

Does crime still pay?

CRIMINAL ASSET RECOVERY IN THE EU

SURVEY OF STATISTICAL
INFORMATION 2010-2014

Europol Criminal Assets Bureau

O42 Financial Intelligence
European Police Office (Europol)
P.O. Box 908 50
2509 LW The Hague
The Netherlands

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KEY FINDINGS¹

1. The results of this survey show that the amount of money currently being recovered in the EU is only a small proportion of estimated criminal proceeds: 98.9% of estimated criminal profits are not confiscated and remain at the disposal of criminals.
2. According to estimates by the United Nations Office on Drugs and Crime (UNODC), criminal proceeds reach up to 3.6% of global gross domestic product (GDP).

¹ Availability of data

- The Europol Criminal Assets Bureau received responses from 25 out of 28 EU Member States, of which 21 provided statistical figures on asset recovery and 20 answered the questionnaire.
- 21 out of 22 responding Asset Recovery Offices (AROs) provided figures about seized/frozen assets.
- 15 AROs contributed estimates of the value of confiscated assets after final court decisions.

Recent research from the Transcrime Institute (Savona & Riccardi, 2015) estimates that illicit markets in the European Union generate about **€110 billion** annually, i.e. about 0.9% of the EU's GDP in 2010.

3. In the period analysed by Europol, **2.2% of the estimated proceeds of crime** were provisionally seized or frozen, however **only 1.1% of the criminal profits were finally confiscated at EU level**. That means that around 50% of all provisionally seized/frozen assets are ultimately confiscated.
4. This study estimates that the annual value of provisionally seized/frozen assets in the EU is around **€2.4 billion**, with about **€1.2 billion** finally confiscated each year at EU level.





1. INTRODUCTION

In recent years, EU Member States and European institutions have focused their efforts on countering and preventing organised crime activities. The recovery of confiscated assets is considered one of the most important measures for fighting organised crime. In addition to national efforts, the European Commission, through the EU Directive (2014/42/EU) on the freezing and confiscation of proceeds of crime, set important standards for the recovery of criminal profits/benefits. Since the proposal's inception in 2012, many EU Member States have started to align their national legislation with these new standards, while others still have to implement measures to fulfil the Directive's requirements. While many Member States have already set up specific bodies for the collection and management of these assets, named Asset Management Offices, the majority of EU Member States do not collect statistics on the seizure/freezing and confiscation of assets on a centralised level. At a European level, it is impossible to monitor the performance of the asset recovery systems, and of investigative techniques used during organised crime investigations across Europe, without data on the number and value of assets seized, frozen or confiscated.

Many scholars and international institutions have tried to estimate the amount of criminal proceeds generated by organised crime groups. Most of these studies provide enormous figures based on many assumptions and estimates. Although these figures are crucial to understanding recovered values in the context of criminal profits, many of them are "mythical numbers" (Reuter, 1984), i.e. estimates created using unclear data and methodologies. In addition, not all the money gained from criminal activities is then invested in the legal economy or laundered through it. On the contrary, criminals reinvest money in other criminal activities and then may invest a share of their ill-gotten gains in the legal economy.

According to the UNODC, the total amount of criminal proceeds generated in 2009 was approximately US\$2.1 trillion (about €1.9 trillion), or 3.6% of global GDP in that year. The resulting amounts available for laundering activities were estimated to be about US\$1.6 trillion or 2.7% of global GDP in 2009. This figure is also consistent with the International Monetary Fund's (IMF) estimate of the scale of money laundering that ranges from 2% to 5% of the global GDP. The UNODC also estimates that less than 1% of the laundered proceeds of crime are seized and frozen (UNODC, 2011).

