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INTRODUCTION

Mafias' pervasive presence in Europe is not a recent discovery. The Member States' police forces and judiciaries e have long cooperated to attack transnational organised crime activities.

Much more recent is the attempt to mobilise European civil and social responsibility on this issue, building knowledge, awareness and a grassroots commitment that is a fundamental ingredient to successfully combat Mafias on a social and cultural level, as taught by the Italian example.

Social re-use of confiscated assets is part of this recently adopted attempt, and, as described in the report, already offers interesting experiences.

Libera has committed deeply to duplication in Europe of the Italian regulatory model on confiscation and social use. Italy, often accused of having exported mafia-style organised crime to half the world, has demonstrated through this bold law that it can also export antibodies to counter the spread of mafia power, both economically and symbolically. Today, through the set of rules and good practices related to confiscation and social use, it is spreading knowledge outside its own borders, from the European Union to Africa and Latin America.

Libera's experience was born around this project more than 25 years ago. In 1995/1996, we were able to mobilise over one million Italian citizens in favour of the law that allowed the immediate and effective return to the community of assets illegally owned by criminals. They were turned into a common asset, a tool of public utility. The value of such intuition was confirmed in 2014, when the European Union included in a Directive the commitment for the Member States to transpose similar rules within their own systems.

Today, the timing must be accelerated. Only 19 out of 27 Member States have updated their laws in this regard, and only 7 already have active paths of social re-use. But we must be optimistic, tenacious and persuasive, convincing everyone else with results and examples.

Although investigative and repressive actions remain central to the fight



against crime, it must be emphasized that without citizens' deep awareness, mafia evil cannot be eradicated. This evil finds fertile ground in so many common attitudes, even outside the boundaries of malfeasance: indifference, selfishness, greed, and clientelistic relationships.

Thus, the paths of social re-use, with the strength of their visibility, the virtuous collaboration networks, and the positive repercussions they generate in terms of employment, environmental protection, promotion of rights and innovation, are a real slap in the face of crime and its logic. Also and above all, they can make a decisive contribution to Europe's ethical and cultural reclamation from the Mafias against all forms of illegality and corruption.

Luigi Ciotti

President of Libera. Associazioni, nomi e numeri contro le mafie

25 YEARS OF COMMITMENT AND THE NEW CHALLENGES FOR LIBERA'S NETWORK

"(...) The path of simple repression, which strikes at the outgrowth, but does not change the economic, social and political humus in which the Mafia has its roots, has not led and could not lead to definitive results (...)." Pio La Torre wrote this in 1976, in his minority report for the Italian Anti-Mafia Inquiry Commission. It was a new vision that placed citizens at the centre of the fight against mafias and showed the importance of building social justice spaces.

Twenty-five years ago, Libera extended its hand towards the law written and imagined by Pio La Torre, taking up his legacy and making progress. It is not enough to remove power and credibility from the mafias by taking away their illegally acquired wealth. This wealth must return to the community in the form of opportunities for economic development and social cohesion. In 1996, after a nearly year-long campaign to collect signatures, Libera presented a popular petition in support of a bill for the social re-use of assets confiscated from mafiosi and the corrupt. It was approved on 07 March 1996. In 25 years, Libera and the associative network have written important pages of commitment and have accompanied the local authorities and the subjects of the non-profit world towards the full application of this law. They are certain of the deep meaning of liberation and transformation of a project giving new life to confiscated goods. In those years, we repeatedly defended this law and proposed regulatory changes against the possibility of selling these assets to private individuals.

One of our main lines of action with the network of associations and non-profit organisations is to make the territories aware of the importance of their own actions. This is especially true in the planning phase of public policies, among/with actors and interlocutors of the administrations, proposing topics in the social re-use process. The National Agency for the Administration and Destination of assets seized and confiscated from organised crime highlights this well in Italy.

Our experiences of information, training and territorial accompaniment have made clear the importance of initiating participatory planning and civic monitoring practices. This principle is reaffirmed in the National Strategy for the Development of Confiscated Assets and in the fourth Italian Open Government Plan. Involving the social and territorial context in the analysis of needs and in the design of the future guarantees a greater strength to the experience of public and social re-use, which makes it a sign of change and a keystone for an alternative community to the mafia.

The attention paid at this stage to projects for the social re-use of confiscated property is essential to ensure that the right conditions of economic and social sustainability can be created for the territory and the community. The aim is to transform all these properties into concrete signs of change and tools for a new development model.

Today, Italy's social re-use panorama is vast: 900 voluntary and cooperative organisations manage confiscated properties, many of them named after innocent victims of the mafia. They provide services from the community for the community, in support of new social and economic development models. This commitment that has gone around the world: A European directive, 2014\42\EU was implemented by 19 EU member states; experiences of public and social re-use have begun in Spain, The Netherlands, France, Albania, Belgium, Romania and Bulgaria; in Latin America, the federal state of Mexico City has included social re-use in its constitution, and in other states, such as Colombia and Argentina, civil society and some institutions are working to turn this procedure into a real opportunity.

Finally, here is a word on transparency: monitoring the activities of public bodies is one of the highest forms of democratic participation of citizens, who thus become aware of how national and European funds are invested in their territories. The story of the beautiful revolution of confiscated assets, so fragile but significant, must be told.

"If we want to deal a decisive blow to the power of the mafia," wrote La Torre, "we need to eradicate the system of clientelistic power through the development of democracy, promoting the united mobilisation of workers, popular self-government and the participation of citizens in the functioning of democratic institutions."

