

ASSET RECOVERY IN CORRUPTION CASES AFTER CRIMINAL CONVICTION: EXPERIENCES FROM THE UNITED KINGDOM AND SINGAPORE WITH IMPLICATIONS FOR VIETNAM

NGUYEN HUYNH BAO KHANH

Faculty of Criminal Law, Ho Chi Minh City University of Law, Vietnam

Email: nhbkhanh@hcmulaw.edu.vn

Abstract

Asset recovery following criminal conviction plays a significant role in anti-corruption policy, aiming to deprive offenders of illicit benefits and to remedy losses suffered by the State. The present article maintains that the main difficulties of post-conviction asset recovery (PCAR) in Vietnam do not stem solely from shortcomings in legal provisions, but also from limitations in early asset preservation (EAP) prior to the final effectiveness of criminal judgments. Comparative experience from the United Kingdom and Singapore suggests that effective recovery mechanisms rely on assessing overall criminal benefits together with early asset-preservation measures. Hence, it is suggested that legal reform in Vietnam should prioritise procedural mechanisms that enable EAP and strengthen enforcement coordination. These findings help clarify how OCAR mechanisms may operate effectively across different legal traditions.

Keywords: post-conviction asset recovery, early asset preservation, corruption cases, United Kingdom, Singapore

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Anti-corruption efforts are often assessed through the effectiveness of asset recovery, as the removal of illicit benefits serves both to compensate for losses suffered by the State and to reduce economic incentives for corrupt conduct. Over the past decade, Vietnam has undertaken an extensive anti-corruption campaign, treating the fight against corruption as a central pillar of its national development strategy.¹ Anti-corruption enforcement has been closely linked to broader objectives of strengthening state governance, promoting economic transparency, and enhancing public trust in state institutions.²

Although asset recovery from anti-corruption cases has shown certain improvements in recent years in Vietnam, practical results remain limited, with the average recovery rate during the period 2013–2020 reaching only 32%,³

1 Communist Party of Vietnam. (2021). *Documents of the 13th National Congress*, National Political Publishing House. p. 118–122; Bai, J., Jayachandran, S., Malesky, E. J., & Olken, B. A. (2017). *Firm growth and corruption: Empirical evidence from Vietnam*. *The Economic Journal*, 129(618), 651–677. <https://doi.org/10.1111/eoj.12560>; Transparency International. (2024). *Corruption Perceptions Index 2024*. <https://www.transparency.org/en/cpi/2024> (accessed 2016, March 10).

2 Nguyen, H. H. (2020). Vietnam in 2020: The year in transition. *Southeast Asian Affairs*, 1, pp. 381–404. <https://cooperative-individualism.org/nguyen-hai-hong-vietnam-in-2020.pdf>

3 Bach, T. H. (2025). Một số vấn đề lý luận và thực tiễn về thu hồi tài sản tham nhũng, tiêu cực thông qua công tác kiểm tra, giám sát của Đảng. *Tạp chí Quản lý nhà nước, bản điện tử* [trans: Some theoretical and practical issues concerning the recovery of assets derived from corruption and misconduct through the Party's inspection and supervisory activities. *State Management Review*]. <https://www.quanlynhanuoc.vn/2025/10/09/mot-so-van-de-ly-luan-va-thuc-tien-ve-thu-hoi-tai-san-tham-nhung-tieu-cuc-thong-qua-cong-tac-kiem-tra-giam-sat-cua-dang/?utm> (accessed 2016, March 10).

and more recently, about 46.78% of the total amount subject to enforcement.⁴ This situation reflects not only enforcement challenges but also shortcomings in the legal and procedural framework governing post-conviction asset recovery (PCAR), a mechanism recognized under the United Nations Convention against Corruption (UNCAC) as fundamental.⁵ Hence, the UNCAC does not impose a single model of recovery, leaving room for domestic legal systems to choose mechanisms appropriate to their own legal traditions and institutional conditions.⁶ In light of this flexible yet structured international framework, a comparative analysis of effective international practice becomes essential for Vietnamese policymakers to understand how different jurisdictions operationalise PCAR rules to ensure efficiency.

This article examines the practices of the United Kingdom and Singapore on the subject, based on the observation that both jurisdictions have developed effective legal frameworks for asset recovery in anti-corruption cases. While the United Kingdom has a long and well-established tradition of developing anti-corruption and asset recovery legislation, creating an influential legal framework that grants extensive powers for the restraint and confiscation of assets derived from criminal conduct, Singapore offers a particularly relevant Asian model characterised by strong anti-corruption enforcement, transparent governance, and a balance between asset control measures and procedural safeguards. For the purposes of this article, the author adopts a comparative and normative approach to examine how asset recovery mechanisms may be designed and implemented while maintaining proportionality with property rights protections. In addition, the article identifies gaps in Vietnam's current legal framework and draws on statistical data from 2021–2025 to assess enforcement practices in this field. On that basis, the study proposes both strategic recommendations and concrete legal measures to strengthen Vietnam's asset recovery regime and improve the effectiveness of anti-corruption enforcement.

