Europol seeks to strengthen asset recovery regime to fight money laundering

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Europol has called for moves to considerably strengthen the asset recovery regime in the European Union to fight crime and money laundering. It made the recommendation in its serious and organised crime assessment 2021, which it said should be "the key report for development of recommendations regarding serious and organised crime for the EU policy level."

"To increase asset confiscation is the single most important aspect of fighting organised crime. It is only when we remove profit that we can stop organised crime," Pedro Felicio, head of unit operation, Europol's European economic and financial crime centre, told Regulatory Intelligence.

It is the way to reduce money laundering, he said. "We think of organised crime as including violence, corruption and money laundering. When we increase the confiscation rate, we reduce these."

Europol perceives a need to better integrate and align the entire asset recovery process among law enforcement, judiciary and asset management offices, it said. This comes at a time when, as reported, the EU Commission aims to adopt legislation giving asset recovery offices, among others, access to information in all member states' national centralised bank account registers.

Seeking new powers

"We need more confiscation powers. It is easier to put someone in jail than to confiscate assets. We need to look at new powers and possibilities to make it easier to confiscate assets," Felicio said.

Between 2016 and 2020, EU asset recovery offices increased staffing by an average 18% but the volume of information they exchanged in the framework of international cooperation doubled, Europol said. "This gap is one indicator of the difficulties for asset recovery offices to follow up on each case."

Asset recovery deprives criminals of ill-gotten assets and denies them the opportunity to integrate them into the mainstream economy, but more than 98% of the proceeds of crime remains in the hands of criminals, Europol said

The figure of 1.1% of assets confiscated across Europe dates back some years, Felicio said. "Based on what we have seen I think criminal profits have increased since then and maybe the number is worse. I would be happy to see that number of asset confiscations increase."

"Other measures that would help to increase asset confiscations include more access to financial intelligence, including about who has money in what place, and who are the owners of companies," Felicio said.

"We need more cooperation between for example financial intelligence units, police and tax authorities in a holistic way. We need a tougher attitude to non-EU tax havens," he said.

In the UK, asset confiscation is an area where the enforcement agencies have been instrumental with their efforts with civil recovery actions, using unexplained wealth orders and account freezing orders, said Aziz Rahman, partner, Rahman Ravelli. The UK courts have seen a rise in civil forfeiture of proceeds of crime, with £208 million collected in 2019/20, up 8% from 2014/15, he said.

Felicio declined to comment on how the UK track record compared with the EU's.

Outsourcing of money laundering

Criminal networks appear to be increasingly outsourcing their money laundering activities, Europol said. Reasons could include the desire to distance themselves from the predicate offence, or out of necessity for expert help on how to launder money without being detected, it said.

Nearly a third of organised crime groups (32%) have access to and use money laundering service providers and networks, the assessment said. Money laundering services providers servicing these groups are mainly required to regularly launder large amounts of criminal proceeds using sophisticated and innovative schemes.

"Professional money laundering networks have the expertise and necessary infrastructure to exploit the legal financial industry and offer a wide range of laundering services to other criminal networks in exchange for a fee or a commission," Europol said.

"The professional launderers make it harder to trace the money. They do it in bigger amounts, at a smaller price and know how to do it," Felicio said.

Professional money laundering services are offered on a transactional basis, but more stable relationships have also been observed as a result of longer term cooperation, Europol said.

"Some brokers are well-known and sought after, while other relationships are based on references. While more traditional forms of cooperation still exist, they tend to focus on shared infrastructure," it said. Occasional cooperation related to recruitment and maintenance of cash flows.

Illegal money brokers and bankers

Many illegal money brokers and bankers constitute high value targets for criminal groups because they are crucial in enabling money transfers and provide services to different clients, Europol said. "Tackling them will cause disruption in several process chains," it said.

By illegal brokers, Europol means bad actors in the hawala system, Felicio said.

The parallel banking system includes hawala, remittance systems and trade-based money laundering, which is of concern for its quantity and complexity, he said. "We don't exclude freeports from this."

Money laundering attempts are likely to be displaced towards sectors with nascent controls or limited oversight, Europol said. This could include underground remittance agencies, alternative banking platforms, international trade, and anonymous virtual currencies, it said.

"Since COVID started, virtual currencies have exploded. Cash couriers had to stop because they could not cross borders and they started investing in cryptocurrencies instead," Felicio said.

Europol's assessment is highlighting that fact that many jurisdictions, including the EU, lack the full suite of regulatory protocols to fully police risks around cryptocurrencies, including their use by organised crime to facilitate money laundering and other illicit activity, Arvin Abraham, a lawyer at McDermott Will & Emery in London, said.

"Given the lack of formal AML regulations and the absence of stringent KYC processes at many crypto-exchanges and wallet providers, criminal actors are more readily able to use these institutions to place the proceeds of crime into the financial system than they could with traditional banks," he said.

"From this point they can transfer the cryptocurrency from one exchange into another or into a hard wallet. Criminals use cryptocurrencies as an entry point into the financial eco-system to help them launder money more easily. Otherwise, there is clearly a regulatory gap the world over, including in the European Union as well as in Asia," he said.

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