

Confiscation of proceeds of crime in Vietnam: improving the legal framework

Confiscation of
proceeds of
crime in
Vietnam

215

Thu Thi Hoai Tran

Senior Analyst, Anti-Money Laundering Department, State Bank of Vietnam, Hanoi, Vietnam, and

Louis De Koker

La Trobe Law School, La Trobe University, Melbourne, Australia

Abstract

Purpose – The purpose of this paper is to analyze the Vietnamese laws and practices concerning the confiscation of proceeds of crime, especially in view of Vietnam's obligations to meet the international standards on money laundering and terrorist financing, set by the Financial Action Task Force and relevant international conventions that Vietnam ratified. To limit the scope of this paper, the analysis focuses on the confiscation of proceeds of domestic crimes that do not require international legal assistance. This paper concludes with recommendations for improving the legal framework on criminal asset recovery in Vietnam.

Design/methodology/approach – This is a doctrinal study that considers the applicable legal framework. This study is supported by brief case studies of major cases involving the confiscation of proceeds of crime.

Findings – Vietnam has a functioning asset confiscation regime but gaps in the law, lack of financial investigation expertise and lack of focused investigative attention on asset preservation and confiscation are hampering its effectiveness. The key gaps can easily be closed with appropriate amendments to the law. These reforms should be combined with a dedicated skills development program to produce sufficient number of financial investigation experts and criminal asset management experts to support the regime. The training should extend to judicial officers to ensure an appropriate understanding of the asset confiscation law. Reforms such as these should follow on a comprehensive review of Vietnam's law and practices relating to the confiscation and forfeiture of criminal assets. This review should extend to assets linked to the financing of terrorism and proliferation to ensure that Vietnam has a comprehensive regime to deal with criminal assets.

Research limitations/implications – This paper draws on publicly available information regarding the confiscation of proceeds of crime in Vietnam. Little data is available on asset confiscation and that prevents an in-depth assessment of the regime.

Originality/value – This paper highlights gaps in the current asset confiscation regime and proposes reforms and approaches that will ensure a more effective asset confiscation regime for Vietnam.

Keywords Vietnam, FATF, AML/CFT, Forfeiture, Asset confiscation, Proceeds of crime

Paper type Research paper

1. Introduction

Over the past decade, Vietnam has made great strides to improve its capacity to combat money laundering and terrorist financing. In that process, it also strengthened its ability to seize and confiscate proceeds of crime. Vietnam's asset recovery framework is, however, still not fully compliant with international standards or with Vietnam's obligations under United Nations treaties. The statutory confiscation powers have been grafted onto systems that are



primarily designed to collect evidence to inform the sentencing of convicted persons. Limitations in asset-freezing provisions, for example, allow criminals to dissipate and hide assets before the start of formal, public investigations. The absence of a sufficient number of dedicated asset confiscation specialists in investigative and prosecutorial services further hampers the effectiveness of the system.

This paper analyses the Vietnamese laws and practices relating to the confiscation of proceeds of crime, especially in view of Vietnam's obligations to meet the international standards on money laundering and terrorist financing, set by the Financial Action Task Force (FATF) and relevant international conventions that Vietnam ratified. To limit the scope of this paper, the analysis focuses on the confiscation of proceeds of domestic crimes that do not require international legal assistance. This paper concludes with recommendations for improving the legal framework on criminal asset recovery in Vietnam.

2. Overview of criminal asset confiscation

2.1 Key concepts

The 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), was the first major international instrument to introduce asset confiscation obligations in relation to proceeds of crime. Article 1 of the Convention defines "confiscation" as the permanent deprivation of property by order of a court or other competent authority, and includes forfeiture, where applicable. Importantly, it also defines "freezing" or "seizure" as meaning to temporarily prohibit the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or a competent authority.

Article 5 of the Convention requires State Parties to adopt the necessary measures to enable the confiscation of proceeds of offenses established in accordance with the Convention, or property the value of which corresponds to that of such proceeds; and of narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in any manner in such offenses. It also requires State Parties to adopt such measures as may be necessary to enable its competent authorities to identify, trace, and freeze or seize proceeds, property, instrumentality etc., for eventual confiscation.

In practice, the Convention provides for a framework that would allow the state to freeze and then confiscate proceeds and instrumentalities of crime. This paper focuses on measures relating to proceeds of crime, and will only reference instrumentalities, where relevant.

The confiscation measures envisaged by the Convention are conducted in terms of a judicial or administrative process to convert ownership of property from an individual or organization to the state. As a result, such individual or organization loses all their rights and interests in property (FATF, 2012/2020, p. 114).

Globally, two forms of confiscation are encountered: Conviction-based confiscation and non-conviction-based confiscation (also called civil forfeiture) (Murray, 2015, p. 462). Conviction-based confiscation follows upon criminal conviction of a perpetrator. In contrast, non-conviction-based forfeiture is a legal measure taken by the State either before conviction or even in the absence of a conviction (FATF, 2012/2020, p. 122). While conviction-based powers are encountered widely, many countries did not adopt non-conviction-based forfeiture as it is not necessarily reconcilable with the basic principles of their law. A particular form of non-conviction-based forfeiture is *in rem* forfeiture, as applied in the USA (Casella, 2015, p. 499). The underlying principle is that ownership of property tainted by crime shifts to the State and all that is required for the State is to claim its assets, applying civil law as any owner would. With *in rem* forfeiture, the action is brought against the

property itself. More generally, however, non-conviction-based action is taken against the offender, with the State having to prove the commission of the crime and linkages between the crime and property to the lower civil standard that applies in civil litigation. An increasing number of jurisdictions are adopting this form of non-conviction-based forfeiture to confiscate criminal assets, especially for proceeds of corruption, as it is easier to meet the civil standard of proof, rather than the criminal standard (Stephenson *et al.*, 2011, p. 66).

While the Vienna Convention introduced confiscation measures to be taken by State Parties, its provisions were limited to the drug-related offenses envisaged under the Convention. Two later conventions broadened its application to organized crime and to corruption: The 2000 United Nations Convention Against Transnational Organized Crime (UNTOC), and the 2003 United Nations Convention Against Corruption (UNCAC). Given the close relationship among these conventions as well as the 1999 International Convention for the Suppression of the Financing of Terrorism and the FATF Recommendations, the drafters ensured the alignment of key terms, such as “property” and property-related terms such as “funds.”

“Property” is, therefore, defined in the Vienna Convention, UNTOC and UNCAC as meaning assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets. Given their mainly financial focus, the FATF Recommendations and the 1999 International Convention for the Suppression of the Financing of Terrorism (TF Convention) use the term “funds” but this term broadly covers the concept of “property” in the related Conventions. “Funds” are defined as assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credit, travelers checks, bank checks, money orders, shares, securities, bonds, drafts and letters of credit.

“Proceeds,” as defined in the Vienna Convention, UNTOC and UNCAC means any property derived from or obtained, directly or indirectly, through the commission of an offense. “Offence” in the Vienna Convention is limited to an offense established under that convention but it is not similarly limited to other conventions or in the FATF standards (FATF, 2012/2020, p. 123).