1. The PCAR mechanism in anti-corruption cases: Experiences from the United Kingdom and Singapore

From a theoretical perspective, the United Kingdom and Singapore are both rooted in the common law tradition, a system shaped through centuries of judicial precedent and the development of equitable principles. Both jurisdictions treat asset confiscation as a remedial measure rather than an additional punitive sanction. This characterization helps ease evidentiary constraints that normally arise in criminal proceedings. The underlying rationale is that the State is not imposing an additional punishment, but rather depriving the offender of material benefits that were never lawfully acquired or legitimately owned in the first place. As a result, asset recovery can be pursued more effectively in practice. By separating

4 Vietnamnet Global. (2024, December 3). *2024 marks record achievement in recovering corruption assets*. <https://www.moj.gov.vn/en/Pages/Ministry-of-Justices-Activities.aspx?ItemID=3246&cutm>

5 Articles 31, 54, 55, and 57 of the 2003 United Nations Convention against Corruption (UNCAC).

6 Chapter V, Articles 51–59 of the 2003 United Nations Convention against Corruption (UNCAC).

financial obligations from the punitive element of the principal sentence, courts are better placed to restore the original economic position and to uphold the principle that no one should profit from his or her own unlawful conduct.

1.1. Regulatory framework for PCAR

The legal framework of the United Kingdom concerning PCAR in corruption cases is widely regarded as one of the most comprehensive and stringent systems in the world. Its foundation is primarily established under the 2002 Proceeds of Crime Act (POCA), which provides an extensive legal framework for confiscation, restraint, and recovery of criminal assets. One of the most distinctive features of this regime is the transition from a traditional evidence-based confiscation model toward a value-based confiscation approach.⁷ Under this mechanism, confiscation is no longer limited to specific assets directly linked to criminal conduct; instead, courts may assess the overall financial benefit derived from the offence and order the offender to repay an amount equivalent to that benefit. This approach significantly enhances the effectiveness of asset recovery by preventing offenders from evading confiscation by concealing, transferring, or transforming illicit assets into other forms of property.⁸

In Singapore, the legal basis for PCAR is established through the interaction between the 1960 Prevention of Corruption Act (PCA) and the 1992 Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (1992 CDSA). Provisions concerning the handling of assets derived from criminal conduct are not concentrated in a single statute but are positioned at the intersection of anti-corruption law and the legal framework governing the confiscation of criminal benefits. Under this approach, asset recovery is not treated as a separate process detached from the prosecution of corruption offences; rather, it is carried out in connection with the determination of criminal liability and is based on the court's decision in a specific criminal case.⁹

Despite differences in legislative technique, the laws of the United Kingdom and Singapore share a common approach in classifying PCAR as criminal law. The handling of assets is carried out only after a conviction has been established, thereby ensuring that confiscation decisions are made on a clear and well-defined legal basis.¹⁰ In assessing the effectiveness of this mechanism, Liz Campbell, drawing on David Fried's observations, suggests that asset recovery may function as a form of general deterrence to the extent that it removes one of the primary incentives for engaging in unlawful conduct. However, this view remains subject to debate. Some scholars argue that confiscation does not operate as a true deterrent, as it merely deprives offenders of assets to which they were never lawfully entitled and therefore does not leave them in a worse

7 Chave, D. (2017). Proceeds of crime training: Bringing it up to date. *Journal of Financial Crime*, 24(3), 437–448.

8 Nicholls, C., Daniel, T., Polaine, M., & Hatchard, J. (2017), *Corruption and Misuse of Public Office* (3rd edn). Oxford University Press, pp. 273–298.

9 1992 Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (CDSA); 1960 Prevention of Corruption Act (2020 Rev. Ed.); 2010 Criminal Procedure Code (2020 Rev. Ed.).

10 Part 2 Confiscation of the 2002 Proceeds of Crime Act (POCA).

position than before the commission of the offence.¹¹ Consequently, the rules on the scope of assets, the obligation to explain the origin of assets, and asset freezing operate in a closely connected manner, contributing to the practical effectiveness of recovery efforts.

1.2. Scope of assets and benefits subject to confiscation after conviction

In both the United Kingdom and Singapore, the determination of recoverable assets extends beyond the identification of specific tainted property to encompass the total economic benefit obtained by the offender from criminal conduct. This approach ensures that all financial gains derived from criminal conduct are effectively targeted and removed through the criminal proceedings,¹² thereby preventing offenders from retaining any economic advantage obtained through corruption or other serious crimes.