More recently, Project Organised Crime Portfolio (OCP) estimated that illicit markets generated about €110 billion in the European Union, i.e. about 0.9% of EU GDP in 2010 (Savona & Riccardi, 2015). Due to the lack of available data it was not possible to estimate the share of criminal proceeds thereafter laundered in the legal economy. However, findings from Project OCP highlighted that seized and confiscated assets represent a very small proportion of illicit proceeds. Overall, considering the lack of accurate estimates of the illicit proceeds of criminal organisations, and the unknown propensity to put money in the legal system, it is hard to understand if the asset recovery system is effective in recovering criminal proceeds.

This study aims to take the first step in collecting statistics on the value of seized/frozen/confiscated assets across the EU. It will identify a benchmark for future studies on the performance of investigative techniques and the implementation of the new EU Directive. Unfortunately, at present, data is not harmonised across the EU and the collection of information is not performed using the same standards by each EU Member State. As a consequence, this report provides conservative figures on the amount of assets seized/frozen/confiscated at EU level.



2. BACKGROUND

Statistics on asset recovery are becoming an increasingly crucial issue for governments and institutions at European level (European Commission, 2011; Forsaith, Irving, Nanopoulos, & Fazekas, 2012; Savona & Riccardi, 2015; Transparency International Bulgaria, Transparency International Romania, & Transparency International Italy, 2015). According to paragraphs 36 and 37, and article 11 of the EU Directive on the freezing and confiscation of proceeds of crime (2014/42/EU), each EU Member State should **“collect a comparable minimum set of appropriate statistical data”** at a central level. It is not mandatory for the Member States to collect the data, but it is highly recommended for increasing cooperation between governments and EU institutions.

Recent reports have assessed the availability of data on the number of recovered assets across Europe. Project OCP conducted a survey among European national agencies involved in recovering frozen/seized/confiscated assets.² The aim of their survey was to identify which EU countries collect data on a disaggregated level (i.e. for each asset). Findings of Project OCP highlighted that the main problem with this data is the **lack of harmonised methods in its collection and the differences in the organisation and structure of the EU national agencies** (Savona & Riccardi, 2015, p. 246). These differences affect the possibility to compare statistics across countries and, in turn, to provide a general figure at EU level. Moreover, in some countries there is more than one agency collecting data on frozen/seized/confiscated assets; furthermore, in some instances it is not possible to link two databases because of the absence of a reference number for identifying the assets. Thus, it is not possible to understand how many frozen/seized assets are then confiscated (Savona & Riccardi, 2015, p. 246). Nonetheless, these statistics still provide a **partial picture of the recovery of assets across the EU**.