2.2 Role of confiscation of proceeds of crime

Depending on the design of the scheme, the confiscation of criminal property can serve several objectives (De Koker and Pretorius, 1998, pp. 279–281; Alexander, 2015, pp. 447–448; Casella, 2015, pp. 496–498).

The confiscation can, for example, deter and reduce crime by undermining the profitability of crime. Economic crimes are committed by criminals who wish to profit from their offenses. The threat of confiscation reduces the attractiveness of committing the crime. The threat affects the balance of risk and reward, and the prospect of diminished or no profits at all, may deter some from crime (FATF, 2012, p. 1). Many offenders are more affected by the impact on confiscation, especially on their families and futures when they return to society, than by a period in jail. The confiscation helps signal to criminals that “crime does not pay” (Brun *et al.*, 2011, p. 103).

The confiscation may also disrupt criminal enterprises, depriving them of assets and working capital and the ability to reinvest the proceeds in further criminal activity (FATF, 2012, p. 1; Huyen and Giao, 2018, p. 61). Where drugs are seized, for example, criminals are not only deprived of valuable illicit assets but also the income they would have derived from the sale of those assets that would invariably be reinvested in purchasing a larger

consignment of drugs. The confiscation may affect the ability to repay the providers of the drugs, undermining the relationship between the supplier and the criminal (Casella, 2015, p. 497). Depending on what the State is allowed to do with the confiscated proceeds, they may be used to strengthen society or support victims of crime or law enforcement (FATF, 2012, p. 1; Brun *et al.*, 2011, p. 103).

Despite the benefits of confiscation of proceeds of crime, the value of confiscated assets remains very low compared to the estimated value of criminal proceeds. Pol, after analyzing country data for key countries concluded that “the quantum of criminal proceeds interdicted by authorities is little more than a rounding error in the respective country accounts, and globally, of ‘Criminals, Inc’” (Pol, 2018, p. 301) with the UK’s interdiction rate estimated at only 0.1% and Australia at 1.28% seized and 0.38% confiscated. The reasons for the low level of confiscation are complex and may differ from country to country. For effective confiscation each phase of identification and tracing of proceeds of crime, the freezing and confiscation of assets as well as their liquidation and distribution must be effective and efficient (Boucht, 2019, p. 534). This requires dedicated, trained staff and efficient process management and adequate powers. Often, countries tend to increase powers without attending to the need to appropriate expertise and management of processes. A failure in any of these phases will impact the success of the overall result.

2.3 Financial Action Task Force (FATF) standards

FATF is an inter-governmental body that sets global anti-money laundering and counter terrorist and proliferation standards, the so-called Forty Recommendations. The Recommendations summarize the key confiscation elements set out in the relevant UN Conventions and detail them further. Recommendation 4, for example, requires jurisdictions to have a framework enabling the confiscation of proceeds of crime and other assets related to money laundering, terrorist financing and proliferation financing. It requires countries to adopt measures similar to those set forth in the Vienna Convention, the UNTOC and the TF Conventions, to enable their authorities to freeze or seize and confiscate the following assets, without prejudicing the rights of bona fide third parties:

- property laundered;
- proceeds from, or instrumentality used in or intended for use in money laundering or predicate offenses;
- property that is the proceeds of, or used in or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organizations; or
- property of the corresponding value.

Such measures should include the authority to:

- identify, trace and evaluate property that is subject to confiscation;
- carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property;
- take steps that will prevent or void actions that prejudice the country’s ability to freeze or seize or recover property that is subject to confiscation; and
- take any appropriate investigative measures.

Recommendation 4 further urges countries to consider adopting non-conviction-based measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction, or which require an offender to demonstrate the lawful origin of the

property alleged to be liable to confiscation, to the extent that such measures are consistent with the principles of their own law.

Recommendation 38 addresses mutual legal assistance in relation to the freezing and confiscation of assets. Countries must ensure that they have the authority to take the expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property that is subject to confiscation, as envisaged in Recommendation 4. This authority should include being able to respond to requests made on the basis of non-conviction-based forfeiture proceedings and related provisional measures, unless this is inconsistent with fundamental principles of their domestic law. Countries should also have effective mechanisms for managing such property, instrumentality or property of the corresponding value and arrangements for coordinating seizure.

2.4 Vietnamese compliance with Financial Action Task Force standards

In 2007, after a political commitment to comply with FATF standards, Vietnam became a member of the Asia/Pacific Group on Money Laundering (APG), the regional FATF-style body for the Asia Pacific. As a member of this group, Vietnam is subject to peer review for compliance with the FATF standards.

Vietnam's first compliance assessment was undertaken by an APG assessor team in 2009 (Asia-Pacific Group, 2009). The assessors identified a significant number of key deficiencies in Vietnam's anti-money laundering and counter terrorist financing (AML/CFT) law.

With regard to the confiscation of proceed of crime, the assessors found that Vietnam lacked legal powers to temporarily freeze and preserve property pending its confiscation. It also lacked specific laws that allowed tracing and identification of proceed of crime and provisions that prevented contractual agreements to impede property seizure (Asia-Pacific Group, 2009). Vietnam also lacked laws and adequate procedures to identify and freeze terrorist assets (FATF, 2012–2020).

Because of the identified deficiencies, the country was referred to the FATF's International Co-operation Review Group (ICRG) for review. From 2012 to February 2014, Vietnam was listed by the FATF as a country with strategic AML/CFT deficiencies that has not made sufficient progress in addressing the deficiencies. FATF requires countries to consider the risks arising from these deficiencies in relation to listed countries (FATF, 2012/2020), meaning in practice that trade with the country and investment decisions can slow down or might even be diverted to other countries.

In February 2014, after the adoption and implementation of the required measures, Vietnam was released from the global review process.

3. Criminal asset confiscation in Vietnam

3.1 Confiscation system in Vietnam

Vietnamese confiscation law provides for conviction-based confiscation and non-conviction-based forfeiture.

The confiscation is classified as a sentencing option in Section VI of the Criminal Code. Article 45 of the Code provides for confiscation and transfer of part of or all of property under the ownership of the convicted person to the state budget to benefit the State or to pay any victim compensation orders issued by the Court. The General Department for Enforcement of Judgments under the Ministry of Justice is charged with managing the asset seizure and confiscation process. Assets that belong to victims will be returned to them and compensation as ordered will be paid before the remaining funds are transferred to the state budget.

Such confiscation of property is, however, only allowed where a person is convicted of a serious crime, a very serious crime, an extremely serious crime against national security, or an offense involving drug-related crimes, corruption or other crimes prescribed by the Code. A serious crime is defined in Article 9 as a crime posing a significant danger to society and for which the maximum prison sentence ranges from 3 years to 7 years imprisonment. A very serious crime is a crime posing great danger to society and for which the maximum prison sentence ranges from 7 years to 15 years, whereas extremely serious crime are crimes posing an enormous danger to society and for which the maximum prison sentence ranges from 15 years to life imprisonment or where the death penalty may be imposed. Article 45 limits the confiscation powers in one important way: “Confiscation of property shall be so carried out that the convict and his or her family are still able to carry on their life.”