According to Section 6 of the POCA, the Crown Court is authorised to determine whether the convicted person has benefited from criminal conduct and to assess the value of that benefit as the basis for issuing a confiscation order. Importantly, this assessment is not limited to specific assets directly linked to the offence; rather, it is calculated on the basis of the total economic advantage derived from the criminal activity.¹³

A particularly significant feature of the English asset recovery regime is the concept of a “criminal lifestyle”, regulated under Part 2 of POCA, especially Sections 75 and 10. Where a defendant is determined to have engaged in a criminal lifestyle, the court may consider assets acquired during a specified period prior to prosecution in order to estimate the extent of criminal benefit obtained.¹⁴ In this context, the statutory assumptions established under Section 10 permit the court to presume that certain assets or expenditures derive from criminal conduct, particularly where tracing each individual transaction with precision would be impracticable. This mechanism substantially strengthens the effectiveness of confiscation proceedings by reducing the evidentiary burden on enforcement authorities. In addition, the Criminal Finances Act 2017 introduced Unexplained Wealth Orders (UWOs), which empower authorities to require individuals to explain the lawful origin of assets where there is a substantial discrepancy between their known lawful income and the value of assets under their control. This further reinforces the UK’s proactive approach to asset recovery and financial crime enforcement.

In Singapore, a similar approach is also provided under the CDSA. Accordingly, criminal proceeds are confiscated through post-conviction forfeiture orders, primarily under Part II, Sections 7 and 11. Under this framework, the court is empowered to determine the total value of the benefits obtained from

11 Campbell, L. (2010). The Recovery of ‘Criminal’ Assets in New Zealand, Ireland and England: Fighting Organised Crime in the Civil Realm. *Victoria University of Wellington Law Review*, 41(1), pp.15-36.

12 Part II, Section 6, 10, 76, 79 & 80 of the POCA, Part 2 Confiscation; Part II, Sections 7, 11, 13 of the CDSA.

13 Part II, Section 6 of the POCA.

14 Part II, Section 75 of the POCA.

criminal conduct and to require the offender to repay an equivalent amount.¹⁵ Where the original assets have been transferred, concealed, or are no longer available, confiscation may still be enforced by requiring the offender to satisfy a monetary obligation equivalent to the total value of the benefits derived from the criminal conduct. In practice, this requires detailed analysis of financial flows and transactions.¹⁶ This value-based approach is particularly significant in corruption cases, where assets are often transferred, concealed, or legitimized through multiple parties and transactions.

1.3. *Obligation to explain the origin of assets in the PCAR mechanism*

Under the POCA, the mechanism for determining the total benefits derived from criminal conduct is closely linked to the obligation imposed on the convicted person to account for the origin of the assets in their possession, an obligation that arises not as an independent duty but within the court's assessment of the value of the benefits obtained from the offence for the purpose of issuing a confiscation order.¹⁷

The obligation to explain the origin of assets is reflected in the application of statutory assumptions under Part 2 Confiscation of the POCA, particularly in Section 10 and 75. Accordingly, where a convicted person is found to have a criminal lifestyle, the court may apply presumptions that certain assets acquired within a specified period are connected to criminal conduct, unless the convicted person demonstrates the lawful origin of those assets.¹⁸ Scholars examining asset recovery mechanisms within the English legal system have also noted that shifting the focus to an obligation to explain helps address the difficulties of tracing each individual sum derived from corruption, particularly when assets may have been transferred or concealed through multiple intermediary transactions.¹⁹

In Singapore, although the legislative design does not employ the term “criminal lifestyle” as in the UK, the confiscation mechanism under the CDSA (Part II) similarly requires the convicted person to account for the origin of assets when the court considers the value of the benefits derived from criminal conduct. In determining the confiscation amount, the inability to provide a satisfactory explanation for the lawful origin of certain assets may serve as a basis for treating those assets as connected to the proceeds of crime.²⁰ Under the Prevention of Corruption Act 1960, evidentiary presumptions permit the court to infer corruption where assets or benefits cannot be satisfactorily explained.

This mechanism does not amount to a complete reversal of the burden of proof. The prosecution still bears the responsibility of proving the criminal conduct and the factual basis for confiscation. The obligation imposed on the

15 Part II, Sections 7 and 11 Part II, Sections 7, 11 of the CDSA.

16 Kenny, F. (2017). Money laundering offences under the corruption, drug trafficking and other serious crimes (Confiscation of Benefits) Act. *Singapore Academy of Law Journal*, 29, pp. 163–193.

17 Nicholls, C. (et al.), *supra* note 9, p. 615.

18 Part II, Sections 10, 75 of the POCA.

19 Nicholls, C. (et al.), *supra* note 9, p. 615.

20 Part II, Sections 7, 11, 13 of the CDSA.

convicted person to provide an explanation primarily serves an evidentiary function, clarifying the lawful origin of the assets. This mechanism is generally considered compatible with the principle of the presumption of innocence, provided that its application remains subject to strict judicial control.