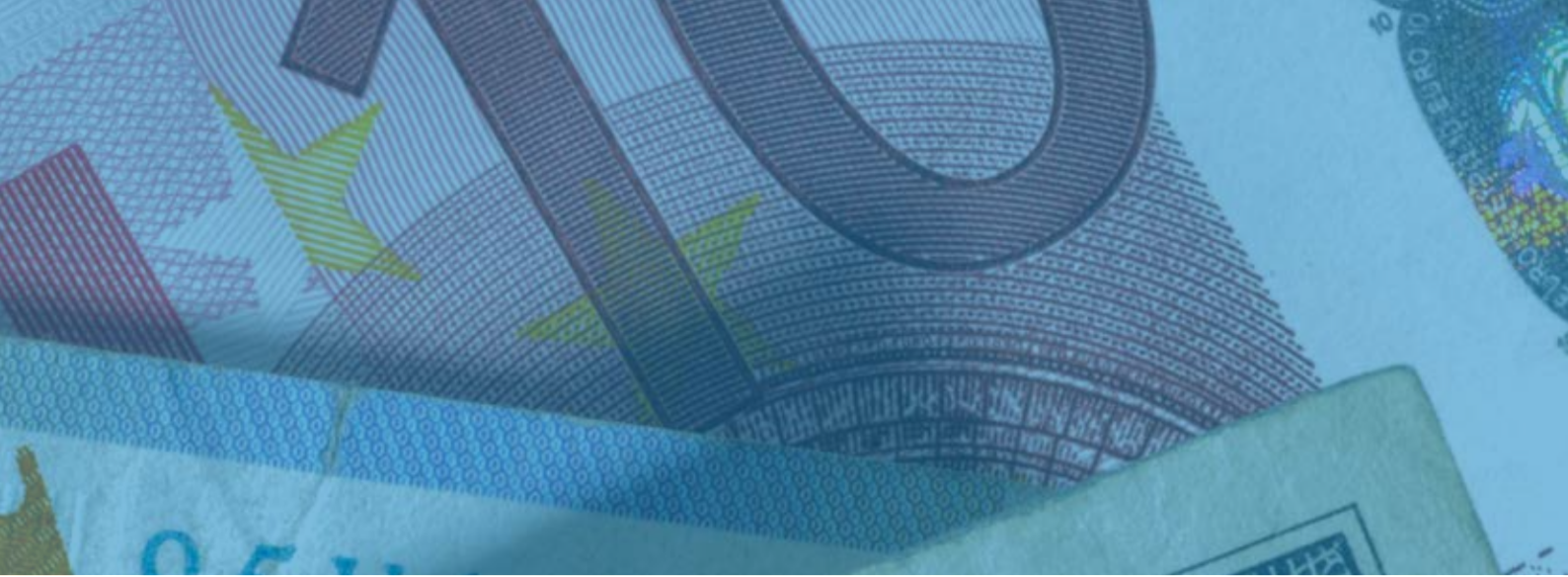
In several EU Member States, statistics on asset recovery are available on an aggregated level, but some countries do not collect data centrally. Furthermore the availability of statistics on frozen/seized/confiscated assets can vary according to the type of assets. Statistics on cash, real estate, movable and registered assets are usually more complete and richer sources of information than statistics about companies or shares (Savona & Riccardi, 2015,

p. 248). All of these limitations derive from the methods of data collection, but also from the way in which the European national agencies involved in the recovery of assets are organised and communicate with each other (Savona & Riccardi, 2015, p. 246). Finally, many EU AROs have inadequate access to other databases, such as business registers or bank account databases, as well as judicial statistics (Transparency International Bulgaria et al., 2015). All of these elements combine to produce a fragmented analysis of the recovery of assets.

The collection of these statistics is also important for cooperation among EU AROs. The European Commission stresses the importance of communication between EU AROs and also emphasises the lack of harmonised methods in data collection. Thus, the creation of a unique and secure channel to exchange information between EU AROs could also facilitate the collection of data (European Commission, 2011). The collection of data on asset recovery is also **crucial to assess the impact and the effectiveness of the asset recovery regime in each EU Member State** (Forsaith et al., 2012; Transparency International Bulgaria et al., 2015). Creating a central database will reduce the risk that assets can be reused for criminal purposes and can increase the efficiency of the management of confiscated assets at national level (Transparency International Bulgaria et al., 2015).

All of these studies focused on the availability of specific information, but few of them on the collection of statistics. Some reports have tried to collect information about the number and types of assets, but have faced problems because of the lack of harmonised statistics. There is still a knowledge gap around the value of frozen/seized/confiscated assets at EU level. Measuring the amount and value of frozen/seized/confiscated assets is an important element for assessing the effectiveness of the recovery of assets in each EU country. This report addresses this gap by publishing the results of a survey conducted among the European Asset Recovery Offices.

² Project OCP (2012-2014) was funded by the European Commission DG Home Affairs, and coordinated by Transcrime – Joint Research Centre on Transnational Crime, in collaboration with other partners from seven EU Member States. For more information see www.ocportfolio.eu.



3. AIM AND OBJECTIVES

This report aims to collect statistics on the value of assets frozen/seized/confiscated by each EU Member State between 2010 and 2014. This is the first attempt at providing a benchmark for future analysis. The main objectives of this report are the following:

- To assess the availability of data on the value of frozen/seized/confiscated assets in each EU Member State;
- To provide an estimate of the value of frozen/seized/confiscated assets at EU level.

