

## Resolution 2365 (2021)<sup>1</sup>

# Urgent need to strengthen financial intelligence units – Sharper tools needed to improve confiscation of illegal assets

Parliamentary Assembly

1. Numerous scandals, including the recent leaks from FinCEN, the United States Treasury Department's Financial Crimes Enforcement Network, have shown that national and international efforts aimed at combating money laundering and terrorist financing have fallen far short of declared objectives. According to the World Bank, the worldwide proceeds of organised crime and high-level corruption amount to several trillions of US dollars each year. Only a tiny fraction is successfully confiscated by law enforcement. The remainder, accumulating in the hands of organised criminals, corrupt public officials and terrorists, represents a huge threat for democracy, the rule of law and national security in all member States. At the same time, successful confiscation of illegal assets represents a significant opportunity for States to generate the resources needed to address the social problems caused by organised crime, corruption and terrorism. Urgent action to step up the tracking and confiscation of the proceeds of crime is therefore both necessary and potentially highly rewarding.
2. The Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and the Group of States against Corruption (GRECO), together with the Egmont Group of Financial Intelligence Units, play an important role in the fight against money laundering and terrorism financing by setting relevant standards, monitoring their implementation and organising international co-operation and training activities.
3. The Parliamentary Assembly, in [Resolution 2218 \(2018\)](#) on fighting organised crime by facilitating the confiscation of illegal assets, recommended States to reverse the burden of proof regarding the legality of assets by requiring the persons concerned to establish the legitimate origin of the suspect assets they hold.
4. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, Warsaw Convention) provides an important legal framework for financial intelligence units (FIUs) and international co-operation in this field. Most, but not all member States of the Council of Europe have signed and ratified it.
5. In order for illegal assets to be successfully confiscated, they must be identified as suspicious and secured. FIUs set up by all Council of Europe member States and many other States under the auspices of the Financial Action Task Force (FATF) play a crucial role. FIUs receive suspicious transaction reports (STRs) from the private sector (banks, insurance companies, lawyers), which they are required to analyse and act upon, including by freezing certain transactions temporarily and passing on information to law-enforcement bodies for the purposes of confiscation and prosecution.
6. While the FATF standards allow for different organisational models of FIUs (administrative, law-enforcement or hybrid models), they must be given the independence, competences and human and material resources necessary to fulfil their role effectively.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 19 March 2021 (see [Doc. 15192](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Thorhildur Sunna Ævarsdóttir).*  
See also [Recommendation 2195 \(2021\)](#).



7. Under the Warsaw Convention, FIUs have the power to postpone suspicious transactions for some time, pending further inquiries, both domestically (Article 14) and upon the request of a foreign FIU (Article 47). This option is not yet included in the FATF's standards for FIUs.

8. The Egmont Group assists FIUs to increase their effectiveness through training and staff exchanges and through fostering better and more secure communication among FIUs for the purpose of mutual exchange of information.

9. The effectiveness of FIUs can be assessed in terms of the rate of success in transforming STRs into actionable evidence for the purposes of confiscating illegal assets and prosecuting relevant crimes ("conversion rate"), which depends on close co-operation and mutual feedback between the FIUs and the reporting entities (banks, etc.) on one side and law-enforcement authorities on the other.

10. The main issues FIUs face, as identified in regular national assessments conducted, in particular, by the FATF and MONEYVAL, include the following:

10.1. the uneven quality and large quantity of reports filed by the reporting entities (banks, etc.), the release of assets by reporting entities before they have had feedback from the FIU, the lack of knowledge on money-laundering/terrorism financing typologies by reporting entities, as well as the lack of effective feedback, guidance and training for reporting entities;

10.2. the lack of autonomy and independence of certain FIUs, understaffing and insufficient material resources (information technology (IT) equipment and tools, archiving and data management and data exchange systems); inadequate technical capacities in the context of new challenges (growing demand for online services and internet payment systems, financial technology ("fintech")) and the complex nature of criminal schemes and money-laundering channels (including cybercrime); and inadequate use by FIUs of their suspension powers, even where they have such powers;

10.3. law-enforcement authorities' inability to take prompt action to follow up intelligence provided by FIUs to ensure that assets are frozen and/or seized while conducting an investigation; their inability to provide timely feedback to an FIU about the quality of the disseminated information and the actions taken.

11. The fight against money laundering and terrorism financing is negatively impacted by so-called "golden passport" programmes, which involve the granting of citizenship in return for the investment of a large sum of money in the country concerned. These programmes, offered by Cyprus and Malta in particular, have given rise to numerous abuses that have recently prompted the European Commission to launch infringement proceedings against these two countries.

12. A number of designated non-financial businesses and professions (DNFBPs) continue to represent the weakest links in global anti-money laundering efforts, in particular casinos, lawyers, notaries, accountants, real estate agents, dealers in precious metals and stones, and trust and company service providers. The supervision of these financial "gatekeepers" is often assigned to FIUs, without the allocation of adequate supervisory resources.

13. The Assembly therefore invites all member States of the Council of Europe and those States which have observer or co-operative status with the Organisation to:

13.1. strengthen their FIUs in line with the recommendations by the FATF and MONEYVAL, in particular by providing them with sufficient powers, human resources, IT tools and training opportunities to enable them to cope with new challenges and the increasing complexity of money-laundering channels;

13.2. respect their FIUs' autonomy and refrain from any political interference in their work;

13.3. grant all FIUs the power to temporarily suspend suspicious transactions, including at the request of a foreign counterpart, as foreseen in Articles 14 and 47 of the Warsaw Convention;

13.4. strengthen the capacity of their law-enforcement bodies (police, prosecution and courts) to take timely action following the transmission of financial intelligence by FIUs by creating specialised, well-trained and sufficiently resourced task forces working in close co-operation with the FIUs; collecting and publishing statistics in order to evaluate the "conversion rate" of STRs into effective investigations, confiscations and prosecutions;

13.5. strengthen international co-operation between FIUs by making relevant legislation and institutional set-ups interoperable, allowing for the unbureaucratic exchange of financial intelligence and promoting informal exchanges of experience through bodies such as the Egmont Group;

- 13.6. encourage their competent authorities to engage in a constructive dialogue with the private sector (reporting entities) in order to ensure the highest possible quality, rather than quantity, of STRs and other reports; consider offering mandatory or optional training to reporting entities;
- 13.7. allocate sufficient resources to FIUs to ensure effective supervision of DNFBPs, focusing on those with transnational operations;
- 13.8. sign and ratify the Warsaw Convention, if they have not already done so;
- 13.9. reverse the burden of proof regarding the legality of assets by requiring the persons concerned to establish the legitimate origin of the suspect assets they hold;
- 13.10. end any citizenship-for-investment programmes they may still have on offer.