To conclude, confiscated assets are common property. They are tools to activate the fundamental rights of each one of us. Assets taken away from the mafia power become, with our commitment, places of redemption and growth for the community. Thanks to them, we can rediscover the deep sense of belonging to a territory and its history. Flats, villas, land and much more are illuminated thanks to the resistance that citizens are learning to build against mafia and corruptive power.

GOOD(S) MONITORING, EUROPE!

The implementation of the "Good (s) Monitoring, Europe!" project is underway. It is promoted by Libera, Associations, names and numbers against the mafias with the aim of creating social inclusion strategies for the most disadvantaged members of the population, through public and social re-use of assets confiscated from organised crime in Europe and the activation of participatory bottom-up processes for an integrated territorial development.

OpenCoesione is a partner of the project funded by the Directorate General for Regional and Urban Policy (DG REGIO) of the European Commission.

The actions foreseen within the "Good (s) Monitoring, Europe!" meet three specific objectives:

- mapping the best practices of public and social (direct and indirect) re-use of confiscated assets in Europe, in relation to the strengthening of existing instruments or activities to foster the involvement of citizens in cohesion policy;

- creating a civic monitoring model for the effective re-use of confiscated assets, to be implemented in other European Union countries and replicated in similar areas of intervention (common assets, public policies, administrative procedures, etc.);

- activating civic planning programmes in Europe for regeneration of urban and community spaces through enhancement of confiscated assets and the promotion of a European strategy connected to cohesion policies.

Several results to be achieved by the end of the project on 31 October 2021 are developing of **a new toolkit supporting civic monitoring actions** for enhancing confiscated assets (replicable in other areas with the cohesion policy) and **establishing an informal transnational network of monitoring civic communities** to implement the exchange of good practices.

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HOW THE MAPPING WAS CARRIED OUT

GME! research's project started on 1 November 2020.

The working method aims to develop a process of transnational cooperation by providing real opportunities for dialogue between key actors on a country-by-country basis.

The work methodology will be diversified according to the activities and their time phase.

In this phase named A1.1 (M1 to M4), the research method provides for a first phase of data collection through the European Union's official platforms (such as Eurlex) and published reports on the implementation of Directive 2014/42/EU on national legislative initiatives for management of confiscated assets.

Thanks to direct participation in the ARO platform, existing contacts with national bodies for management of confiscated assets will be activated to integrate data regarding the implementation of Article 10.3 of Directive 2014/42/EU.

Practice mapping will focus on an analysis of the impact of cohesion policy funds on the possibility of socially reusing confiscated assets. After an analysis of the collected data and processing of the mapping results, countries will be evaluated based on the degree of national implementation of Article 10.3 of the Directive.

The countries will then be divided into three priority groups:

- Tier 1 countries with good practices of public and/or social re-use of confiscated assets.
- **Tier 2** countries that include re-use practice in their legislation, but with no projects implemented.
- **Tier 3** countries which have not transposed this legislation into their national legislation.

Starting from these three groups, a questionnaire¹ was administered, based on seven questions (the last three questions about the Cohesion Policies are optional).

The survey was directed to the ARO contact points, the Prosecutor Officers, the Justice's Minister that are involved in Asset Management.

Through a state-wide search on data collected from the survey and an individual research, completed by further information, a country information sheet was produced for each Member State.

THE SITUATION IN EUROPE AN OVERVIEW



19 EU MEMBER STATES WITH NATIONAL LEGISLATION¹

Belgium, Bulgaria, Czechia, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Austria, Poland, Portugal, Romania, Slovenia

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¹Source: report "Asset recovery and confiscation: ensuring that crime does not pay," European Commission, June 2020.



7 EU member States with concrete cases of social and/or public re-use Spain, Italy, Netherlands², France, Belgium, Bulgaria, Romania

• 4 EU member States selected by GME project

Spain, Bulgaria, Romania and Belgium

1 Eu candidate country with concrete cases of social and/or public re-use Albania³

² In the Netherlands there is a concrete case of public re-use of confiscated assets, but there is not a national legislation about the possibility of the social and/or public re-use of confiscated assets. Here the link of the case: <u>https://www.dutchnews.nl/news/2020/10/dutch-pleasure-boat-registration-used-by-criminals-and-drug-smugglers-nieuwsuur/</u>

³ Albania, a EU candidate country, has had a National Agency for Seized and Confiscated Assets (AASPK) since 2019. Within the framework of the European project C.A.U.S.E., promoted by Partners Albania, was launched three experiences of re-use:

- the "KEBUONO social pastry" in Fier (managed by Engim International),

- the "KinFolk Coffee Library" in Durres (managed by Fondacioni Arsimor Shqiptar in partnership with Civil Society Development Center),

- the "Social Crafting Garage" in Saranda (managed by Institute of Development, Migration and Integration - IDMI).



MAPPING SHEETS FOR INDIVIDUAL MEMBER STATES





AUSTRIA

Official country name Austria Capital Wien Government Federal parliamentary republic EU member country since 1 January 1995



Presence of National agency on management of confiscated assets

No, there is no National Agency.

The Federal Crime Police (*Bundeskriminalant, Referat "Vermögen-sabhöpfung"*) is the Asset Recovery Office (ARO) responsible for management of confiscated assets.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

According Art. 408 Criminal Procedure Code (CCP) any forfeited or seized [under Art. 26 Criminal Code] items that are of interest for scientific or historical contexts or for teaching, experimental, research, or other specialized functions, must be made available to public institutions or collections established for this purpose in Austria.