4. METHODOLOGY AND SOURCES

The European Criminal Asset Bureau (ECAB) started to collect national statistics on asset recovery from EU AROs in January 2014. An update to this survey was performed in September 2015. ECAB asked for statistical data from 2010 to 2014, and additional information about the figures through a short questionnaire. ECAB asked each EU ARO to provide the value of frozen/seized/confiscated assets according to the criteria in the table below.

A short questionnaire was included in the follow-up to the collection of data in September 2015 (see Annex 1 - Questionnaire). The questions focused on the types of confiscation foreseen by national legislation, the criteria used to estimate the value of assets and the types of assets included in the estimate. These questions were crucial to understanding if the values provided by each country are comparable with one another.

Limitations

Limitations concern both the use of a survey as the method, and the data collected. Firstly, the survey is always subject to addressed EU Member States' willingness to respond. Indeed, three Member States did not answer the survey at all. To conduct a complete analysis at EU level it was desirable for all the AROs to contribute. Secondly, the data are often not comprehensive, e.g. they are not centralised or related to specific crimes, regions and types of assets. Furthermore, information collected shows a lack of harmonisation across EU countries, e.g. AROs may only include assets recovered within criminal proceedings and not civil ones.

Survey Criteria	Definition of Survey Criteria
Total value of seized/frozen assets	This category contains the complete value of the assets that were provisionally seized or frozen by law enforcement, usually on the basis of a court order. The estimate is usually made by the financial investigators from the police - if necessary with the support of valuation experts
Total confiscation (court decision)	This number represents the value of all confiscated assets following a final court decision



5. FINDINGS

5.1 Availability of data

ECAB received responses from 25 out of 28 EU Member States.³ Of these, 21 provided statistical figures and 20 answered the questionnaire. Some countries still fail to collect statistics. Some others collect figures but do not have a central or systematic collection of information. In particular, some countries highlighted their problems in collecting figures about final court decisions. As this information is provided by different departments/institutions in many EU Member States, some countries are creating inter-agency groups to exchange information about recovered assets. Some other countries have figures related to specific crimes (e.g. drug trafficking) or specific assets (e.g. bank accounts). Although not all EU Member States have provided comprehensive figures about the value of assets recovered in their countries, it is the first time that this exercise has been conducted with a high level of response.

5.2 Estimates of the value

Out of 22 respondents, 21 AROs provided figures on seized/frozen assets, while just 15 AROs contributed estimates of the value of confiscated assets after final court decisions. Although it is hard to give a comprehensive picture of the amount of seized and confiscated assets across the EU, this study will try to provide some insights on values and trends at EU level.

The value of criminal profits/benefits is estimated using different definitions and criteria across EU countries. In general, the estimated criminal benefit is a value which represents all benefits the suspects earned. There is a difference between the criminal benefit and the economic damage. The damage refers to the claimant, while the benefit should be assessed according to the economic situation of the offender and other selected criteria. The use of one approach or the other makes the first important difference when estimating the value of seized/frozen/confiscated assets. The second difference regards the methods of estimation. Although it is easy to determine and preserve the value of cash, it is not the same for other types of assets. According to the questionnaire, the majority of AROs determine values through estimates from financial investigators or experts appointed by the

law enforcement agencies in charge. However, the criteria adopted for the estimations may vary from country to country. Market value or registered value of land and real estate seems to be the most used criteria across EU Member States. Just a few AROs answered that estimates are decided on a case by case basis, or with an agreement by the court and the defence. For all of these reasons, and because not all of the seized/frozen assets result in final confiscation after a court decision, the value of seized/frozen assets is consistently higher than that of confiscated assets.

5.2.1 Seized/frozen assets

Considering its nature, the seizure/freezing of assets is a provisional measure aimed at depriving criminals of their profits/benefits. Indeed, the main aim of seizure/freezing is to preserve the property and its value for the purpose of confiscation. In many countries property may also be seized/frozen to compensate for the damage related to the criminal offence. Therefore, estimates of the value of these assets is crucial to initiate the seizure/freezing of property.

