



DISPUTE RESOLUTION

Asset recovery and confiscation

What is at stake?

On 12 June 2026, the Assembly of the Republic approved the final text of Bill 50/XVII/1st (**Bill**), which transposes Directive (EU) 2024/1260 on asset recovery and confiscation. The Bill amends the Criminal Code, the Code of Criminal Procedure and Laws 5/2002 of 11 January, 45/2011 of 24 June and 62/2013 of 26 August. This Bill marks a significant development in Portuguese law. It introduces several innovative mechanisms and is likely to give rise to important constitutional and legal debate in the coming years.

Following the old saying ‘crime does not pay’, the legislature seeks to strengthen asset recovery and confiscation within the Portuguese legal system. To achieve this, it: (i) creates new subsidiary forms of confiscation, (ii) establishes the status of ‘affected person’, (iii) establishes a new standalone confiscation proceeding, (iv) addresses gaps in limitation periods, (v) grants new powers to the Asset Recovery Office (*Gabinete de Recuperação de Ativos* – **GRA**), and (vi) formalises the powers of the Asset Management Office (*Gabinete de Administração de Bens* – **GAB**).

The legislature seeks to strengthen asset recovery and confiscation within the Portuguese legal system creating new subsidiary forms of confiscation

Key developments

Extended confiscation and confiscation without a conviction

The Bill gives the court power to confiscate assets in situations where it has not been possible to prove that the assets in question derive from the specific criminal offence on which the conviction was based. The court may nevertheless order confiscation if it is satisfied that the assets do originate from criminal activity connected with that offence. In the event of a conviction for a listed offence, the Public Prosecutor may request the confiscation of assets held by the offender which are the proceeds of criminal activity, provided that the offence is punishable by a prison sentence of four years or more and is likely to generate an economic benefit, directly or indirectly. This applies even if the offence was committed as part of a criminal organisation.

Paulo Farinha
Alves
Raquel Cardoso
Nunes
Margarida
Rodrigues Caldeira
Luiza Toniolo
Dispute Resolution
team

The following circumstances are considered to be indicative of the criminal origin of the assets: (i) a significant difference between the value of the assets in question and the defendant's legitimate income; (ii) the absence of a lawful source for the assets; (iii) a transfer of assets through transactions designed to conceal their location, destination or owner, without a valid legal or economic explanation; (iv) the manner in which the assets were identified and seized; (v) the affected person's association with members of a criminal organisation.

The Bill also provides that the court can order the confiscation of assets even in the absence of a conviction for one of the listed offences. To do so, it must be demonstrated that the assets derive from criminal activity capable of generating a substantial economic benefit.

Standalone confiscation proceedings

To prevent criminal proceedings from being artificially prolonged, **standalone proceedings** are in place. The Public Prosecutor initiates this procedure when criminal proceedings are terminated due to death, amnesty, or when the limitation period has expired (if it is less than 15 years). The same procedure may also be used if there is no conviction due to insufficient evidence, provided that the assets' unlawful origin is demonstrated.

The affected person

Under the approved Bill, an affected person is any natural or legal person:

- i) Who holds assets that are the subject of a seizure, freezing or confiscation order.
- ii) Whose rights in relation to the assets that are the subject of a seizure, freezing or confiscation order are directly affected by that order.
- iii) Whose seized or frozen assets are the subject of an early sale, even prior to a final confiscation order.
- iv) Against whom an application for confiscation has been lodged.

The affected person is a recognised party to the proceedings, to whom rights and duties are attributed, including: (i) the right to be present at procedural acts concerning them; (ii) the right to be heard by the court or the investigating judge when decisions affecting them are made; (iii) the right to be informed of the facts underlying decisions on seizure, arrest or confiscation; (iv) the right to be represented by a lawyer; (v) the right to participate in the investigation and trial, by presenting evidence and requesting further investigative measures; and (vi) the right to appeal against any decision that is unfavourable to them.

The affected person is a recognised party to the proceedings, to whom rights and duties are attributed.

Early sale and immediate measures

The Bill expands the GAB's powers to sell seized assets in advance, i.e. before the confiscation decision becomes final, where the seizure is no longer necessary and the assets are not to be returned. The early sale procedure is reserved for cases where: (i) the assets are perishable, dangerous, subject to deterioration, rapidly depreciating, or their use entails a loss of value or quantity; (ii) storage or maintenance costs are disproportionate; or (iii) the management of the asset requires special conditions and specialist knowledge that are not readily available.

The Bill introduces immediate measures, such as the provisional seizure or freezing of assets, in urgent cases or where delay would be detrimental.

The Bill also introduces immediate measures, such as the provisional seizure or freezing of assets, in urgent cases or where delay would be detrimental. This applies in cases where there is an imminent risk of assets disappearing, being destroyed, damaged, rendered unusable, concealed or transferred. These measures may be ordered by the Public Prosecutor or the director of the GRA and are subject to validation.

Transition period before entry into force and next steps

The approved text provides for entry into force on 1 September 2026, subject to completion of the legislative process, including promulgation and publication in the *Diário da República* (Portugal's official gazette). ■