Otherwise, items that may be directly used to cover the justice system's material efforts must be used for this purpose, and any other item must be sold in the manner prescribed by Art. 377 CCP (public auction).

Items that subsequently cannot be used must be destroyed.











BELGIUM

Official country name Belgium Capital Brussels-Capital Government Federal constitutional monarchy EU member country since 1 January 1958



Presence of National agency on management of confiscated assets

The revenues from the seized goods are managed by the Central Office For Seizure and Confiscation in Belgium (COSC), dependent on the Federal Public Service Justice (FPS Justice).

The COSC was created by the law of 26 March 2003 as an institution within the Public Prosecutor's Office.

The COSC assists the judicial authorities in the event of problems regarding the seizure and confiscation of assets linked to offences. It also intervenes in the execution of judicial decisions involving the confiscation of such assets.

On the other hand, the FPS Finance (Federal Public Service Finance) is the entity responsible for execution of the sale of the confiscated asset.

Specifically, FPS Finance is not an AMO/ARO. It operates under the authority of the Ministry of Finance and it is responsible for the public sale only after the adjudication of confiscation.

Immovable assets are sold through FIN IMMO (the website of the Federal committee for the acquisition of immovable property) and movable assets are sold/auctioned on FIN SHOP.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Directive 2014/42/EU was implemented or is under the implementation process on the compulsory points.

In Belgium, Direct or by Equivalent confiscation exists as well as nonconviction-based confiscation in some specific cases (minor, death, other risks...)

Unfortunately there is no mention of social re-use.

Actions foreseen to facilitate this approach in the management of confiscated assets

COSC is the agency responsible for recovery and management of the assets during the trial, until the end of seizure procedure.

After confiscation, the asset becomes State's property and the management of the sale goes to FPS Finance.

FPS Finance is the entity responsible for execution of the sale of the confiscated assets (Belgium also applies the value-based confiscation).

Until the seizure (during COSC Management), there is a possibility that the assets could be re-used by the federal police (i.e. *cars, clothes, items*).

In some specific cases under art. 433 of the Penal Code (specifically art. 433









quarter decies), the public prosecutor or the investigating judge may seize the movable property or part of it, the property, the room or any other room referred to in article 433decies. If they decide to carry out the seizure, the movable property or part of it, the immovable property, the room or other room referred to in Article 433decies must be sealed or, with the written consent of the owner or landlord, be made available to the Public Centre For Social Welfare (CPAS-OCMW, wich also manages social housing) to be restored and provisionally rented.

Concrete implementation of legislative measures on social and public reuse of confiscated assets

1) Agusta-Dassault Case¹

Two multinational companies involved in this political scandal used bribery to secure large defence procurement contracts. The Court of Cassation ruled that the confiscated funds be given to the public centre for social welfare (CPAS-OCMW) in Brussels.

(In this specific case the Court of Cassation applied the ex art. 253 of the Penal Code, which was later repealed).

2) "Les Ateliers du midi"²

The building that now houses "Les Ateliers du midi" use to be an illegal textile factory, accused of labour exploitation of the workers.

This asset sold at auction to the Saint Gilles's Municipality in Brussels. After the acquisition, the building has been completely renovated under Objective 2 of the European Social Fund.

In July 2007 this centre became a place involved in the promotion of vocational training and the development of work-integration social economy activities: 2,500 sqm, fully renovated, available to job seekers wishing to attend professional courses and get a job.

This space represents the culmination of a project designed in 2 phases since the 2000s, resulting from a close partnership between the Municipality

² The asset mentioned has been sold to the Saint Gilles's municipality (Brussels).



¹ The Agusta – Dassault Case was a major political scandal that occurred in Belgium during the 1990s, based on allegations that two multinational companies had used bribery to secure large defence procurement contracts. The companies in question, Agusta and Dassault, bribed numerous political office-holders in 1988 to secure a large order of Agusta A109 helicopters and the contract for refitting Belgian F-16 Fighting Falcon fighter jets respectively. The scandal came to light during investigations into the death of the socialist politician André Cools in 1991 and an official enquiry was opened in 1993. Numerous senior figures in both Walloon and Flemish socialist parties were implicated, including the incumbent Secretary General of NATO Willy Claes, who was forced to resign.

of Saint-Gilles and Cenforgil asbl (promoter and manager of buildings involved in electricity, hospitality, entertainment and sports, office automation, entertainment and events sectors).

In 2014, thanks to the European funds (FEDER 2007-2013), the extension of the Ateliers du Midi took place, with the creation of two new sectors which were installed in the neighboring building: one in the sector eco-construction in connection with the electricity sector and the other in the events sector.

Partnership: FSE, Commune de Saint-Gilles, COCOF, Bruxelles Formation, Actiris, Innovasport asbl, ALE Saint-Gilles, MLJ Saint-Gilles, Maison de l'emploi Saint-Gilles, Banlieues asbl, and Le Ceria.

There are two other possibilities to re-use confiscated assets in Belgium. The first one is possible until the seizure (during COSC Management): theassets could be re-used by the federal police (i.e. *cars, clothes, items*). The second one is that confiscated assets are sold through Finlmmo and Finshop and the proceeds from the sales go to the Federal State. This could be considered an indirect re-use (but not necessarily social).







BULGARIA

Official country name Bulgaria Capital Sofia Government Parliamentary republic EU member country since 1 January 2007



Presence of National agency on management of confiscated assets

Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CCCCIAP) that is an independent, specialized, permanent state body for implementation of the policy on counteraction to corruption and confiscation of illegally acquired property.