According to Article 46 of the Code judicial measures taken against an offender include confiscation of money and items directly related to the crime and the return or repair of property and the provision of compensation or the offering of public apology. Article 47 addresses confiscation of money and items directly related to the crime. In terms of this Article expropriation or destruction shall be applied to instruments and vehicles used for the commission of the crime; items or money earned from the commission of the crime or from selling or exchanging them; illegal profits earned from the commission of the crime; and items banned from trading by the State. The Article also acknowledges the rights of innocent owners. Items and money illegally appropriated or used by the offender must be returned to their lawful owners or managers instead of being confiscated. They are however liable to be confiscated where such a person allowed the offender to use them for the commission of the crime. Article 48 regulates the return of such appropriated property to their lawful and innocent owners or managers and reparation: The offender must return appropriated property to its lawful owner and make reparations or pay compensation for the damage caused by the crime.

The Code does not provide explicit guidance on how illegal profits should be calculated or how a court should weigh the effect of imprisonment or other penalties imposed with the impact of the confiscation order on the convicted person.

In addition to conviction-based confiscation under the Criminal Code, the Criminal Procedure Code allows for non-conviction-based forfeiture of exhibits and other evidentiary materials used in a prosecution, even if the prosecution does not proceed. Exhibits are defined as articles used as tools or means for the commission of crimes; items carrying traces of crimes; things being the targets of crimes; as well as money and other things which can be used to prove the crimes (Article 89 of the Criminal Procedure Code).

Article 106(1) of the Criminal Procedure Code, provides for exhibits to be handled by:

- investigation authorities and units assigned to investigate if the case is suspended at the stage of investigation;
- the procuracy if the case is suspended at the stage of prosecution; and
- the court if the case suspended at the preliminary stage of adjudication and the trial panel if the case is heard.

Exhibits including tools or means of crime and illicit objects must be seized and confiscated for the benefit of the state budget or must be destroyed. Exhibits including money or property gained through criminal acts must, however, be seized and confiscated for the benefit of the state budget. (Article 106(2) of the Criminal Procedure Code).

Thus, in this limited way, non-conviction-based forfeiture of proceeds of crime that are exhibits under the Criminal Procedure Code is possible under Vietnamese law. These powers extend to property that is, for example, directly involved in the offense or which can be used to prove the crime. The potential to apply these powers is, however, hampered by Article 130 of Criminal Procedure Code. According to Article 130 property restraints and orders to freeze accounts must terminate if the case is suspended in the investigation or trial stage. Once the case is suspended, the exhibits will therefore be returned to offenders, even though the exhibits are to be confiscated by the State under Article 106. This enables them to dissipate or hide the assets before confiscation occurs. Fast action by state authorities may limit this risk.

Vietnamese law also provides for administrative confiscation. The Law on Handling of Administrative Violations of 2012 allows for the confiscation of evidence and property linked to serious non-criminal administrative violations (Article 26), for example, objects, money and goods directly related to administrative violations such as the import or export of goods without the necessary permits or authorization (Article 10 (6) (a) of Decree no. 45/2016/ND-CP Amending and Supplementing Decree no.127/2013/ND-CP of the Government on Administrative Sanction for Violations and Enforcement of Administrative Decisions in the Field of Customs).

3.2 Freezing and confiscation of assets of listed persons

In accordance with its international obligations, Vietnam maintains a blacklist of individuals and organizations that are related to terrorism and financing of terrorism. The list is maintained by the Ministry of Public Security in accordance with the PSML Law (Article 4(12), PSML Law). The current blacklist combines the United Nations Security Council's Consolidated List with a national consolidated list that lists individuals and entities that are identified as linked to terrorism and financing of terrorism against the government of Vietnam. These are mainly linked to two organizations listed as terrorist organizations by the government: "New Vietnam" (Việt Tân) and the "Provisional National Government of Vietnam" (Chính phủ quốc gia Việt Nam lâm thời). The PSML Law requires reporting entities to freeze a transaction for three business days if it appears that a blacklisted party is involved or when they have reason to believe that the transaction is related to criminal activities (Article 33). They must alert the competent authorities who can then use the three day window to take decide whether to intervene. Decree no.116/2013/ND-CP guiding the PSML Law stipulates that transactions related to criminal activities are transactions:

- by a person who was convicted, where assets involved in the transaction are linked to assets owned or controlled by the convicted person or to assets of the organization which is owned or controlled by convicted person in or after the period in which the crimes were committed; (Article 22(3)(a)); or
- conducted or intended to be conducted with an organization or individual listed in the United Nations Security Council Consolidated List (Article 18(2)).

In addition, the SBV, investigating agencies at all levels, People's Procuracies at all levels, Military Procuracies at all levels, People's Courts at all levels and Military Courts at all levels have the right to request reporting entities to implement freezing, sealing or restraining measures to delay transactions when they identify a transaction that meets the requirements of Article 33, read with Article 18(2). Upon the request of these authorities, reporting entities must freeze an account, apply sealing or restraint measures in relation to the assets of the

relevant individuals and organizations upon such requests of these above authorities (Article 34).

There are additional measures in the Law on Prevention and Suppression of Terrorism allowing police authorities to temporarily freeze and seal money and property related to terrorism or terrorist financing (Article 10). The Minister of Public Security, Heads of Police Agency at provincial level and General Director of the Security General Department I of the Ministry of Public Security can issue an order to apply such measures (Article 7 Decree 122/2013/ND-CP Guidelines on the Law on Prevention and Suppression of Terrorism Law). Depending on the complexities, these measures will last for a maximum of 30–90 days before the Minister of the Public Security issues a final decision on the handling of the property (Decree 122/2013/ND-CP).

3.3 Selection of significant cases in Vietnam

Recently, Vietnamese authorities have investigated and prosecuted several serious, high-profile economic crime cases involving significant proceeds of crime:

3.3.1 Case of Phan Sao Nam. This case involved a large-scale online gambling. More than 90 defendants were prosecuted for crimes such as illegal gambling, money laundering, appropriation of property using a computer network and abuse of power or positions in the performance of official duties. Phan Sao Nam, the chairman of a company called VTC Online (cong ty VTC Online) and Nguyen Van Duong, the chairman of Development and Investment High-Tech Security Limited (CNC) (cong ty TNHH Dau tu, Phat trien An ninh Cong nghe cao) were the main offenders. CNC launched a game called the Rikvip/Tip. club, which involved online gambling. These games attracted large numbers of players with more than 42 million player accounts opened between 2015 and 2017 ([VTV online, 2018](#)).

The operation of the illegal gambling games was supported by two high-ranking officials: Phan Van Vinh, the General Director of the General Department of Police, and Nguyen Thanh Hoa, the Director of the High-tech Crime Prevention and Control Department (C50). These departments fall under the Ministry of Public Security. C50 is a specialized unit in the same Ministry that is tasked with fighting and preventing crimes involving technology, including illegal online gambling. C50, however, functioned more as an innovation hub within the Ministry and held 20% of the shares in CNC. Vinh and Hoa were convicted and sentenced, respectively, to 9- and 10-year imprisonment and fined VND 100m (\$4,300) each ([E.vnexpress, 2019](#)).

