



**DEPARTMENT AGAINST TRANSNATIONAL ORGANIZED CRIME (DTOC)
ORGANIZATION OF AMERICAN STATES (OEA)**

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PROGRESS REPORT

**Study on identification of cases from the perspective of criminal investigation involving Crypto
Assets**

Working Sub-Group on FIU and Law Enforcement Agencies

2021

General Background of the Mandate:

In agreement with the Work Plan 2021-2023 approved by the entirety of the GELVAX working group in the virtual group meeting of Assumption celebrated on the 10th of November 2020, the Working Subgroup of Financial Intelligence Units and Organizations for Criminal Investigations would work to:

- 1) Develop work to identify cases based on the perspective of criminal investigations that involve Crypto Assets, with a special focus on successful investigations in whichever of the Member States, in order to share relevant information and good practices;
- 2) Develop work on money laundering based on offenses of corruption, illicit drug and arms trafficking, and tax fraud, with an emphasis on identifying typologies and legislative analysis in member countries with assistance from the Technical Secretariat and other areas of the OAS General Secretariat, such as the MESICIC, along the same lines to access judicial decisions;
- 3) Develop work focused on the analysis of final beneficiaries in money laundering, coordinated through the Technical Secretariat, with the work that could be carried out by or through other specialized organizations, such as GAFILAT and CFATF, and if it is conducive to the participation of the UINL;
- 4) Develop tools to carry out strategic analysis in investigations of laundered assets: Experience of the countries in the development and use of technological tools for the improvement of operational and strategic analysis;
- 5) Develop a study on the feasibility of implementing a consultation system for the region, with a view towards complying with FATF Recommendation 12 regarding Politically Exposed Persons (PEP), taking into account the legal limitations of the Member States on information protected by personal data protection laws; and
- 6) Carry out a study of money laundering linked to the illegal extraction of minerals, with emphasis on the analysis of the criminal and administrative legislation of this sector, including the identification of practical cases, typologies, and existing measures to prevent illegal extraction and management of the assets associated with it.

Work Plan 2020-2021:

The Working Subgroup of Financial Intelligence Units and Organizations for Criminal Investigations will be dedicated to:

- 1) Developing a work to identify cases from the research perspective of criminal activity involving Crypto Assets, with a special focus on successful investigations in any of the Member States, in order to share relevant information and good practices; and
- 2) Developing work on money laundering for offenses relating to corruption, illicit drug and arms trafficking, and tax fraud, with an emphasis on identifying typologies and legislative analysis in the member countries with assistance from the Technical Secretariat and other areas of the OAS General Secretariat, such as the MESICIC, along the same lines to access judicial decisions.

Regarding mandate number 1, it was divided into two parts; the first part, taking place in year 2021, will focus on the collection of cases linked to crypto assets in the member countries; and the second part, developing in the second semester of 2021, will ensure that the results of the analysis of the collected cases be presented.

Objectives

This work has the following objectives:

1. General objective

Carry out a study of cases involving virtual assets in the institutions that participate in the preventive system - such as the criminal prosecution system - commissioned by the Group of Experts for the Control of Money Laundering - GELAVEX in the plenary session of Assumption of the year 2020.

2. Specific objectives

- Know the current situation in the member countries regarding the identification of controllable situations related to crypto assets and of cases in which activities related to virtual assets are recorded, since we have been able to notice a significant difference in the evolution that this phenomenon has had in the different countries in the region.
- Analyze the cases received and, based on them, determine typologies.
- Generate a baseline of good practices and problems identified in the operations involving virtual assets.



Methodology

For the preparation of this study, the cases contributed by countries will be consulted by Members and Observer countries that have cooperated or cooperate by providing information, through various open sources of information, such as studies carried out by the OAS and the Latin American Financial Action Group (GAFILAT) and the instruments made by member countries. The delegations of Chile and Paraguay will specifically take charge of the study, review, and systematize the information. Three stages for analysis will be identified: firstly, detection and reporting by the reporting entities; second, the analysis and cases transferred by the FIU respective to the body in charge of criminal prosecution; and thirdly, the analysis of cases with convictions.

	Detection	Analysis	Cases Under Investigation	Judicialized Cases	Sentencing
PARAGUAY	It is verified that from the task of the FIUs, persons that conduct activities with cryptocurrencies have been detected, however, suspicious operations are not identified.	These detections have generated reports of low risk and have not produced deeper analysis. Cases have not been referred to the Public Ministry.	The Public Ministry does not currently count causes initiated on the basis of crypto assets.	Consultation to the Public Ministry and review of sources is not counted towards judicialized cases.	Sentencing not registered.
CHILE	Two SARs (Suspicious Activity Report) related to Crypto Assets detected.	No available data.	No available data.	No available data.	No available data.
UNITED STATES	No early detection	Data from previous	Access was granted to 67	Access was granted to 67	Access was granted to 67



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	verified through the FIU. The detection is identified through institutions with policing and field investigation capacities.	cases not registered.	investigated cases.	investigated cases.	prosecuted cases (with sentencing).
GERMANY	The country informed that reports of transactions with crypto assets are a matter of little occurrence. They complement by indicating that during 2019 they received 760 STRs, which account for “anomalies in relation to cryptocurrencies”. These reports come mostly from the formal financial system.				



	Number of SARs	Analysis of High-risk SARs	Number of Cases Referred to the Prosecutor's Office	Number of Sentences Given
PARAGUAY	0	0	0	0
CHILE	2	No available data	No available data	No available data
UNITED STATES	No available data	No available data	No available data	67
GERMANY	Data not obtained	Data not obtained	Data not obtained	Data not obtained

Preliminary Conclusions

Based on the information received to date, it was possible to observe few cases that involve crypto assets initiated by the Member States from the suspicious activity report.

Preliminarily, it can be concluded that the countries are in an asymmetric situation in relation to cases from the perspective of the suspicious activity report and criminal investigation involving Crypto Assets.

This context of asymmetry leads to the identification of 3 main stages that will allow for better analysis: 1- detection; 2- risk analysis and management, and; 3- the judicialization and suppression. So far, no cases involving all three stages have been observed.

Faced with this situation, it is proposed to refocus the work, addressing each of the 3 stages, in order to locate the largest number of countries in terms of their management in the subject, and, in this manner, progress in the study.