The Inter-institutional Council for Management of Confiscated Property is an advisory body to the Council of Ministers of the Republic of Bulgaria, tasked with preparing advisory opinions pertaining to the management of confiscated assets.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Penal Code, the Code of Penal Procedure, the Combating Corruption and Confiscation of Illegally Acquired Property Act, the State Property Act and the Rules on the Implementation of the State Property Act provide the regulatory framework on combating organised crime, confiscation as a sanction, and the management of confiscated assets as well as the possibility for social re-use of such assets.

According to the COUNTERING CORRUPTION AND FORFEITURE OF ILLEGALLY ACQUIRED PROPERTY ACT (State Gazette. issue no. 7, 9 January 2018, Chapter.13, Section 2, art. 168.5),

"At least 30 percent of the value of the property confiscated in favor of the state must be used for social purposes, as the conditions and the order must be determined by an act of the Council of Ministers."

Concrete implementation of legislaive measures on social and public re-use of confiscated

The most notable cases that involve the social and/or public re-use of confiscated assets in Bulgaria since 2015 are the following:

1. The first is a residential property (274 sqm built-up area) in Nessebar (Burgas Province), used by a notorious drug kingpin as a public laundry. It was confiscated (forfeited in favor of the State) by virtue of Ruling No 173 of 22 April 2010 of the Burgas District Court (not appealed). Following a series of three failed public offerings by the National Revenue Agency (NRA), the Registry Agency at the Ministry of Justice submitted a formal request to the CoM. In 2016, the Governor of the Province granted the property the status of public state property and it was transferred to the Registry Agency to serve as their local office.

2. The second case¹ is a guest house with a restaurant (618 sqm) in Gradec (Sliven Province), used as both a home and a business by a local loan shark convicted on usury charges. It was confiscated (forfeited in favor of the State) by virtue of Decision No 9/19.04.2013 of the Sliven District Court, confirmed by Decision No 96/21.10.2013 of the Burgas Court of Appeals and Ruling No 919/15.07.2014 of the Supreme Court of Cassation.





¹ Following the arrest of the convicted person, the Local Police Precinct notified the Regional Directorate of the Ministry of Interior that the property was suitable to serve as a Local Police Office. The Mol submitted a formal request to the CoM. In 2016, the property was granted the status of public state property by the Governor of the Province and transferred to the Police Precinct of Kotel for said purposes.



CROATIA

Official country name Croatia¹ **Capital** Zagreb **Government** Parliamentary Republic **EU member country** since 1 July 2013



Following the art. 3 of the Directive 42/2014/EU, Croatia applies freezing and confiscation for all crimes.

Following the art. 4, in Croatia it is possible to order the convicted person to pay an amount of money corresponding to the value of the assets subject to confiscation.

Specifically (art. 4.2), confiscation is enabled where:

- the accused person is either permanently unfit to plead or unavailable to the authorities;
- the value of the assets exceeds HRK 60,000 (approximately 8,000 € at the time of writing).

Focusing on the art. 10 of the Directive 42/2014/EU it is noticed that Croatia has set up, or are in the process of setting up, Asset Management Offices (AMOs) to ensure the management of frozen property in order to preserve its economic value (Art. 10.1).

Despite the non-binding nature of Article 10.3, specific legislation on the use of confiscated property or public interest or social purposes exists.

¹ Within the GME project it was administered the questionnaire (A.1.2. part) without any answer from the Croatian contacts.

All the information mentioned here comes from the European Commission's report "Asset recovery and confiscation: ensuring that crime does not pay," June 2020.

CROATIA



CYPRUS

Official country name Cyprus Capital Nicosia Government Presidential republic EU member country since 1 May 2004



Presence of National agency on management of confiscated assets

The Council of Ministers designated the Unit for Combating Money Laundering (MOKAS) on 18 March 2009, as the Asset Recovery Office (ARO) for the purposes of implementing the Council Decision 2007/845/JHA of 6 December 2007. This concerned cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to crime.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The domestic legislation AML/CFT Law transposed art.10(3) of Directive 2014/42/EU in section 19*, which provides as follows:

*(a) Monetary sums confiscated or received from the sale of assets pursuant to the enforcement of a confiscation order in favour of the Republic are paid into the Finance Ministry Management Budget under "Proceeds of Confiscation from Illegal Activities."

(b) The monetary sums mentioned in (a) above are used for social purposes." Following a recent amendment of the section 19 of the AML/CFT Law, the following paragraph was added:

"Monetary sums or property confiscated or received from the execution of a confiscation order may be returned to the victim of the offence regarding which the confiscation Order was issued."

Actions foreseen to facilitate this approach in the management of confiscated assets

In current practice, the Ministry of Finance in Cyprus manages these sums coming from confiscated assets after they are deposited in the State Budget, and the FIU-ARO does not have any involvement in the further use of such assets.

FIU-ARO is trying to report and encourage exploitation of the abovementioned possibility that the law provides.

Recently, FIU-ARO has been in close cooperation with the Cyprus National Addictions Authority. It is the state's supreme coordinating body in developing the national drugs policy and the treatment of addiction. We have managed to include in their new National Strategy 2021-2028 for Addressing Dependence on Illicit Substances that the funds coming from confiscated assets in the context of drug offences will be given to drug treatment centres that also support the process of social reintegration of persons with a history of dependence.

It will follow up with them on the issue to see how to better implement this in practice.









CZECHIA

Official country name Czechia¹ **Capital** Prague **Government** parliamentary republic with a head of government, the prime minister, and a head of state, the president.