According to the indictment, the scheme generated a profit of more than VND 9,500bn (approximately US\$409m) ([VTV online, 2018](#)). To date, only about VND 1,600bn (approximately US\$68.86m) in assets were recovered and it seems unlikely that the amount will increase.

3.3.2 Case of Ha Van Tham. This 2017 case involved contraventions of banking and credit laws and charges of embezzlement, abuse of power and economic mismanagement. The main defendants were Ha Van Tham, the former chairman of Ocean Commercial Joint Stock Bank (Ngan hang TMCP Dai Duong) (Ocean Bank) and Nguyen Xuan Son and Nguyen Minh Thu, both who were former CEOs of Ocean Bank. They were joined by several individuals who were heads and directors of branches of Ocean Bank. Charges included “breaking regulations on lending activities at credit institutions” and “deliberately violating state regulations on economic management, causing serious consequences”, for example, by giving large loans without securing collateral and paying higher interest rates on deposits than allowed. The actions undermined the monetary policy of the Central Bank and caused serious damage to Ocean Bank, estimated to amount to more than VND

14,000bn (approximately US\$602.5m). This led to the failure of the bank and its takeover by the State Bank of Vietnam. The court ordered Ha Van Tham and his colleagues to pay compensation to the State, Ocean Bank and other individuals of more than VND 2,000bn (approximately US\$86.08m). The property [1] to the value of VND 108bn (approximately US\$4.648m) has been recovered to date ([Baomoi online, 2018](#)).

3.3.3 Case of Pham Công Danh. This 2016 case involved mismanagement and lending contraventions by a bank. Pham Công Danh was the chairman of Vietnam Construction Commercial Joint Stock Bank (ngan hang thuong mai TNHH MTV Xay dung Vietnam) (CB Bank). Danh and 35 accomplices were convicted of contravening regulations on lending and willfully contravening regulations on economic management, causing serious harm. The damages caused to CB Bank over a two-year period (from 2012 to 2014) was estimated at more than VND 9,000bn ([Tuoitre online, 2016](#)), resulting in the failure of the bank. The State Bank of Vietnam had to buy CB Bank at the price of VND 0 to prevent the bank going bankrupt ([Cafef online, 2016](#)). The court issued a confiscation order to the value of nearly VND 12,000bn (approximately US\$516.47m). By 2017, property to the value of VND 5,000bn (approximately US\$215.195m) was recovered, i.e. 40% of the value of the confiscation order. It seems unlikely that more property will be obtained ([Tuoitre online, 2017](#)).

3.3.4 Case of Huynh Thi Huyen Nhu. This case, which finally concluded in 2018, involved fraud and embezzlement by a bank official. Huynh Thi Huyen Nhu was an employee at the Vietnam Joint Stock of Industrial and Commercial Bank (ngan hang TMCP Cong Thuong Vietnam) (Vietinbank). According to the indictment, Nhu, the former head of the Dien Bien Phu office of Vietinbank, obtained funds from other banks, companies and individuals as bank deposits and then embezzled some of the money to finance personal real-estate deals and pay her debts. According to the indictment Nhu was responsible for securing deposits for the Nha Be and Ho Chi Minh City branches of Vietinbank. To attract deposits she unilaterally set a very high level of interest and forged signatures, seals and contracts. She defrauded nine companies, four banks, three individuals and appropriated a total amount of nearly VND 4,000bn (approximately US\$172.156m) ([Nguoiladong online, 2013](#)). Her accomplices were charged with offenses ranging from mismanagement and lax controls to willfully participating in schemes to evade interest rates set by the State Bank of Vietnam. According to the court order, Huynh Thi Huyen Nhu and accomplices had to pay nearly VND 14,000bn (approximately US\$602.547m) in compensation. About VND 5,000bn has been recovered, but the remaining VND 9,000bn (approximately US\$387.352m) was classified as not recoverable ([Dantri online, 2016](#)).

3.4 Rate of asset recovery in Vietnam

In 2017–2018 Vietnam undertook its first national money laundering and terrorist financing risk assessment. Vietnam assessed the money laundering and terrorist financing risk level as medium to high in relation to offenses such as “embezzlement,” “obtaining property through the abuse of power,” “illegal trafficking of narcotic substances,” “tax evasion,” “violations of regulations on management and protection of wild animals,” “obtaining property by fraud,” “obtaining property by abuse of trust” and “illegal gambling.” These offenses and their impact are illustrated by the key cases referenced in 3.3.

The rate of property confiscation recovered from such offenses in 2016 is set out in [Table 1](#):

Table 1.
Value of property
confiscation in 2016

Crimes	Judgment amount for asset recovery	Actual amount confiscated	(%) recovered
Embezzlement	VND 745.2bn (approximately US\$ 32.077mn)	VND 432.9bn (approximately US\$18.634m)	58
Obtaining property through abuse of power	VND 18.1bn (approximately US\$0.78mn)	VND 1.8bn (approximately US\$0.0779m)	10
Illegal trafficking of narcotic substances	VND 220.5bn (approximately US\$9.49m)	VND 60.7bn (approximately US\$2.612m)	27.5
Tax evasion	VND 184bn (approximately US\$7.93m)	VND 33bn (approximately US\$1.420m)	18
Violations of regulations on management and protection of wild animals	VND 10.6bn (approximately US\$0.45m)	VND 0.9bn (approximately US\$0.0387m)	8.5
Obtaining property by fraud	VND 5,849bn (approximately US\$251.82m)	VND 1,157bn (approximately US\$49.813m)	19.7
Obtaining property through abuse of trust	VND 12,497bn (approximately US\$537.86m)	VND 45.5bn (approximately US\$1.958m)	0.36
Illegal gambling	VND 234bn (approximately US\$10.07m)	VND 89.2bn (approximately US\$3.839m)	38

Source: Extracted from statistics in the Vietnam National Risk Assessment Report

The total value of assets ordered by the recovery from criminals in [Table 1](#) is VND 19,758.4bn (approximately US\$850.38m). The total value of recovered assets is about VND 1,821bn (approximately US\$78.4m), accounting for approximately 9.2%. The recovery rate in relation to offenses involving obtaining property through the abuse of trust is particularly low. If this category is excluded, the total recovery rate increases to 24.4%.

A few perspectives are required on these figures. First, the amount ordered to be confiscated may not reflect the full number of the actual proceeds of crime of the offender. The courts calculate the amount to be confiscated based on the evidence they obtain from investigators. As discussed later, financial investigations may not be comprehensive and trace all relevant assets. The order furthermore reflects facts proven by the prosecution, and the offender may not have been prosecuted for all offenses committed. Second, in relation to the table, it is furthermore important to point out that it only reflects confiscations arising from convictions in or prior to 2016. If the full amount of criminal gain in all offenses committed in each of the eight categories were compared with the relatively small number of confiscations, the level of confiscation will be a far smaller fraction of the actual criminal gain ([Pol, 2018](#)).

