

New Directive on Asset Recovery and Confiscation

Thomas Wahl



News

In April 2024, the European Parliament and the Council adopted new EU-wide minimum rules on the tracing, identification, freezing, confiscation and management of property within the framework of proceedings in criminal matters. [Directive \(EU\) 2024/1260 on asset recovery and confiscation](#) was published in the EU's Official Journal of 2 May 2024. The respective Commission proposal was tabled on 25 May 2022 (→ [eucrim 2/2022, 76](#)).

The Directive applies to a wide range of crimes, referring to other EU directives that set out minimum rules for criminal offences, such as organised crime, terrorism, trafficking in human beings, drug trafficking, corruption, and money laundering. It will also apply to the recently adopted Directive on the criminalisation of Union restrictive measures (→ [separate news item/related link](#)). Therefore, profits can be more easily confiscated from persons or companies circumventing EU sanctions, such as those imposed with regard to Russia's aggression against Ukraine.

The Directive obliges Member States to have, among other things, the following rules/measures in place:

- 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 shall be carried out immediately by competent authorities;
- Measures to enable the freezing of property and, in the event of a final conviction, the confiscation of instrumentalities and proceeds stemming from a criminal offence;
- Rules allowing Member States to confiscate property of a value corresponding to the proceeds of a crime;
- Possibility of confiscation of criminal assets or property of equal value transferred to a third party, if the third party knew or should have known that the purpose of the transfer or acquisition was to avoid confiscation;
- Possibility of 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: illness, abscondence, and death of the suspect/accused person or if the limitation period for the relevant criminal offence prescribed by national law is below 15 years and has expired after the initiation of criminal proceedings;

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

Published in
[2024, Vol. 19\(1\) eucrim](#)
ISSN: 1862-6947
<https://eucrim.eu>



- Possibility of 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;
- Victims claims against the person who is subject to a confiscation measure must be taken into account within the relevant asset-tracing, freezing and confiscation proceedings and Member States must take the necessary measures to return the property to the victim if he/she is entitled to restitution;
- Obligation for Member States to adopt a national strategy for asset recovery by 24 May 2027 at the latest, and to make updates at regular intervals of no longer than five years.

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.

From an institutional viewpoint, the Directive reinforces asset recovery offices, whose role will be to facilitate cross-border cooperation in relation to asset tracing investigations. They will be tasked with tracing and identifying criminal money, in support of asset tracing investigations carried out by national authorities and the European Public Prosecutor's Office. They will also trace and identify instrumentalities, proceeds or property which are the subject of a freezing or confiscation order issued by a body in another Member State. Asset recovery offices must be given 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).

Furthermore, Member States must set up or designate asset management offices that will manage frozen or confiscated property directly or provide support to other competent bodies.

The Directive entered into force on 22 May 2024. It must be transposed by 23 November 2026.

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and "criministrative" law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by
the European Union**