EU member country since 1 May 2004

Following art. 10.1 of the Directive 42/2014/EU Czechia ensures adequate management of property that is frozen with a view to subsequent confiscation.

In addition, Czechia has adopted provisions to ensure the adequate management of frozen property.

Czechia has already set up an Asset Management Office²(AMO) to ensure the management of frozen property to preserve its economic value.

Despite the non-binding nature of Article 10(3), Czechia has specific legislation on the use of confiscated property for public interest or social purposes.

 $^{\scriptscriptstyle 1}$ Within the GME project, the questionnaire (A.1.2. part) was administered without any answer from Czechia's contacts.

All the information mentioned here comes from the European Commission's report "Asset recovery and confiscation: ensuring that crime does not pay," June 2020.

²The Czech Republic established a new department within the Ministry of the Interior on 1 January 2017. Its role is the management of assets seized by the Police, pre-confiscation sales and the long-term storage of seized assets The Centre was established by Order of the Minister. No amendments to Act No. 279/2203 Coll.



FRANCE

Official country name France Capital Paris Government semi-presidential republic with a head of government, the prime minister, appointed by the president, who is the directly elected head of state. EU member country since 1 January 1958

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Presence of National agency on management of confiscated assets

The creation of AGRASC (Agence de gestion et de recouvrement des avoirs saisis et confisqués) was provided for by Law No. 2010-768 of July 9, 2010, promoted by the deputy Jean-Luc Warsmann. It was effectively created by a decree in 2011, codified in article R54-1 of the criminal procedure code.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

 ${\sf Publication \, of \, the \, law \, (8th \, {\sf April \, 2021}), introduced \, a \, specific \, mechanism.}$

1) Appropriation of the confiscated assets before the court's final decision Articles 41-5 and 99-2 of the Criminal Procedure Code provide for the possibility of handing over seized property to AGRASC with a view to its allocation free of charge to police services, gendarmerie units or government services (customs administration) which carries out judicial police missions. This device was extended to judicial services.

This procedure is provided for in the third paragraph of Article 99-2 concerning judicial information and in the third paragraph of Article 41-5.

The following conditions must be cumulatively fulfilled regardless of the procedural framework (prosecution investigation or investigation):

- -tangible personal property;
- property liable to confiscation;
- continued seizure would reduce the value of the property;
- the preservation of it is no longer useful for the manifestation of the truth.

2) The allocation of confiscated assets

The proceeds of confiscations become the property of the State and as such are paid to the general State budget, except when the penalty of confiscation is ordered for acts of drug trafficking, in which case the sums are paid to the MILDECA (fonds de concours "drogues", article 706-161 CCP).

Law n° 2014-1353 of 13 November 2014 reinforcing the provisions regarding the fight against terrorism supplemented article 706-161 CPP to provide that the AGRASC can also pay the State contributions intended for financing the fight against delinquency and crime. Finally, the 2017 finance law n° 2016-1917 of 29 December 2016 established a working fund intended to

finance prevention of prostitution and the social and professional support of prostitutes.





3) Compensation for victims

Developing the practice of seizures and confiscations also means better compensation for victims of the crime.

Indeed, pursuant to article 706-164 of the Criminal Procedure Code, any person who is a civil party, who benefits from a final decision awarding damages as well as costs under the procedure, and for which Compensation by the CIVI or the SARVI is impossible, can have the AGRASC pay sums to him or her as a priority on the debtor's property, the confiscation of which was decided definitively.

This text benefits civil parties who are legal entities since Law No. 2014-1 of January 2, 2014 empowering the Government to simplify and secure business life.

4) Social re-use of confiscated assets

Law n° 2021-401 of April 8, 2021 introduced a new paragraph to art. 706-160 CPP defining the AGRASC missions and providing: "The agency may make real estate available, if necessary free of charge, the management of which is entrusted to it in application of 1° of this article. This would be for the benefit of associations with activities generally falling within the scope of b of 1 of article 200 of the general tax code. It would include associations, foundations recognized as being of public utility, and bodies benefiting from the approval provided for in article L. 365-2 of the construction and housing code. The terms of this provision are defined by regulation."



Actions foreseen to facilitate this approach in the management of confiscated assets

There are no allocation measures implemented on this basis.

However, on an experimental basis and based on a political agreement between the French and Italian justice ministers, a confiscated apartment was made available by AGRASC to an association supporting victims of sexual exploitation. This apartment was confiscated by the French authorities in execution of a confiscation certificate issued by the Italian authorities.







GERMANY

Official country name Germany

Capital Berlin Government federal parliamentary republic with a head of government, the chancellor, and a head of state, the president, whose primary responsibilities are representative. EU member country since 1 January 1958





Presence of National agency on management of confiscated assets

NO

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

Germany did not assimilate Art 10.3 of directive 2014/42/EU, hence there are no legislative measures with regard to social and public re-use of confiscated assets.

In Germany, confiscated property is primarily used to remunerate crime victims.

Otherwise, the confiscated property is auctioned off, and the proceeds go to the treasury, thus becoming public funds spent in the public interest.

Instead of an auction, it is also possible to use the confiscated property for all purposes of the justice system, e.g. for organisations that assist ex-convicts or convicts *on parole*. It can also be used for research and training purposes, and by the police.

These possibilities are regulated in §§ 60 ff. of the German law on execution of sentences ("Strafvollstreckungsordnung").

Confiscated real estate becomes state property and is managed by a real estate management department of the Bavarian Ministry of Finance. This department can use it for all government purposes.









GREECE

Official country name Greece

Capital Athens Government parliamentary republic with a head of government, the prime minister, who has the most political power, and the head of state, the president, whose duties are largely ceremonial.