The analysis shows that for many of the respondent countries the value of seized/frozen assets is growing. However, the general trends indicate a reduction in the value of seized/frozen assets overall (see Table 1). Trends regarding value should be read with caution. On one side the increase may be due to a more effective implementation of the recovery regime along with new investigative techniques. On the other side the decrease may be the result of a well-routed and well-established recovery system, the use of money to compensate victims of crime, or the use of more complex techniques by criminals to conceal their illicit proceeds. Considering all of these aspects, this study establishes a benchmark value for further analyses and interpretations.

On average €96.3 million were seized/frozen in each respondent country between 2010 and 2014. It can be assumed that the amount of seized/frozen assets range from a minimum of €62.9 million to €129.6 million at country level each year (see Annex 2 – Methodology). This means that for each EU citizen a minimum of €4.8 to a maximum of €7.6 are seized/frozen each year. Considering the timeframe of the survey (2010-2014), seized/

³ Please note that each country may have more than one ARO. Then, the number of AROs included in this study is higher than the number of EU countries.



frozen assets account for about 0.05% of the national GDP of each EU country, ranging from 0.03% to 0.06% of their annual GDP. Indeed, although for some countries the estimate is lower than for others, the comparison with the population and with the national GDP shows that its prevalence is higher than for other countries. Although the lack of data makes it hard to establish the same estimate for the EU level, the average of €96.3 million represents about 0.018% of the average GDP of the respondent countries in the period of analysis. It can be hypothesised that the same ratio is applicable at the EU level. Thus, the value of seized/frozen assets may reach **about €2.4 billion annually at EU level, which is 0.018% of the EU GDP.**

Table 1. Estimates of the value of seized/frozen assets.
Minimum, maximum and average value by year

Year	No. respondent AROs (N=21)	Min €million	Max €million	Average €million*
2010	16	1.3	9,117.1	68.2
2011	19	2.4	6,943.8	82.1
2012	20	1.6	4,784.1	124.8
2013	20	3.7	4,400.4	113.4
2014	16	2.9	7,404.7	87.6

*The average is calculated excluding the maximum and the minimum values.

Source: author's elaboration on data collected from EU AROs.

5.2.2 Confiscated assets

The value of confiscated assets refers to the amount of money confiscated after a final court decision. Since it comes after a criminal or civil proceeding, it is likely that the confiscation refers to an asset that has been seized/frozen years before (from 3 to 6 years before). The first consequence of this delay may be that the asset has lost or gained value and that the value estimated during the seizure/freezing procedure has changed. Another consequence is that the value indicated for 2014 may refer to the amount seized/frozen in 2010 or previous years, while no estimate is available for assets within current criminal or civil proceedings. In addition, in some countries a significant amount of seized assets are returned to victims during the pre-trial proceedings prior to final court decisions. This money, therefore, is not included in confiscated assets' statistics. For these reasons the comparison with seizure/freezing statistics should be cautiously interpreted.

The statistics about the value of assets confiscated with a final sentence are scarce. Many countries do not collect these statistics because they do not receive direct communications from courts regarding final confiscation orders. Moreover, it is not possible to access this information at national level because it is located in each local court district. According to the available data, analysis confirms that the value of assets confiscated is increasing, even if 2014 shows a decrease in value (see Table 2).

At EU level, between €16.3 and €61.4 million were confiscated at country level each year, with an average of €38.8 million each year for each respondent country. The impact of confiscated assets is lower than for seized/frozen assets. On average, €1.7 is confiscated for each citizen across the EU each year (min. of €1.2 and max. of €2.1). The value of confiscated assets represents on average 0.009% of the national GDP of each EU country, with a minimum of 0.006% and a maximum of 0.012%.



Table 2. Estimates of the value of confiscated assets.