1.4. Early preservation for the purpose of efficient enforcement of PCAR

In international anti-corruption practices, particularly in the UK and Singapore, early asset preservation (EAP) is the tactical backbone of the recovery process. It is essential to note that assets in corruption cases are often highly liquid or easily hidden in offshore structures. Early preservation, therefore, serves as a “pre-emptive bridge” between the initial investigation and the final judicial disposition, with the primary objective of maintaining the status quo by preventing the dissipation, concealment, or transfer of assets to third parties or to jurisdictions beyond the reach of the court. The EAP measures, however, are also characterised as “draconian” because of their significant interference with property rights and their departure from the ordinary presumption of innocence in relation to property ownership, as the legislation permits the restraint of assets before a final determination of criminal liability has been made. These measures may also adversely affect the defendant’s right to effective legal representation, since the imposition of a restraint order can severely restrict access to financial resources needed to secure legal counsel of choice. For this reason, the law must also establish a system of checks and balances to safeguard the fundamental interests of the convicted person.

Pursuant to Part II of the POCA, the court is empowered to impose restraints on the assets of individuals under investigation or post-conviction. This mechanism ensures the preservation of asset value, thereby securing the future enforcement of confiscation orders.²¹ The POCA permits for the release of funds for “reasonable legal expenses”, however, such expenditures are subject to strict limitations and scrutiny by prosecuting authorities, particularly the Crown Prosecution Service.²² In addition, where restrained assets include an ongoing business operation, POCA authorises the appointment of a Management Receiver to preserve and administer the business during the restraint period (the costs associated with such management are generally deducted from the restrained assets themselves).²³

In Singapore, the EAP framework is governed by Part III of the CDSA, which empowers the High Court to issue Restraint Orders and Charging Orders to prevent the dissipation of “realisable property” during criminal investigations or proceedings.²⁴ A defining feature of the Singaporean regime is its emphasis on swift intervention within the context of a major international financial centre, allowing authorities to freeze assets upon demonstrating a “reasonable

21 Part II – Restraint Orders, Sections 40, 41 of the POCA.

22 Section 41(4) of the POCA.

23 Section 48 and 49 of the POCA.

24 Part III, Sections 19, 20 of the CDSA.

prospect of conviction”, thereby prioritising the public interest in preserving assets for potential confiscation.²⁵ Unlike the broader “criminal lifestyle” presumptions found in the UK, the Singaporean framework seeks to balance these intrusive powers through strict judicial supervision and safeguards for the rights of legitimate third parties. Nevertheless, the regime remains stringent, as any dealing with restrained property after the issuance of a restraint order constitutes a criminal offence, thereby ensuring the effectiveness and integrity of any subsequent confiscation order.²⁶

2. An insight into Vietnam's post-conviction asset recovery mechanism

Compared with the legal systems of the UK and Singapore, PCAR in Vietnam has evolved under distinct legal and institutional conditions. While these two jurisdictions have developed relatively coherent mechanisms for identifying criminal proceeds, implementing early asset preservation measures, and enforcing financial obligations, Vietnam's asset recovery framework has instead developed through the gradual interaction of fragmented legal provisions and evolving enforcement practices. As a result, the effectiveness of asset recovery has largely depended on the capacity and coordination of investigation, prosecution, and enforcement authorities rather than on a comprehensive, unified statutory framework.

In the recent decade, the situation has shown signs of improvement. A number of important statutes have been amended and supplemented or newly enacted, such as the 2015 Criminal Code (as amended in 2025) (CC), the 2015 Criminal Procedure Code (as amended in 2025) (CPC), and the 2018 Law on Prevention and Combat of Corruption (as amended in 2025) (LPCC), thereby strengthening the legal basis for investigation, prosecution, adjudication, and asset recovery in corruption cases. In particular, during the period 2021–2025, asset recovery in corruption and economic criminal cases reached VND 90,081 billion, an increase of VND 47,759 billion, or 112.80%, compared to previous periods.²⁷ In 2025, asset recovery in corruption and economic cases achieved positive results, with more than VND 27,416 billion recovered, an increase of over VND 5,239 billion compared to 2024. A total of 6,471 cases were fully enforced, and the recovery rate in corruption cases reached nearly 86%.²⁸ Difficulties in tracing assets that have been concealed or transformed into different forms continue to limit recovery outcomes in large-scale corruption cases. This

25 Tan, B. G. (2021). *The Law on Corruption in Singapore: Cases and Materials* (2nd ed), Singapore Academy of Law, pp. 54–58.

26 *Ibid.*

27 Thai. H. (2025, December 13). Thu hồi hơn 90.000 tỷ đồng tham nhũng giai đoạn 2021–2025. *Báo điện tử Thanh tra*. [trans: Recovery of more than VND 90,000 billion in corruption-related assets during the 2021–2025 period. *Thanh Tra online newspaper*]. <https://thanhtra.com.vn/tin-trong-nuoc-A7403F0EC/thu-hoi-hon-90000-ty-dong-tham-nhung-giai-doan-2021-2025-fd59fb74d.html>