Among the listed crimes, corruption looms particularly large. During the 10-year period from 2005 to 2015, confiscation orders relating corruption were about VND 59,750bn (approximately US\$2,6bn). The value of assets recovered was, however, only about VND 4,676.6bn (approximately US\$201.34m) (accounting for 7.8%) ([Government, 2016](#)).

4. Complexity of criminal asset confiscation

Effective and efficient asset confiscation requires sufficient legal powers as well as capacity. These are required across the various phases of the process. Boucht divides these in the investigative phase; the preservation of assets phase; obtaining a court order to confiscate the relevant; executing the confiscation order; and disposing of confiscated assets. ([Boucht, 2019](#), p. 527). Each phase has its own role in the confiscation regime and for the regime to be effective, each phase must function efficiently. Each phase, however, has its own set of

challenges to be navigated. The investigation phase aims to identify the extent of criminal networks and the scale of criminality, identify and trace the proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation and develop evidence that can be used in criminal proceedings (FATF, 2012, p. 96). The investigation is often complex as assets and ownership may be carefully concealed and investigators require expertise and information to uncover linkages (NAO, 2013, p. 28, 30). Provisional measures, such as freezing and seizure of suspected assets, are often required to prevent those assets from being degraded or being dispersed by perpetrator. Appropriate steps must be taken fast to prevent assets from disappearing (NAO, 2013, p. 28). Once assets are identified as linked to crime a comprehensive confiscation order must be obtained in relation to all of the relevant assets. The order must then be conducted and effective control must be exercised over all relevant assets, also those located outside the jurisdiction. The last phase in this process deals with the transfer of the assets or their value to the State. Depending on their nature, assets might be destroyed, transferred to the State or sold and the proceeds of the sale would be transferred to the state budget or to victim compensation funds. (Center for the Study of Democracy, 2014, p. 33). If the sale fails to realize the market value of the assets, the amount recovered may be far lower than the actual value of the criminal's proceeds (Home Office, 2019, p. 8; CSD, 2014, p. 21).

Section 5 of this paper explores some weaknesses in the current asset confiscation regime of Vietnam, which present themselves across the five phases identified by Boucht.

5. Gaps in the criminal asset confiscation regime

The legal framework for the confiscation of criminal assets is mainly created by the Law on Prevention and Suppression of Money Laundering (PSML) (2013), the Law on Prevention and Suppression of Terrorism (2013), the Criminal Code 2015 (amended and supplemented in 2017), the Criminal Procedure Code 2015, the Civil Code 2015 and the Law on Prevention and Suppression of Corruption 2018, as well as guidelines issues under each of these statutory instruments. The framework has been much improved since Vietnam was listed by the FATF as a country with strategic AML/CFT deficiencies. However, not all aspects of Vietnam's confiscation laws fully comply with the relevant international standards and Vietnam's obligations under international conventions. Some of the key gaps are explored below.

5.1 Property subject to confiscation

According to Article 47 of the Criminal Code the following may be confiscated if they are directly involved in criminals acts:

- instruments and tools used for the commission of the crime;
- items or money earned from the commission of the crime or from selling or exchanging them;
- profits illegally earned from the commission of the crime; and
- items banned from trading by the State.

It is submitted that the four categories cover two type groups: "items" (including instruments and tools) and "money" (including money, profits). In Vietnamese, the word "item" ("vật") means a thing that has a shape, exists in space and is recognizable (Vietnamese Dictionary, p. 1403), i.e. a corporeal thing. Items such as instruments and tools would, therefore, be tangible or corporeal objects. Intangible property and legal documents are not explicitly mentioned as subject to confiscation. These do not clearly fall in the

category of items. Actual physical legal documents could arguably be an item but increasingly important legal documents are in a digital form and these would not on the constitute “items.” Intangible property may arguably be covered where they are clearly illegal profits earned. This category is furthermore limited to illegal profits that would arguably be more limited than mere proceeds of crime. Documents are not clearly captured by “illegal profits” either. The wording of the Article does not clearly extend confiscation measures to property representing proceeds of crime (Stephenson *et al.*, 2011, pp. 65–66; Huyen and Giao, 2018, p. 69) or property of a corresponding value to the actual proceeds of crime. As the result, the reach of the confiscation powers is more limited than envisaged by the Vienna Convention, the TF Convention, UNTOC and UNCAC as well as the FATF Recommendations.

On May 24, 2019, the Council of Judges of the Vietnamese Supreme People’s Court issued a resolution (Resolution No. 03/2019/NQ-HDTP) to provide guidance on the interpretation and application of Article 324 of the Criminal Code. This article creates the statutory money laundering offense under Vietnamese law and, unlike Article 47 of the Criminal Code, uses the phrase “money or property.” According to Article 2(2) of the guidance, “property” as used in Article 324, includes objects, valuable papers and property rights as stipulated in the Civil Code, and may exist in a corporeal or incorporeal form, and may be movable or immovable, tangible or intangible, and includes legal documents or instruments proving ownership or any interest in the property. “Proceed of crime,” in turn, is defined as money or property obtained from criminal acts (Resolution No. 03/2019/NQ-HDTP).

While the guidance provides helpful clarity regarding the application of Article 324, the broader concepts applied in relation to the offense of money laundering also highlights the more limited scope of the concepts applied in Article 47 in relation to confiscation and all other offenses under the Criminal Code.

The confiscation powers are furthermore only available in relation to offenses subjected to penalties, such as fines and confiscation of property. Many crimes in the Criminal Code are not subject to such penalties, including offense such as “espionage” (Article 110), “murder” (Article 123), “concealment of crimes” (Article 389), etc. These crimes can also generate proceeds of crime, for example, when state secrets are sold or when a contract murder is performed. Such property falls, however, outside the scope of the scheme.

5.2 Investigation of proceeds of crime

The Criminal Procedure Code sets out a range of measures and powers relating to the investigation of crime. Articles 179 to 228 of the Code address powers and processes in relation to all types of crime, for example, the interrogation of a suspect; searches of residences, workplaces, areas and vehicles”; seizure of electronic media and data, mails, telegraphs and postal packages; seizure of documents and items during a search; crime scene examination; and “special methods of investigation and proceedings, including secret audio and audio-visual records, secret phone tapping and secret collection of electronic data.”

These measures are mainly designed to support the detection of criminal acts and the collection of evidence for purposes of prosecutorial decisions and processes. They are, however, also the measures that must be used to support asset confiscation processes. The identification and tracing of proceeds of crime is conducted concurrently with the criminal investigation. In practice, criminal investigation in Vietnam focuses mainly on proving offenses. Financial investigations that track money flow and assets for purposes of confiscation are rare. On the one hand, this means that not all criminal assets may be identified and traced. On the other hand, it increases the chances that assets may disappear.

During the criminal investigation, freezing and seizing of assets to prevent dispersal may not receive the required attention. As a result, there are many cases where assets were dispersed before a confiscation order was issued, with the result that limited or even no assets were available for confiscation (Huyen and Giao, 2018, p. 70; Nguyen and Hoang, 2021).