Minimum, maximum and average value by year

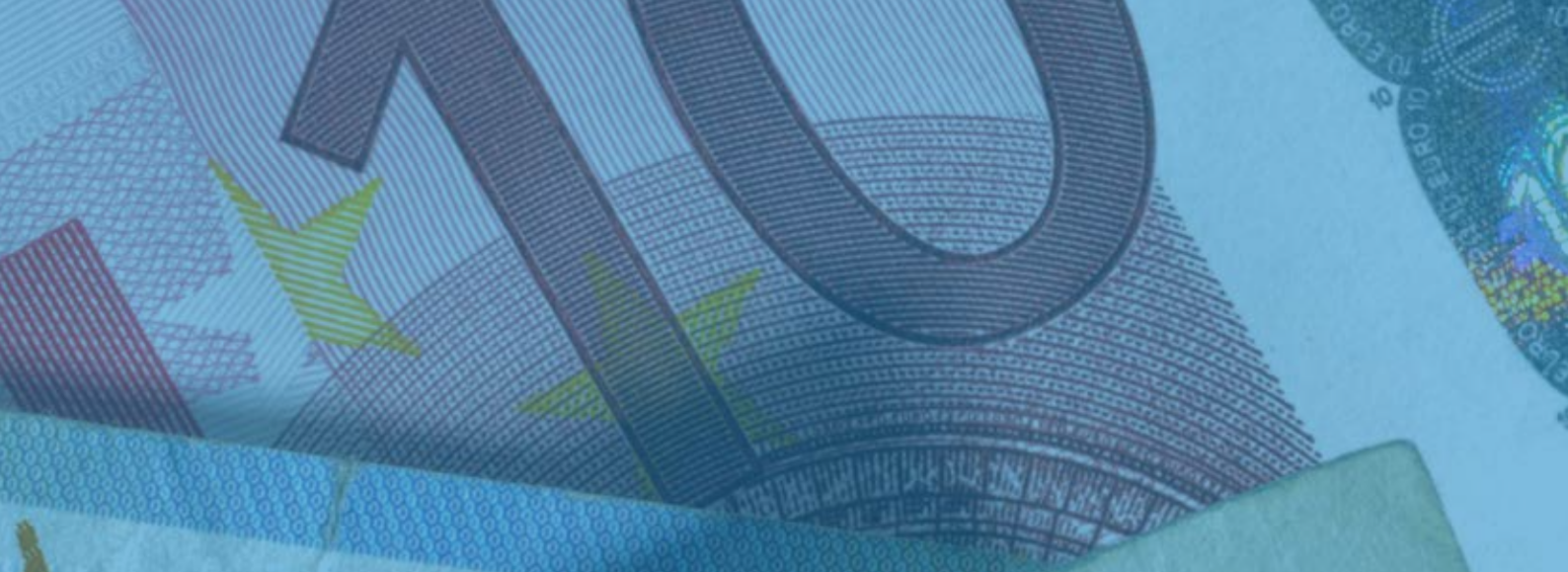
Year	No. respondent AROs (N=15)	Min €million	Max €million	Average €million*
2010	10	0.002	1,595.2	37.5
2011	13	0.002	1,945.4	44.4
2012	14	0.002	2,210.3	31.7
2013	14	0.003	3,991.0	54.1
2014	10	0.031	1,470.7	23.0

*The average is calculated excluding the maximum and the minimum values.

It is not possible again to elaborate an estimate at EU level from the available data. However, considering the ratio between confiscated assets and EU GDP it can be assumed that about **€1.2 billion are confiscated each year at EU level**; this represents **0.009% of EU GDP**. Although the figure is lower than for seized/frozen assets, its significance should not be ignored (see Annex 2 – Methodology). Indeed, for a country with a GDP of €200 billion (around the same 2014 GDP of Finland, Portugal or Czech Republic), 0.009% is about €17.7 million; for a country with a GDP of €1 trillion (e.g. Spain in 2014), it represents about €88.7 million; meanwhile for a country with a GDP of about €2.2 trillion (similar to the 2014 GDP of France or the UK), it is about €195.2 million.

