficiently until their disposal; (ii) provide for the possibility to transfer or sell frozen assets before the confiscation order is issued; and (iii) establish at least one asset management office, the tasks of which are more precisely defined.

Asset recovery strategic framework

The proposal requires Member States to: (i) adopt a national strategy on asset recovery and update it every five years; (ii) ensure that asset recovery offices and asset management offices have the necessary resources to carry out their tasks; (iii) set up a centralised register containing relevant information on frozen, managed and confiscated assets; and (iv) collect and report statistical data to the Commission on an annual basis

Enhanced cooperation

The proposal aims to ensure cooperation between asset recovery offices and the European Public Prosecutor’s Office, Europol and Eurojust, for the purpose of facilitating the tracing and identification of property that may be subject to confiscation. It also provides that asset recovery offices will need to cooperate with Europol and Eurojust where necessary to prevent, detect or investigate offences related to the violation of the Union restrictive measures.