28 Kim. A. (2025, December 12). Thu hồi tài sản từ án kinh tế, tham nhũng được hơn 27.400 tỷ đồng trong năm 2025. [trans: Recovery of more than VND 27,400 billion in assets from economic and corruption cases in 2025]. *VOV News*. <https://vov.vn/phap-luat/thu-hoi-tai-san-tu-an-kinh-te-tham-nhung-duoc-hon-27400-ty-dong-trong-nam-2025-post1253263.vov>

reality demonstrates that numerical growth alone cannot substitute for the urgent need to establish an early, coordinated asset preservation mechanism.²⁹

Prolonged handling of cases, particularly those involving international elements or fugitives, further exposes shortcomings in asset valuation procedures, procedural coordination, and the capacity of authorities to trace illegal assets.³⁰ Moreover, inefficient application of EAP measures during the investigation stage may create opportunities for offenders to dissipate or conceal property before a judgment takes legal effect, thereby substantially reducing the prospects of effective recovery at a later stage. In many cases, when courts adjudicate property or funds directly connected to the offence, the compensation awarded for damages remains significantly lower than the actual losses caused by the offenders.³¹ It is observed that the operation of Vietnam's asset recovery regime in anti-corruption cases continues to exhibit significant shortcomings, arising from several underlying causes, including the following:

2.1. Limitations in the regulatory framework

One of the core issues in asset recovery in corruption cases in Vietnam is the absence of clear definitions of technical legal terms and the lack of coherence among relevant regulations. The LPCC merely refers to concepts such as "corruption-related assets" (Article 3) and establishes the general principle that "corruption-related assets must be recovered, returned to their lawful owners or managers, or confiscated in accordance with the law" (Article 93.1). Hence, the legislation does not provide a precise definition of "asset recovery in corruption cases" nor clearly distinguish the forms and mechanisms of recovery, thereby giving rise to inconsistencies in legal interpretation and practical enforcement.

Furthermore, Article 33 of LPCC only requires asset declarations from the person holding a position of authority, their spouse, and their minor children. This has, to some extent, restricted the ability to trace assets when they are transferred or held under the name of other relatives who are not subject to declaration requirements. This situation directly affects the effectiveness of applying preventive measures, such as freezing and seizing assets, to preserve and recover corruption-related property after conviction. Article 128.1 of the CPC provides that "seizure of property shall only apply to suspects or defendants charged with offences for which the CC prescribes a monetary penalty, confiscation of property, or for the purpose of ensuring compensation for damage." Under this provision, it may be understood that the competent authorities are currently unable to seize assets that show signs of, or are suspected

29 Cao, V. M. (et al.). (2025). Asset recovery via non-conviction based forfeiture: Rationale for regulation and recommendations for implementation in Vietnam. *Law and Development Review*, 18(1), 97±122. doi: <https://doi.org/10.1515/ldr-2024-0058>

30 Bach, T. H, *supra* note 3.

31 Lai, S.T. (2023, August 24). Giải pháp nâng cao hiệu quả hoạt động thu hồi tài sản trong các vụ án tham nhũng. *Tạp chí điện tử Pháp lý*. [trans: Solutions to improve the effectiveness of asset recovery in corruption cases. *Phap Ly electronic journal*]. <https://phaply.net.vn/giai-phap-nang-cao-hieu-qua-hoat-dong-thu-hoi-tai-san-trong-cac-vu-an-tham-nhung-a253752.html>

to be, held under the names of relatives, persons with special relationships, or companies acting as proxies for the suspect or defendant.³²

A third limitation concerns the legal provisions governing EAP. The CPC provides only one coercive EAP measure applicable at the investigation stage, namely the freezing of bank accounts under Article 129. Although Article 128 of the CPC provides for the freezing or seizure of assets, this measure may be applied only to individuals who have already been formally charged as criminal defendants. This limitation significantly restricts competent authorities' ability to promptly preserve assets and creates legal obstacles to freezing other categories of property belonging to suspects or defendants. Compared to the UK and Singapore, where competent authorities are provided with broader and more flexible asset-preservation mechanisms to prevent the dissipation or concealment of assets at an early stage of proceedings.

In addition, Vietnam has not yet enacted a separate law governing the recovery of assets derived from criminal conduct, including corruption-related assets. As a result, existing provisions remain scattered and inconsistent, particularly in relation to the identification and handling of assets connected to third parties, which, in practice, remain unclear and ineffective. In many cases, assets obtained through criminal conduct are transferred, placed under relatives' names, or held by intermediary legal entities, while the mechanism for proving the connection between such assets and the underlying offence continues to pose significant difficulties, often leading to disputes and prolonging the recovery process. The current legal framework has not established a comprehensive and flexible mechanism to address situations where corruption-related assets have been converted, dissipated, or no longer exist at the time of enforcement. In certain cases, requiring the return of an equivalent value still depends heavily on the ability to verify and prove specific facts, making it difficult to ensure full recovery of the illicit benefits obtained by the offender. Furthermore, regulations governing the management, preservation, and handling of seized assets are scattered across various legal instruments, and a coherent, effective mechanism to maintain the value of assets pending disposition has not yet been fully developed. In practice, delays in valuation, auction, and enforcement procedures may reduce asset value and adversely affect the final recovery outcome.