EU member country since 1 January 1981




Special Secretariat of Financial and Economic Crime Unit SDOE-ARO (reformed on 13 April 2018, with Joint Ministerial Decision 24256/18 that transformed the previous agency "HARA" into a new agency "SDOE-ARO")

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Hellenic Asset Recovery Office is defined to serve as the responsible entity for the management of frozen and confiscated assets.

According to Directive 2014/42/EU, after the creation of a new legislation that will define our national Asset Management Institutional framework.

At the moment there is a legislative committee working under our agency Financial and Economic Crime Unit (SDOE) with the participation of representatives of all the competent Greek Authorities to create the new legislation for the central management of frozen, seized and confiscated assets deriving from criminal activities, including the possibility of public and social re-use of confiscated assets according to Directive 2014/42/EU.

Until now, we do not currently have more information since the new Law is still under creation.







HUNGARY

Official country name Hungary Capital Budapest Government parliamentary republic with a head of government, the prime minister, who exercises executive power and a head of state, the president, whose primary responsibilities are representative. EU member country since 1 May 2004

The National Investigation Office (Nemzeti Nyomozó Iroda) is responsible for the Management of confiscated assets.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Hungarian investigative bodies must identify, trace and secure the criminal assets during their proceedings.

On a national level, the HU ARO conducts asset recovery processes, which are parallel financial investigations to the proceedings related to property-generating crimes based on requests of the above-mentioned authorities (if certain criterias are met).

The HU ARO also conducts post-conviction asset tracing processes, which can be ordered by the prosecution office, after the final court decision. This occurs if the suspect's assets could not be secured (prior to the court decision) or in failure to execute the property confiscation, which is carried out by the tax authority via "tax enforcement proceedings."

According to the Hungarian legislation, the application of (non-conviction based) confiscation and (conviction based) property confiscation are stipulated in sections 72-76 of act C of 2012 of the Criminal Code. (see the relevant sections at the end of the document).

The re-use of confiscated assets is regulated by Act XIII of 2000 on the Public Re-use of Confiscated Assets.

According to Act XIII of 2000, a governmental body, the Charitable Council allocates the reusable assets and they can be distributed to deprived persons or to healthcare and social institutions supported or managed by charitable organisations.

By designation, (socially) reusable assets can cover personal needs (e.g., food, clothing, etc.) or subsidiary needs (e.g., housing, household devices, toys, etc.)

If the Charitable Council does not initiate the social re-use or the assets are not suitable for re-use (e.g., drugs, excise goods, weapons), the confiscated assets must be sold or destroyed.

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ITALY

Official country name Italy Capital Rome Government parliamentary republic with a head of government - the prime minister - appointed by the president and a head of state - the president. EU member country since 1 January 1958

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The "Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata (ANBSC)"

was established with the decree law 4 February 2010, n. 4, converted into law no. 50. The discipline then merged into Legislative Decree 6 September 2011 n. 159 (Anti-mafia Code).

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

Law n. 109/96 on the possibility of social and public re-use of confiscated assets from criminal organisations.

Actions foreseen to facilitate this approach in the management of confiscated assets

There are 36,616 real estate (land parcels) confiscated from 1982 to today. About 17.300 were allocated and delivered by the National Agency for institutional and social purposes.

Concrete implementation of legislative measures on social and public re-use of confiscated

According to the data, more than 871 subjects were recorded as involved in the management of real estate confiscated from organised crime, obtained in concession by Local Authorities, in 17 out of 20 regions.

From the data collected, it emerges that more than half of the social realities are made up of associations of different types (468) while the social cooperatives are 189 (data which includes the workers' cooperatives of the confiscated companies). The other third sector managers include 11 amateur sports associations, 23 third sector subjects who manage welfare services in agreement with public bodies. 36 temporary associations of purpose or networks of associations, 60 realities of the religious world (dioceses, parishes and Caritas), 26 foundations, 14 scouting groups and finally 6 schools of different orders and grades. The census does not include real estate re-used for institutional purposes by state and local administrations.











LATVIA

Official country name Latvia Capital Riga

Government parliamentary republic with a head of government, the prime minister, who chooses the council of ministers and a head of state, the president, who has a largely ceremonial role and nominates the prime minister. **EU member country** since 1 May 2004



No; ARO is designated under the Economic Police Department of the Central Criminal Police Department of the State Police.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

Section 45 of the Law on Execution of Confiscation of Criminally Acquired Property establishes that half of the confiscated proceeds from crime transferred to the State Budget, but no more than two million euro in a financial year, will be transferred to a separate Ministry of Justice budget programme to implement the required measures for combating financial and economic crimes and providing support to crime victims.

The procedures for funding, distribution and use of the funds of the Ministry of Justice budget programme is determined by the Cabinet Regulation No. 769 "Procedures for Use of the Funds of the Basic Budget Programme of the Ministry of Justice - Fund of the Proceeds of Crime from Confiscation" issued on December 19, 2017.

According to the Cabinet Regulation No. 769 "Procedures for Use of the Funds of the Basic Budget Programme of the Ministry of Justice Fund of the Proceeds of Crime from Confiscation" by 20 April, 20 August of the financial year and by the last day of the financial year, the Treasury must transfer 50 per cent of the amount of the confiscated proceeds of crime that have been paid into the State budget in the relevant period, but not exceeding two million euros. If the funds available in the fund programme account exceed 300.000 €, the Ministry of Justice will send an invitation to the Ministry of the Interior, the Office of the Prosecutor, the Corruption Prevention and Combating Bureau, the Ministries of Finance, Education and Science, Welfare and Health to submit an application to use the funds for the measures for combating financial and economic crimes and providing support to crime victims within the set time period.