While extensive financial investigations are still uncommon, they may be carried out by Vietnamese law enforcement agencies in select cases. For example, in the Phan Sao Nam case discussed in subsection 3.3 earlier, the police used financial intelligence provided by the Anti-Money Laundering Department (the Vietnamese Financial Intelligent Unit) and information obtained from the whole banking system of Vietnam to determine how money flowed from the accounts of illegal gamblers to the accounts of offenders and then into assets and investments controlled by the offenders. The capacity to undertake such investigations more regularly is, however, hampered by a lack of investigators with appropriate expertise in financial investigation.

Where financial investigations are undertaken, investigator faces a significant barrier to accessing banking information. Two phases can be distinguished in criminal investigations: A confidential and often secret pre-investigation or reconnaissance stage and the formal and public investigation stage that commences when a criminal investigation is formally launched by a decision of authorized person such as the head of investigation agency. In practice, financial investigations would often commence during the pre-investigation. At this stage, information and evidence are secretly collected. This is a very important period to collect evidence because the offender is completely unaware that he is being monitored or investigated. This is also an important stage in financial investigations as the offender may not actively destroy evidence or deliberately disperse property to evade confiscation. Despite the importance of financial investigations during this phase, they are hampered by the current law.

During the pre-investigation phase, banks generally refuse to share information about the financial transactions of customers (Huyen and Giao, 2018, p. 69). A Government Decree (Decree no. 70/2000/ND-CP of the Government on Keeping Secret, Storing and Providing Information Related to Customers' Deposits and Assets) and Circular (Circular no. 02/2001/TT-NHNN Guiding the Implementation of Decree no. 70), only allow credit institutions (banks) to provide information about transactions of customers to investigators if there was a written request to provide such information by a state body during an inspection, investigation, prosecution, court trial or judgment execution that falls under its competence, as prescribed by law, for example, the Supreme People's Procuracy, Supreme or provincial People's Court, National Assembly and the National Assembly Standing Committee. (Article 5(4) of Decree no. 70). This request must be accompanied by documents relating to the investigation, such as a decision to prosecute a case, prosecute the offender or other documents proving that an investigation is being conducted in relation to the customer (Article 2(2.2) (d) of Circular no. 22). During the confidential pre-investigation stage, investigators generally do not have such documents and therefore their chances of obtaining such banking information were slim.

Decree no. 70 was replaced by Decree no. 117/2018/ND-CP, which took effect on November 1, 2018. The new Decree dispensed with the need for a written request but still stipulate that credit institutions may only provide their customers' information to competent authorities when the investigator provides documents such as prosecution decisions or other equivalent documents (Article 9(2) of Decree no. 117). No regulations have been issued clarifying which type of document are "equivalent documents" either. Financial

investigators are, therefore, still left with a significant barrier to accessing transactional information during the pre-investigation stage.

5.3 Linking the crime and property

Vietnam has a heavily cash-based economy. Cash payment is used primarily at the point of sale (85%), while cash on delivery is used in 29% e-commerce transactions (Worldpay, 2020, 126). People who purchase real estate or high-value items such as vehicles or diamonds do not have to provide any information about their source of funds. A considerable portion of proceeds of crime is invested in real estate (UNODC, 2012/2017, p. 10). Anecdotal evidence points to large amounts of cash entering and exiting the country regularly. A significant share of these amounts is probably linked to tax evasion, illicit drug trafficking, human trafficking, environmental crime, fraud and corruption. Given the lack of documentation on the source of funds and the amount of cash in the economy, it is, however, difficult to determine whether assets owned by individuals or organizations represent in whole or in part proceeds of crime.

The Law on Prevention and Suppression of Corruption 2005 (amended and supplemented in 2007 and 2012) stipulates that office holders in state organizations must declare their assets and incomes as well as the assets and income of their spouses and children (Article 33). This declaration must be publicly posted at the workplace of the declarant. This provision supports the combating of corruption. It enables Vietnamese law enforcement authorities to obtain information about the assets owned by persons in positions of power. It also strengthens the detection of corruption and other financial crimes. In theory, colleagues will know what the declarant earns and what he owns. They may, therefore, be able to identify discrepancies and inaccuracies and report the declarant to competent authorities. However, in practice, the declaration system is not particularly effective. Most of the asset declaration reports are not checked and their contents verified. In addition, earning the second income is also still quite common, undermining the usefulness of the declaration (Government, 2016).

The Law on Prevention and Suppression of Corruption 2005 also had several gaps. Regulations on transparency are not comprehensive and lack of measures to ensure the implementation of such regulations, for example, the principles, form, content, time and responsibility of relevant authorities in publicity information are not yet clarified in the law. The Law did not ensure that all property that is owned by office holder as well as their actual income was sufficiently declared. It also did not provide for cases where office holders could not explain the source of their wealth and how they came to own the property they declared (Government, 2016, pp. 17–18). In 2018, the National Assembly of Vietnam, therefore, issued a new PSC Law, which took effect on July 1, 2019. The new law addressed several limitations of the 2005 Law. If all the provisions of the draft version of the PSC Law of 2018 were adopted, the framework would have been stronger. The draft provided for fines or confiscation where an owner of property was not able to explain their wealth and acquisition of the property. This provision would have been a major anti-corruption measure. It was, however, deleted due to insufficient support in the National Assembly (Thanh nien online, 2018).

5.4 Freezing and restraint of assets

The Criminal Procedure Code allows for several measures that can be taken to preserve assets for confiscation, including restraint of property (Article 128), freezing of accounts (Article 129), and sealing, seizure of documents and items during a search (Article 198). Restraint of property and freezing of accounts are, however, measures that may only be applied in relation to suspects and defendants whose offenses are punishable by a pecuniary

penalty, by the confiscation of property as stipulated in the Penal Code or to guarantee compensation for damage. In addition, an account of a third party may also be frozen if there are grounds to believe that the money in that account is related to an offense of the accused person. The assets or value restrained must correspond to the level of fine, confiscation or damage compensation that can be expected. Investigators can apply for the sealing or seizure of documents and assets to ensure their preservation.

Thus, this implies that provisional measure will be applied at a stage when the relevant authority has ascertained that the offender committed an offense that carries a penalty of a fine or asset confiscation and have decided that the person will be prosecuted for such an offense. These powers cannot be exercised at an earlier stage when the investigators are still determining the precise nature of the offense committed or the course of action that they will take where a range of offense has been identified.

The scope of any restraining action is limited to an amount that corresponds to the level of fine, confiscation order or compensation order that may be imposed upon conviction (Article 128(3) and 129(3)). According to the Criminal Code, the maximum fine level for individuals is VND 5bn (approximately US\$215,424) and for commercial legalities is VND 20bn (approximately US\$861,697). This limits the ability of the competent authority to restrain and freeze all relevant property of offenders at the investigation stage, especially where large-scale economic offenses were committed.