Last but not least, certain provisions of UNCAC relating to international cooperation in asset recovery have not been fully incorporated into domestic law or lack detailed implementation guidance, thereby creating difficulties in practical application. In the field of mutual legal assistance, existing regulations remain rather general and largely dependent on bilateral agreements. For

32 Le, N.H. (2025, November 14). Hoàn thiện cơ chế thu hồi và xử lý tài sản tham nhũng. *Tạp chí điện tử Luật sư Việt Nam*. [trans: Improving the mechanism for the recovery and handling of assets derived from corruption. *Vietnam Lawyers electronic journal*]. <https://lsvn.vn/hoan-thien-co-che-thu-hoi-va-xu-ly-tai-san-tham-nhung-a165896.html>

countries that have not concluded such agreements with Vietnam, asset recovery may be hindered by the lack of clear, specific mechanisms.³³

2.2. Limitations in enforcement practice

First, although asset and income declarations by persons holding positions of authority have been carried out in accordance with anti-corruption legislation, the process has not been strictly supervised, leading to difficulties in identifying and tracing the origin of assets and the financial flows related to corrupt conduct. In addition, in some cases, the application of preventive measures such as asset seizure and account freezing remains delayed, thereby creating opportunities for offenders to dissipate or transfer assets to relatives or move them abroad.

Another practical difficulty is that corruption offences are often regarded as highly latent crimes, and the individuals who commit them are typically persons in positions of authority with a certain level of knowledge and experience. As a result, even before committing the offence, they may take steps to conceal evidence, destroy documents, and dissipate assets obtained through corrupt conduct.³⁴

A further practical challenge arises from the prolonged nature of asset recovery proceedings, during which offenders may have already prepared to dissipate assets. In many cases, the handling of seized property encounters difficulties due to the unclear legal status of the assets or their movement through multiple transfers, particularly where the assets involve several parties or give rise to disputes over ownership. As a result, even after a judgment has taken legal effect, the process of asset recovery may remain slow and fail to achieve the expected level of effectiveness.³⁵

Determining the value of seized assets is a complex task that requires the involvement of specialized professionals and is subject to fluctuations in the market, which may lead to repeated valuation or prolong the handling process. In cases involving high-value assets, assets of a specific nature, or those associated with ongoing business or production activities, the process of handling and enforcement tends to be more cautious, thereby extending the time required for execution.³⁶

2.3. Structural and institutional limitations

At a more structural level, the system of databases on assets, ownership, and financial transactions has not yet been fully developed or effectively interconnected,

33 Tran, Q. M & Nguyen, T. T. H. (2020). Thu hồi tài sản tham nhũng ở Việt Nam, tham khảo kinh nghiệm nước ngoài và một số kiến nghị. *Tạp chí Khoa học Pháp lý Việt Nam*, số 07 [trans: Recovery of corruption-related assets in Vietnam: Reference to foreign experience and several recommendations. *Vietnam Journal of Legal Sciences*, Vol. 07, 72–82]

34 Cổng thông tin điện tử Cục Quản lý Thi hành án dân sự - Bộ Tư pháp (CJEMA). (4 September 2024). *Xây dựng Sổ tay hướng dẫn thu hồi tài sản bị thất thoát, chiếm đoạt trong các vụ án tham nhũng*. [trans: Civil Judgment Enforcement Management Authority Portal, Ministry of Justice. *Developing a handbook on recovering misappropriated and lost assets in corruption cases*]. https://thads.moj.gov.vn/noidung/tintuc/Lists/TinTuBoTuPhap/View_Detail.aspx?ItemID=2386

35 Nguyen, T. D. (2023, August 28). Thi hành án dân sự về thu hồi tài sản trong các vụ án hình sự về kinh tế, tham nhũng - Bắt cập và kiến nghị. *Tạp chí Kiểm sát*, số 11 [trans: Civil enforcement of judgments on asset recovery in criminal cases involving economic crimes and corruption: Shortcomings and recommendations. *Kiểm Sát journal*, Vol. 11].

36 Tran, V. T. (2025, November 24). *Định giá tài sản kê biên trong thi hành án dân sự - Góc nhìn từ thực tiễn. Tạp chí Dân chủ và Pháp luật* [trans: Valuation of seized assets in civil judgment enforcement: A perspective from practice. *Democracy and Law journal*]. <https://danchuphapluat.vn/dinh-gia-tai-san-ke-bien-trong-thi-hanh-an-dan-su-bat-cap-va-kien-nghi-hoan-thien-phap-luat-8017-8017.html&link=autochanger>

which creates difficulties in verifying the assets of persons subject to enforcement. We concur with Kim Anh's view that the low rate of asset recovery in corruption cases is also attributable to certain structural shortcomings, including the absence of a comprehensive asset registration law and the fact that relatives of persons holding positions of authority are not subject to asset declaration requirements, thereby making asset tracking and proof more difficult.³⁷ More broadly, the expansion of international business activities may create additional opportunities for corruption. As cross-border trade in goods and services, along with the movement of capital and people across jurisdictions, continues to increase, related forms of illicit international business activity are also likely to grow accordingly.³⁸

Viewed in this light, the main challenge of PCAR in Vietnam lies not only in individual legal shortcomings but also in the fragmented interaction between procedural rules, enforcement practice, and asset-control mechanisms. The limitations discussed above not only affect the effectiveness of asset recovery but also raise the need to maintain a balance between anti-corruption objectives and the protection of constitutional rights, in particular, property rights and procedural safeguards in criminal proceedings. Further legal and institutional reforms in this area should be developed within the limits of proportionality and judicial control to avoid excessive interference with lawful property rights.