The Ministry of Justice will compile the applications of those requesting funds and submit them to the Crime Prevention Council for examination and decision. In addition, the Ministry of Justice will prepare a report on the funds used and results achieved in the previous period and append it to the compiled applications. If the applications submitted are partly consistent with the objective of the fund programme or their total amount exceeds the funds available in the fund programme account, the Ministry of Justice will reach an agreement with the applicants on the measures to be supported and submitted for examination to the Crime Prevention Council.

Within two weeks after the Crime Prevention Council has taken the decision, The Ministry of Justice will inform the applicants and the Ministry of Finance of the decision to agree on planned fund transfers to the beneficiaries.

Beneficiaries must use the funds only for the objectives specified in the decision of the Crime Prevention Council. Within a month after the end of the implementation of the measure, the applicant for the funds must submit a report on the use of the funds to the Ministry of Justice. Before submission of the report, the fund recipient must evaluate the compliance of the use of the funds with the intended objective and approve the beneficiary's expenditures.

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LITHUANIA

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Official country name Lithuania¹ Capital Vilnius Government parliamentary republic with a head of government, the prime minister, and a head of state, the president, who appoints the prime minister. EU member country since 1 May 2004 Lithuania ensures the adequate management of property that is frozen with a view to subsequent confiscation, following art. 10.1 of the Directive 2014/42/EU.

Moreover It has adopted provisions to ensure the adequate management of frozen property, even if it has not already set up Asset Management Offices (AMO).

Evenmore, in Lithuania it is present a specific legislation on the use of confiscated property for public interest or social purposes.

¹ Within the GME project it was administered the questionnaire (A.1.2. part) without any answer from the Lithuanian contacts.

All the information mentioned here comes from the European Commission's report "Asset recovery and confiscation: ensuring that crime does not pay," June 2020.



POLAND

Official country name Poland¹ **Capital** Warsaw **Government** parliamentary republic **EU member country** since 21 December 2007



Poland has not already set up Asset Management Offices (AMOs) to ensure the management of frozen property in order to preserve its economic value (Art. 10.1 Directive 42/2014/EU).

Based on the art. 10.3 of the Directive 42/2014/EU, in Poland there is a specific legislation on the use of confiscated property for public interest or social purposes.

 $^{\rm 1}$ Within the GME project it was administered the questionnaire (A.1.2. part) without any answer from Polish contacts.

All the information mentioned here comes from the European Commission's report "Asset recovery and confiscation: ensuring that crime does not pay," June 2020.



LUXEMBOURG

Official country name Luxembourg¹ **Capital** Luxembourg **Government** parliamentary constitutional monarchy (Grand Duchy) with a head of government, the prime minister, and a head of state, the Grand Duke, who has only formal rights **EU member country** since 1 January 1958





Following Art. 10.1 of the Directive 42/2014/EU, Luxembourg ensures the adequate management of property that is frozen with a view to subsequent confiscation.

In addition, Luxembourg is setting up an Asset Management Office² (AMO) to ensure the management of frozen property to preserve its economic value.

Despite the non-binding nature of Article 10(3), specific legislation exists on the use of confiscated property for public interest or social purposes.

¹ Within the GME project it was administered the questionnaire (A.1.2. part) without any answer from Luxembourg's contacts.

All the information mentioned here comes from the European Commission's report "Asset recovery and confiscation: ensuring that crime does not pay," June 2020.

²Bureau de gestion et de recouvrement des avoirs (BGRA), https://www.stradalex.lu/fr/slu_src_publ_div_lux_cons_etat/document/avis_ce-lu_53465


PORTUGAL

Official country name Portugal

Capital Lisbon **Government** semi-presidential republic with a head of government, the prime minister, and a head of state, the president, who has power to appoint the prime minister and other government members.

EU member country since 1 January 1986



GAB (Gabinete de Administração Bens), department of IGFEJ (O Instituto de Gestão Financeira e Equipamentos da Justiça gere os recursos financeiros, patrimoniais e tecnológicos do Ministério da Justiça).

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

Law 30/2017 of 30 May, introduced some changes in the Portuguese law making clear that during the management process, the AMO can also determine the allocation of the frozen assets to a public or socially useful purpose connected with the administration of justice, as long as the assets to be affected are of interest to the beneficiary entity and are adequate for the exercise and pursuit of its legal or statutory powers.

This possibility was not new, because even before the implementation of the AMO, it was already possible to allocate the frozen assets to useful purposes. However, it is more related with operational and public interest than with social re-use of the frozen assets.

Both possibilities can happen only with frozen assets. For the confiscated ones, there is no such possibility.

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ROMANIA

Official country name Romania

Capital Bucharest

Government semi-presidential republic with a head of government, the prime minister, and a head of state, the president. Executive functions are held by both government and the president.

EU member country since 1 January 2007



ANABI (National Agency for the Management of Seized Assets) is the competent Romanian authority for the administration of confiscated property. ANABI is also competent to evaluate requests and propose to ANAF the social or institutional re-use of confiscated properties.

National Fiscal Administration Agency (ANAF) is the competent Romanian authority for the disposal of confiscated property.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Criminal Code, the Criminal Procedure Code, Law no. 318/2015 for the establishment, organisation and functioning of the National Agency for the Management of Seized Assets (ANABI) and for the modification and completion of some regulatory acts, Government Ordinance no. 14/2007 for the regulation of the manner and conditions of disposal of the goods entered, according to the law, in the private property of the state.