Under Article 130 (1) of the Criminal Procedure Code, property restraint and account-freezing measures must terminate when there is a suspension of the investigation or prosecution. In practice, there are various situations where a case may be suspended, for example, for further investigation or where the accused person dies. This will result in the release of the restrained assets. Once that happens, the assets may quickly be dispersed, for example, by transferring ownership of houses or by giving money to relatives. In the case of Huynh Thi Huyen Nhu, for example, the Supreme Court canceled the restraint order and returned six real-estate properties to the offender when a portion of the verdict of the court of first instance was overturned. This led to a reinvestigation of and prosecution for those offenses ([Dantri online, 2017](#)). By the time the court's confiscation order was enforced, insufficient assets were found to recover the estimated proceeds of crime (see 3.3.4 above).

Provisional measures taken outside criminal proceedings mainly apply to individuals and organizations involved in terrorism or terrorist financing; convicted persons or organizations controlled or owned by convicted persons. Such measures may only be taken by reporting entities that are financial institutions or designed nonfinancial services and professions according to the FATF's definition (Article 4 of PSML law) and only when ordered by state authorities. Consequently, "non-reporting entities," who are involved in the transactions may not apply such measures ([Nguyen, 2014, p. 159](#)).

These limitations discussed above undermine the effectiveness of asset restraint and account-freezing measures under Vietnamese law. The legal impediments must be assessed along with the practical challenges to financial investigations to trace and identify the relevant assets.

5.5 Mutual legal assistance

Vietnam has a comprehensive framework for mutual legal assistance formed primarily by the Criminal Procedure Code 2015, the Mutual Legal Assistance Law 2007 and conventions, treaties and memoranda of understanding. According to Article 4(2) of the Law on Mutual Legal Assistance, Vietnam may provide legal assistance to a foreign country that has not signed a treaty with Vietnam on the basis of the principle of reciprocity, provided that it does not contravene Vietnamese laws and complies with international law and practice.

Mutual legal assistance rendered by Vietnam in relation to asset confiscation is addressed by Article 507 of the Criminal Procedure Code 2015. It provides for competent Vietnamese authorities to cooperate with foreign competent authorities to trace, seize, restrain, freeze and confiscate proceeds of crimes within the framework of Vietnamese law. The Ministry of Justice and the Supreme People Procuracy are focal points for taking civil legal assistance and criminal legal assistance, respectively. Legal assistance activities include the application of reciprocity and the performance of legal assistance mandates are reviewed biannually and annually by competent authorities such as the Ministry of Foreign Affairs, the Ministry of Justice. As mentioned in subsection 3.1, non-conviction-based forfeiture is not generally available, and Vietnam is unable to offer comprehensive assistance to pursue foreign non-conviction-based forfeiture and confiscation. Vietnam, furthermore, imposes dual criminality requirements (Article 21(d) MLA law) and, therefore, does not generally render assistance where a foreign offense is also not an offense under the laws of Vietnam. There is an exemption where a mutual legal assistance treaty between Vietnam and the requesting state provides otherwise. The dual criminality requirement applies whether or not a coercive action is involved or requested. This requirement does not comply with FATF's Recommendation 37, which provides that countries should render mutual legal assistance notwithstanding the absence of dual criminality, if the assistance does not involve coercive actions.

6. Conclusion

Vietnam has a functioning asset confiscation regime but gaps in the law, lack of financial investigation expertise and lack of focused investigative attention on asset preservation and confiscation are hampering its effectiveness.

The legal gaps can be addressed with relative ease, for example:

- The scope of confiscation can be broadened by ensuring uniform usage of “property” throughout laws addressing proceeds of crime, especially replacing more limited “items” as used in the Criminal Code. “Property” should be defined uniformly in these laws, applying the definition of “property” in the relevant UN conventions and FATF standards. Confiscation measures should extend to property representing proceeds of crime (Stephenson *et al.*, 2011, pp. 65–66).
- Access to banking records and information should be provided during the non-public pre-investigation stage too.
- The current asset freezing and restraint provisions can be improved by enabling immediate action once a decision is taken to prosecute the offender (Stephenson *et al.*, 2011, p. 54).
- The regime regarding the declaration of assets by public officials can be strengthened and confiscation can be extended to cases of unexplained wealth.
- Comprehensive non-conviction-based forfeiture of proceeds of crime can be introduced. FATF Recommendations and the UNCAC encourage jurisdictions to apply non-conviction-based measures (Brun *et al.*, 2011, p. 103). There are many cases where it is impossible to have a conviction because the offender dies, flees abroad or enjoys prosecution immunity or where the owner of the property cannot be identified. In these cases, non-confiscation-based forfeiture will be a useful measure to improve the efficiency of criminal property recovery (Brun *et al.*, 2011, p. 107; U4 Anti-Corruption Resource Centre, 2007).
- Vietnam's mutual legal assistance regime can be improved by dispensing with general dual criminality requirements.

Boucht's analysis of the confiscation regime reflects, however, that legal improvements on their own will not improve the effectiveness of the regime. At the very least, they need to be combined with a dedicated skills development program to produce a sufficient number of financial investigation experts (Golobinek, 2006, p. 25) and criminal asset management experts to support the regime. The investigators and their investigations need to be embedded in the investigation of all significant economic offenses. This will require a change in the approach of traditional criminal investigators. Frozen and seized assets need to be managed by trusted experts to ensure that the maximum value is extracted for the benefit of the State and the victims of offenders. In essence, a holistic approach, is required to improve both the law and practices relating criminal asset confiscation in Vietnam. This holistic approach should include appropriate judicial training too.

Reforms such as these should follow on a comprehensive review of Vietnam's law and practices relating to the confiscation and forfeiture of criminal assets. This review should extend to assets linked to the financing of terrorism and proliferation to ensure that Vietnam has a comprehensive regime to deal with criminal assets.

Note: Views expressed in this paper are those of the authors and are not necessarily shared by their institutions.

Note

1. The figure is calculated by the author from statistics provided in the article.

References

- Alexander, R. (2015), "The pursuit of criminal property", Rider, B.A.K (Ed), *Research Handbook on International Financial Crime*, Edward Elgar, Cheltenham, pp. 447-461.
- Asia-Pacific Group (2009), *Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism: Vietnam*, APG, Sydney South.
- Boucht, J. (2019), "Asset confiscation in Europe – past, present, and future challenges", *Journal of Financial Crime*, Vol. 26 No. 2, pp. 526-548, doi: [10.1108/JFC-04-2018-0043](https://doi.org/10.1108/JFC-04-2018-0043).
- Brun, J.P., Gray, L., Scott, C., and Stephenson, K. (2011), *Asset Recovery Handbook – a Guide for Practitioners*, Stolen Asset Recovery Initiative, World Bank, Washington, DC.
- Casella, S. (2015), "Civil asset recovery: the American experience", Rider, B.A.K (Ed), *Research Handbook on International Financial Crime*, Edward Elgar, Cheltenham, pp. 496-506.
- Center for the Study of Democracy (2014), "Disposal of confiscated assets in the EU member states: laws and practices", available at: www.files.ethz.ch/isn/185046/Disposal-of-confiscated-assets-report.pdf
- De Koker, L. and Pretorius, J.L. (1998), "Confiscation orders in terms of the proceeds of crime act: some constitutional perspectives (part 2)", *Journal of South African Law*, pp. 277-283..
- FATF (2012), "Best Practice on Confiscation (Recommendations 3 and 38) and a Framework for Ongoing Work on Asset Recovery", FATF, Paris.
- FATF (2012/2020), "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation", FATF, Paris, available at: www.fatf-gafi.org/recommendations.html
- FATF (2012/2012), "High-risk and non-cooperative jurisdiction", *FATF Public Statements*, FATF, Paris.
- Golobinek, R. (2006), *Financial Investigation and Confiscation of Proceeds from Crime: Training Manual for Law Enforcement and Judiciary*, Council of Europe, Strasbourg.