3. Recommendations for improving the PCAR and EAP in Vietnam based on the experiences of the United Kingdom and Singapore

3.1. Short-term measures

One important recommendation is to further develop and clarify the concepts, principles, and forms of asset recovery in corruption cases within the LPCC framework. This should include clearer legal definitions of corruption-related assets, a more coherent classification of recovery mechanisms, and detailed guidance on the scope and procedures of asset recovery measures. A more comprehensive and consistent legal framework would strengthen legal certainty, improve enforcement effectiveness, and reduce inconsistencies in interpretation and application by competent authorities.

In parallel, it is also necessary to introduce a comprehensive EAP mechanism, including, but not limited to, the institutionalisation of asset-freezing measures and the establishment of oversight mechanisms to prevent abuse in their application. The EAP measures shall be prioritised in the short term because they involve targeted legislative clarification and supplementation within existing legal frameworks, rather than requiring comprehensive institutional restructuring. Moreover, these measures should be regarded as an important early step that plays a decisive role in ensuring the effectiveness of asset recovery

37 Kim, A. (2022, December 16). Thu hồi tài sản tham nhũng: Đã có chuyển biến nhưng chưa đạt yêu cầu. [trans: Recovery of corruption-related assets: Progress has been made but results remain below expectations]. *VOV News*. <https://vov.vn/chinh-tri/thu-hoi-tai-san-tham-nhung-da-co-chuyen-bien-nhung-chua-dat-yeu-cau-post990479.vov>

38 Le, H. T. H. (et al.). (2020). Asean is in the movement of combating corruption: should new-generation ftas be a promising forum for anti-corruption enforcement of asean in international business?. *Vietnamese Journal of Legal Sciences*, 03(02), 2020. doi: <http://doi.org/10.2478/vjls-2021-0005>

in corruption cases, preventing the dissipation of assets during proceedings and thereby enhancing the effectiveness of post-conviction recovery. The CPC should be amended to provide for the freezing of assets rather than the current freezing of bank accounts, as stipulated in Article 129. In this context, freezing assets should be understood to include tangible property, digital assets, and funds held in bank accounts. Drawing on the experience of the POCA of the United Kingdom, this measure may be ordered by the court prior to trial to ensure that assets are not dissipated before the final confiscation decision is made. Without the authority to preserve assets while awaiting a confiscation order, a defendant may dispose of property before conviction, thereby undermining the effectiveness of the court's recovery efforts.³⁹

Another recommendation is to improve the seizure measure provided in Article 128 of the 2015 CPC by expanding its scope. Asset seizure should not be limited to property belonging to suspects or defendants but should also extend to assets held by relatives or persons with close relationships, where there is clear evidence showing that such assets are in fact controlled by or connected to the suspects or defendants.

Besides, effective enforcement is essential to ensure that asset recovery frameworks operate not only in law but also in practice. This requires that, across the stages of investigation, prosecution, and adjudication, competent authorities apply measures such as asset seizure, freezing, and the handling of property to ensure the effective enforcement of judgments. The process of dealing with assets that have been seized, frozen, or ordered to be disposed of in corruption and economic crime cases requires specific approaches in order to prevent offenders from taking advantage of general enforcement procedures to further dissipate assets.⁴⁰ Meanwhile, civil judgment enforcement authorities should be involved from the early stages, together with criminal justice agencies, to ensure timely recovery and maximise the recovery of assets obtained through corruption and misappropriation.⁴¹ In the meantime, the UK experience shows that the flexible use of EAP measures under the POCA helps preserve assets in a timely manner and reduces the risk of dissipation before confiscation.

Another recommendation is to strengthen the capacity to detect and trace assets by promoting closer coordination among investigation bodies, inspection authorities, audit institutions, and enforcement agencies, particularly in the collection and analysis of financial data. The experience of Singapore shows that close coordination among competent authorities in financial investigations under the Corruption, Drug Trafficking and Other Serious Crimes Confiscation of Benefits Act helps improve the ability to trace financial flows and identify assets derived from criminal conduct.

