



Tool 3.5 Criminalizing the laundering of proceeds of trafficking in persons

Overview

This tool discusses the need to criminalize the laundering of the proceeds of trafficking in persons as an important part of a comprehensive anti-trafficking strategy.

A State's national strategy to combat trafficking in persons must include strong confiscation regimes that provide for the identification, freezing, seizure and confiscation of illicitly acquired funds and property. However, organized criminal groups, including those which are involved in human trafficking, may try to avoid confiscation of their illegally gained wealth by disguising the criminal origins of their assets. Criminalizing the laundering of the proceeds of crimes related to human trafficking is an important part of a comprehensive strategy to combat human trafficking. The Organized Crime Convention and the Trafficking in Persons Protocol require States parties to criminalize the laundering of the proceeds of human trafficking offences.

Requirements under the Organized Crime Convention

Article 6 of the Organized Crime Convention requires that each State establish the following four offences relating to money-laundering:

- Conversion or transfer of crime proceeds for the purpose of concealing their illicit origin
- Concealment or disguise of crime proceeds
- Acquisition, possession or use of crime proceeds
- Contributing indirectly to the commission of the offences outlined above, including participation in and conspiring or attempting to commit the offences in question

Predicate offences

A “predicate offence” is an offence whose proceeds may become the subject of any of the money-laundering offences established under the Convention. Many States already have laws on money-laundering, but there are many variations in the definition of predicate offences. Some States limit the predicate offences to drug trafficking, or to drug trafficking and a few other crimes. Other States have an exhaustive list of predicate offences set forth in their legislation. Still other States define predicate offences generically as including all crimes, or all serious crimes, or all crimes subject to a defined penalty threshold.

Article 6, paragraph 2 (a), of the Organized Crime Convention requires that the provisions concerning money-laundering are applicable to the “widest range of predicate offences”, including the offences established by the Convention itself and the Protocols to which the State has become a party, as well as all “serious crime” (art. 6, para. 2 (b)) as defined by the Convention.

Other measures to combat money-laundering

Article 7 of the Organized Crime Convention requires States parties to take additional measures. They must:

- Establish a regulatory and supervisory regime for banks and non-bank financial institutions, emphasizing requirements of customer identification, record-keeping and the reporting of suspicious transactions
- Develop the capacity of administrative, regulatory, law enforcement and other authorities to cooperate and exchange information with each other
- Promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities
- Use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering

States parties are also required:

- To consider implementing measures to detect and monitor movements of cash and negotiable instruments across their borders, such as reporting requirements for substantial cross-border cash transfers
- To promote cooperation among the national authorities established to combat money-laundering

Recommended resources



The UNODC legislative guides, at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html



An overview of the United Nations Conventions and other international standards concerning anti-money-laundering legislation, at:
www.unodc.org/unodc/en/money-laundering/Instruments-Standards.html



United Nations model legislation on laundering, confiscation and international cooperation in relation to the proceeds of crime, at:
www.unodc.org/unodc/en/money-laundering/Model-Legislation.html