Finally, in most of the EU countries the differences between the value of confiscated assets compared to seized/frozen assets is negative. This may be due to the fact that some assets do not reach final confiscation, or that the property has been used to compensate victims. Again, it is hard to identify insights from this comparison because of the scarcity of data over time.

Source: author's elaboration on data collected from EU AROs.



6. RECOMMENDATIONS

According to the main findings of this study and the main limitations encountered during the collection and analysis of the figures, the main recommendations are the following:

1. Implementation of the collection of data.
 - a. Collection of information at central level.
 - b. Digitalisation of confiscation orders.
 - c. Creation of a register for seized/frozen/confiscated assets with information on location and value to enhance tracing of assets in foreign countries and collection of information on court decisions.
2. Increasing of the harmonisation of statistics.
 - a. Adoption of harmonised criteria for the collection of statistics, or at least the adoption of transparent standards available to information users.
 - b. Monitoring of trends and patterns by each EU Member State and Europol.
3. Enhancement of financial investigations and asset recovery measures within the EU
 - a. Strengthening of financial investigations at national level, in particular in relation to organised crime activities. Increased investment in resources and training.
 - b. Strengthening of financial investigations at EU level via the European Multidisciplinary Platform against Criminal Threats (EMPACT), in cooperation with Europol and Eurojust.

7. CONCLUSIONS

This study shows that the recovery of assets is a widespread practice in EU Member States. Besides the conviction based regime, certain countries' legislation also foresees a non-conviction based or extended asset recovery system. EU countries have also set up specific national bodies dedicated to the recovery and management of assets. However, the data regarding values and numbers are not always centralised or available. Moreover, the analysis shows that the value of assets recovered is considerably lower, by some degree, than the estimated amount of criminal proceeds.

Comparing the estimate from UNODC - according to which illicit proceeds represented 3.6% of the global GDP in 2009 (about US\$2.1 trillion or €1.9 trillion) - to the estimate that 0.2% of proceeds laundered are actually seized or confiscated, there is a huge gap between the profits criminals generate and the amounts eventually seized and confiscated (UNODC, 2011). Using empirical data, this study confirms that just a small share of illicit proceeds are seized or confiscated.

Relying on Project OCP's estimates, illicit markets generate about €109,900 million at EU level, corresponding to 0.9% of the EU's 2010 GDP (Savona & Riccardi, 2015). Although it is not possible to identify the amount of money laundered, the comparison between the value of illicit proceeds and that of the recovered assets is crucial for understanding the gap between these two elements. Looking at the seizure/freezing and confiscation of assets between 2010 and 2014, **at EU level seizure/freezing represents about 2.2% of the proceeds of crime, while confiscation represents about 1.1%.⁴ Finally, of all seized assets, around 50% are ultimately confiscated.** The fact that so few seized assets are ultimately confiscated may be due to a loss in the value of assets during proceedings that often take too long, or due to difficulties in proving the illicit origin of assets and ensuring the final confiscation of the assets. Overall, these figures show that there is a need to improve the collection of information across EU Member States to identify and understand the main trends and patterns.

⁴ These percentages are higher than the estimates proposed by UNODC for 2009 because they are compared with the amount of illicit proceeds and not with the percentage of laundered proceeds of crime.



What works?

- EU countries are currently aligning their national legislations with the EU Directive on the freezing and confiscation of proceeds of crime. In particular, all the countries that answered the questionnaire confirmed that they have a conviction based confiscation regime in place. The majority of EU Member States also stated that they are implementing an extended confiscation regime or a non-conviction based one.
- Some EU countries have already set up competent authorities to manage seized/frozen/ confiscated assets.
- The response rate and level of awareness around the need to collect statistics on recovered assets are high among EU AROs.
- The value of seized/frozen/confiscated assets is increasing over time.

What does not work?