- Government (2016), "Report on assessment of 10-year implementing the Law on Prevention and Suppression of Corruption (bao cao tong ket 10 nam thuc hien luat PCTN)".
- Home Office (2019), "Asset recovery action plan", The UK, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815900/20190709_Asset_Recovery_Action_Plan_FINAL_Clean.pdf
- Huyen, D.T. and Giao, V.C. (2018), "Asset recovery in the fight against corruption in Vietnam", *Jindal Global Law Review*, Vol. 9 No. 1, pp. 57-74.
- Murray, K. (2015), "Confiscation and forfeiture", Rider, B.A.K (Ed), *Research Handbook on International Financial Crime*, Edward Elgar, Cheltenham, pp. 462-472.
- National Audit Office (2013), "Confiscation orders", Report by the Comptroller and Auditor General, London, England, available at: www.nao.org.uk/wp-content/uploads/2013/12/10318-001-Confiscation-Book.pdf
- Nguyen, C.L. (2014), "International anti-money laundering standards and their implementation by Vietnam", PhD thesis, University of Canterbury.
- Nguyen, D.B. and Hoang, C.K. (2021), "Asset recovery in corruption cases handled by the People's Procuracies of Vietnam", United Nation Asia and Far East Institution, available at: www.unafei.or.jp/publications/pdf/GG11/25_GG11_CP_VietNam.pdf
- Pol, R. (2018), "Uncomfortable truths? ML=BS and AML= BS2", *Journal of Financial Crime*, Vol. 25 No. 2, pp. 294-308, doi: [10.1108/JFC-08-2017-0071](https://doi.org/10.1108/JFC-08-2017-0071).
- Stephenson, K.M., Gray, L., Power, R., Brun, J.P., Dunker, G., and Panjer, M. (2011), *Barriers to Asset Recovery*, The World Bank, Washington, DC, USA.
- U4 Anti-Corruption Resource Centre (2007), "The recovery of stolen assets: a fundamental principle of the UN Convention Against Corruption." Brief No. 2 (February). available online at: www.u4.no/publications/the-recovery-of-stolen-assets-a-fundamental-principle-of-the-un-convention-against-corruption.pdf
- UNODC (2012), *Vietnam Country Programme 2012–2017*, UNODC, Hanoi.
- Worldpay (2020), "Global payments report", available at: <https://worldpay.globalpaymentsreport.com/#/en>

Further reading

- Government Inspectorate of Vietnam (2018), "Report on prevention and suppression of corruption at the provincial level in 2017 (PACA index 2017) (bao cao danh gia cong tac phong, chong tham nhung cap tinh 2017 (PACA index 2017))".
- UNODC, The International Bank for Reconstruction and Development/The World Bank (2007), *Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan*, World Bank, Washington, DC.
- Victorian Auditor-General (2013), "Asset confiscation scheme", Victorian Auditor-General's Office, Melbourne, Victoria, Australia, available at: www.audit.vic.gov.au/report/asset-confiscation-scheme?section=30971-4-scheme-operation-

Vietnamese newspapers web references

- Baomoi online (2018), "The General Department of Civil Court Execution claimed that it is tough to recover assets in big cases", available at: <https://baomoi.com/tong-cuc-thi-hanh-an-keu-kho-thu-hoi-tai-san-trong-cac-vu-dai-an/c/28371500.epi>
- Cafef online (2016), "3 Banks which priced VND 0, in the past and now", available at: <http://cafef.vn/3-ngan-hang-0-dong-ngay-ay-bay-gio-20161005162004248.chn>
- Dantri online (2016), "Over VND 9000 billion in Huynh Thi Huyen Nhu case is impossible to recover", available at: <https://dantri.com.vn/xa-hoi/hon-9000-ty-dong-vu-huynh-thi-huyen-nhu-khong-co-kha-nang-thi-hanh-an-20160311170046694.htm>

-
- Dantri online (2017), "The amount of asset recovery in big cases was too little", available at: <https://dantri.com.vn/phap-luat/thu-hoi-tai-san-cac-vu-dai-an-nghin-ty-tai-san-thu-duoc-qua-it-2017041708424968.htm>.
- E.vnexpress (2019), "Information Ministry chief inspector arrested in online gambling case", available at: <https://e.vnexpress.net/news/news/information-ministry-chief-inspector-arrested-in-online-gambling-case-3914917.html>
- Nguoilaodong online (2013), "Super trick appropriated VND 719 billion of Kien Group", available at: <https://nld.com.vn/phap-luat/sieu-lua-chiem-doat-cua-nhom-bau-kien-719-ti-dong-20131019121142785.htm>
- Thanh nien online (2018), "National Assembly removed the provision on handling the property which does not prove its legal origin from the law", available at: <https://thanhnien.vn/thoi-su/quooc-hoi-bo-dieu-khoan-xu-ly-tai-san-khong-chung-minh-duoc-nguon-goc-khoi-luat-1025157.html>
- Tuoitre online (2016), "How did CB Bank lose over VND 9000 billions", available at: <https://tuoitre.vn/ngan-hang-xay-dung-mat-hon-9000-ti-ra-sao-1135639.htm>
- Tuoitre online (2017), "Big case: Pham Cong Danh, asset recovery was VND 5000 billions", available at: <https://tuoitre.vn/dai-an-pham-cong-danh-da-thu-hoi-5000-ti-dong-1349641.htm>
- VTV online (2018), "Notice of Ministry of Public Security on the process of investigation the organization of gambling", available at: <https://vtv.vn/trong-nuoc/thong-bao-cua-bo-cong-an-ve-qua-trinh-triet-pha-duong-day-to-chuc-danh-bac-20180317201901366.htm>

Further reading

- VOV online (2019), "General Secretary: the percentage of asset recovery from corruption reached to over 30%", available at: <https://vov.vn/chinh-tri/tong-bi-thu-nam-2018-ty-le-thu-hoi-tai-san-tham-nhung-dat-tren-30-867419>
- Wikipedia online (2018), "The case of Huynh Thi Huyen Nhu", available at: https://vi.wikipedia.org/wiki/V%E1%BB%A5_%C3%A1n_Hu%E1%BB%B3nh_Th%E1%BB%8B_Huy%E1%BB%81n_Nh%C6%B0

Corresponding author

Louis De Koker can be contacted at: L.DeKoker@latrobe.edu.au

For instructions on how to order reprints of this article, please visit our website:

www.emeraldgrouppublishing.com/licensing/reprints.htm

Or contact us for further details: permissions@emeraldinsight.com