39 Mahy, J. (1989). Forfeiture after the criminal justice act 1988. *Journal of Criminal Law*, 53(Part 3), pp. 370–380

40 CJEMA, *supra* note 35.

41 *Ibid.*

A further recommendation is to shorten the time required to handle cases and enforce decisions related to assets by strengthening inter-agency coordination and addressing legal issues concerning ownership rights and property disputes at an early stage. In the United Kingdom, the determination of financial obligations after conviction under the confiscation order mechanism is carried out in a relatively focused manner, thereby creating more favourable conditions for enforcement.

An additional step is to improve the effectiveness of asset valuation by enhancing the professionalism of valuation organisations and accelerating the appraisal process for seized assets. The experience of the United Kingdom and Singapore shows that the determination of the value of benefits derived from criminal conduct is based on a relatively comprehensive financial assessment, thereby reducing delays caused by repeated revaluations.

Greater attention should also be given to strengthening international cooperation and information exchange on financial transactions and assets in order to promptly detect, trace, and control funds and property with foreign elements, thereby helping to limit the misuse of cross border business activities to conceal and dissipate assets derived from corruption.

Although expanding asset-freezing and seizure powers is necessary to prevent the disposal of illicit property, such measures also create risks of overreach and unintended interference with the property rights of bona fide third parties. In the author's view, this concern is particularly relevant where assets are held by persons other than the defendant, as premature or overly broad freezing measures may undermine confidence in the recovery process itself. For that reason, reforms should be accompanied by clear judicial supervision, proportionality safeguards, and practical avenues for legal challenge, so that asset recovery remains effective without weakening fundamental principles of criminal justice.

3.2. Long-term institutional and legal reforms

At the institutional level, long-term improvement in asset recovery also depends on stronger coordination among agencies, the development of integrated data systems, and the gradual strengthening of professional capacity in financial investigations.

A key long-term reform concerns revising Article 33 of the LPCC to expand the scope of persons subject to asset declaration in appropriate circumstances, particularly those with close family relationships or strong economic ties to persons holding positions of authority. Introducing suitable control mechanisms for this group would enhance the ability to verify and identify assets related to corrupt conduct, thereby creating more favourable conditions for the application of freezing, seizure, and PCAR measures.

Beyond this, it is also necessary to consider, based on the experiences of the UK and Singapore, the development of a unified law on the recovery of assets derived from criminal conduct, including mechanisms for post-conviction recovery in corruption cases. The process of recovering assets obtained through

crime, including corruption, should be structured as a legal procedure that serves not only a punitive function but also aims to restore the economic order disrupted by criminal activities.⁴² Within the scope of such a law, Vietnam may consider improving the mechanism for determining the value of assets subject to recovery, so as not to be limited to the direct benefits obtained from each specific criminal act, but to take into account the overall assets of suspicious origin accumulated over a certain period of time. This perspective is consistent with Willie Hofmeyr's view that the conviction-based confiscation model in England is particularly effective in addressing cases involving a criminal lifestyle, where assets derived from crime are accumulated over many years and cannot be identified from a few isolated transactions. The adoption of this experience, however, should be carefully considered with a view to protecting lawful property rights.⁴³

Furthermore, drawing on the UK's experience, Vietnam may consider improving its legal framework to allow criminal justice authorities to assess, in an overall manner, the assets held by a convicted person in relation to their established lawful income. Where assets of significant value are found to be disproportionate to lawful earnings, this may provide an important basis for focusing investigative efforts on verifying their origin and determining the scope of benefits derived from criminal conduct. This approach may help guide the tracing of illicit assets more effectively, while still requiring clear legal safeguards to ensure respect for the presumption of innocence and the protection of lawful property rights.⁴⁴ Furthermore, it is necessary to continue improving the legal framework by developing and connecting, in a coordinated manner, databases on assets, ownership, and financial transactions to facilitate the verification of assets belonging to persons subject to enforcement.

While the regulatory frameworks of the UK and Singapore offer valuable benchmarks, their integration into the Vietnamese legal landscape necessitates a nuanced adaptation rather than a direct transplant. In practice, the effectiveness of asset recovery in those jurisdictions does not depend solely on legislative design but also on institutional conditions that have developed over time, particularly strong judicial supervision and close coordination among enforcement bodies. The author contends that, without similar institutional support, the mere adoption of comparable legal provisions may not automatically lead to the same results in Vietnam. In addition, the successful operation of such mechanisms depends heavily on the capacity of judges, investigators, and enforcement officers to deal with complex financial evidence and asset-tracing processes – an aspect that still requires gradual development. For that reason, legal transplantation in this field must be viewed not as a static legislative event, but as an evolutionary process involving systemic adaptation and targeted professional development. ●

42 Nicholls, C. (et al.), *supra* note 9, pp. 615–618.

43 Hofmeyr, W. (2013). The effective use of asset recovery. *Commonwealth Law Bulletin*, 39(1), pp. 59–64.

44 Cheong, C. W. (1997). *Retrospective confiscation laws*. *Singapore Journal of Legal Studies*, 1997(1), pp. 329–342.

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Author Contribution

The author contributed to the study conception and design. The author read and approved the final manuscript.

Declarations

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