- Many EU countries do not have a centralised data collection system or provisions to create one.
- Each EU Member State has its own criteria for the inclusion of data in the dataset.
- In some countries there is more than one ARO that collects different types of data, e.g. referring to different stages of the criminal or civil proceedings.
- Some EU AROs have limited access to other databases or information, such as court decisions and confiscation orders.
- Many EU law enforcement authorities seem to have very limited resources for carrying out effective financial investigations and tracing criminal assets.
- The amount of money recovered is only a small share of the criminal proceeds, thus crime still pays in the European Union, as **98.9% of the estimated criminal profits are not confiscated.**

What is promising?

- The increasing awareness about the importance of collecting asset recovery statistics.
- The steady increase in the number of financial investigations related to recovering assets from criminals with the support of the Europol Criminal Assets Bureau, making full use of the Focal Point on Asset Recovery and the Camden Asset Recovery Inter-Agency Network (CARIN) network.
- The ARO platform meetings co-organised by the European Commission DG Home and Europol are successfully contributing to sharing information and best practices between practitioners and also policy makers.
- Decreasing barriers of communication and increasing exchange of information between institutions within the same countries and with other EU countries.
- The creation of a common and secure platform – Europol's SIENA system - to exchange information about assets to be seized/frozen/confiscated in other EU countries.
- The possibility to monitor the performance of asset recovery regimes and investigation techniques (ARO peer reviews) over time.



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ANNEX 1 - QUESTIONNAIRE

Table 3. Questions included in the questionnaire sent to each EU ARO

Question 1	According to your national legislation which types of confiscation are foreseen? <i>Please check the appropriate box. You can check more than one box.</i>
	a. Conviction based confiscation regime
	b. Non-conviction based confiscation regime
	c. Extended confiscation regime
	d. Other (please specify)
Question 2	Which of the following criteria is used for the estimate of the value of the seized/frozen/confiscated assets? <i>Please check the appropriate box. Please provide one answer for each question.</i>
	a. Estimate by the financial investigation (or by an expert) from law enforcement agencies
	b. Other (please specify)
Question 3	Do the values requested in this survey include cash seizure/freezing/confiscation? <i>Please check the appropriate box. Please provide one answer for each question.</i>
	a. Yes
	b. No
	c. Other (please specify)



ANNEX 2 - METHODOLOGY

The figures already collected during the first survey sent in 2014 have been included in this study. All the figures have been harmonised in terms of currency. The exchange rate adopted for converting the British Pound and Hungarian forint into euros is the average rate between 01/01/2015 and 13/10/2015 retrieved from the ECB: 1 GBP = 1.3753 EUR and 1 HUF = 0.003235 EUR. The data regarding population (code demo_r_d2jan) and the GDP (code nama_10r_gdp) were retrieved from Eurostat.

The main findings are presented in terms of average and range values. The methodology applied is described below. From the statistics provided by each ARO the average values have been calculated for each of them for the available years under analysis. In the case of the rate on population and GDP, for each country the average ratio produced was between the average value of the respondent country and the average population and GDP of the same country for the available years under analysis. Thereafter, the mean of these series (average value and ratios) has been calculated excluding the min and max value in order to produce a conservative estimate of the average per year. The range has

been calculated by adding or subtracting 0.25 standard deviations (calculated without min and max values) from the average values. For the EU level, the estimates were produced as follow:

- Calculation of the ratio between the average value of seized/frozen or confiscated assets and the average GDP of the responding countries for the period analysed. This percentage of GDP is assumed as also valid for the EU level.
- Use of the same ratio and of the EU GDP (average between 2010 and 2014) to estimate the value of seized/frozen and confiscated assets at EU level.

It was not possible to provide an overall value of the amount of money seized/frozen/confiscated between 2010 and 2014 because some of the data provided were stock data.



Eisenhowerlaan 73
2517 KK The Hague
The Netherlands
PO Box 90850
2509 LW The Hague
The Netherlands

Website: www.europol.europa.eu
Facebook: www.facebook.com/Europol
Twitter: @Europol
YouTube: www.youtube.com/EUROPOLtube