Actions foreseen to facilitate this approach in management of confiscated assets.

In August 2021, Romanian Government adopted Decision no. 917/2021 for the approval of the National Strategy on Asset Recovery "Crime does not pay!" for the period 2021-2025 and the Action Plan for the implementation of the National Strategy on Asset Recovery "Crime does not pay!" for the period 2021-2025.

The National Strategy foresees the establishment of a National Mechanism for the Prevention of Crime. The National Mechanism budget will consist of confiscated sums and amounts obtained from selling the assets confiscated in criminal judicial proceedings.

The Mechanism will finance multiannual projects submitted by state agencies and civil society organisations.

The amounts allocated may be used exclusively for the following purposes measures/actions/programmes concerning:

- assistance and protection of crime victims including in emergencies;
- crime prevention;
- legal education;

• strengthening the administrative capacity, including logistics of the institutions empowered with the identification, management and disposal of the seized assets.







Over 100 civil society organisations participated in the drafting process.

The civil society appreciated the quality of the public policy proposal and expressed their support for the envisaged measures and the proposed solutions, especially regarding the establishment and functioning of the National Mechanism for the Prevention of Crime.

Concrete implementation of legislative measures on social and public reuse of confiscated assets

1) The office of National Probation Directorate (Bucharest)

The asset was confiscated in a money laundering case. The perpetrators defrauded a computer chain store. They established thirteen offshore companies and two domestic companies and put up a debt scheme. For the concealment to be even higher, the domestic companies were owned in cascade by several other offshore companies. The perpetrators were the beneficial owners of all the offshore companies. The defrauded computer chain store concluded detrimental contracts with the offshore companies. It had to deliver on deadline a large number of computers, otherwise having to pay burdensome penalties, amounting almost 5.000.000 €. As planned, the company failed to deliver, so the offshore companies assigned their claims in favour of one of the domestic companies. The domestic company requested the Romanian Courts to recognise the debt and secured court payment orders. The defrauded computer chain store concluded a giving in payment arrangement about the building in downtown Bucharest. The same fraud scheme was applied once more; this time the defrauded company was the new owner of the building. The perpetrators managed to transfer the building to a third company. The third company began renting the office space and cash in the profits.

The Building is managed by the Ministry of Justice and was confiscated by Bucharest Court of Appeal, based on Criminal sentence no. 53F / 26.08.2018, Criminal Section II in file no. 2185/2/2015*, and then final on 10.10.2019 by the criminal decision no. 306/A/ 10.10.2019 issued by the High Court of Cassation and Justice.

The building will become the office of the National Probation Directorate.

2) The real estate was confiscated from a criminal organisation specialised in drug-trafficking. In 2016, the perpetrators arranged a cannabis crop inside a house in a rural area. The house was equipped with the necessary system of irrigation, aeration, lighting and ventilation for the plants to grow and develop indoors. The production was sold in Romania and Germany. In 2018, the authorities identified the criminal organisation. In the respective file, the

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court ordered the extended confiscation of four properties and several cars owned by the perpetrators and acquired from the income generated by the drug-trafficking business. Among the assets confiscated was an apartment in Bucharest owned by the leader of the group.

The buildings have been confiscated by the Ilfov Tribunal, based on Criminal sentence no. 358 / 14.11.2018, issued by the Ilfov Tribunal in the criminal case no. 2514/93/2018, which remained final after non-appeal on 04.12.2018.

The property may be re-used by an association to provide temporary accommodation to vulnerable persons or victims of crime.

C ROMANIA



SLOVENIA

Official country name Slovenia

Capital Ljubljana

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Government republic with a head of government, the prime minister, and a head of state, the president, who is directly elected.

EU member country since 1 January 2007

No

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The key legal acts regarding storage, management and sale of confiscated assets/property (depending on the type of property) are: Criminal Procedure Act (CPA), Forfeiture of Assets of Illegal Origin Act (ZOPNI), Decree on the records of forfeited assets of illicit origin, Decree on the management procedure applied to forfeited items, assets and securities, and Decree on the procedures of safekeeping, management and sale of assets of illicit origin.

Relevant provisions in this regard are:

Article 13 of the Decree on the management procedure applied to forfeited items, assets and securities:

"In accordance with the regulations on public finance, the responsible committee may donate items that fall under special regulations and are not in free circulation, cannot be sold, or their sale would entail disproportionate costs to national authorities and organisations, institutions, foundations or philanthropic organisations if they prove that they need these items to carry out their activities.

The responsible committee may donate items of historical, archaeological, ethnographic, cultural, artistic or scientific value according to the provisions of the above paragraph only after prior consultation with the ministry responsible for finance and the ministry responsible for culture."

Paragraph 4 of Article 3 of the Decree on the procedures of safekeeping, management, and sale of assets of illicit origin:

"Donations for public use instead of the sale of assets or items will be made based on a court decision when they are not in free circulation due to a specific regulation or when they cannot be sold or could only be sold by incurring disproportionate costs. In such an event, they must be given away free of cost to state authorities and organisations, public institutes and institutions or humanitarian agencies that can demonstrate the need for such assets for the implementation of their activities."





5 SLOVENIA



SPAIN

Official country name Spain Capital Madrid Government parliamentary democracy and constitutional monarchy with a head of government, the prime minister, and a head of state, the monarch EU member country since 1st January 1986

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The Oficina de Recuperacion y Gestion de Activos (ORGA) is established (based on the Art.26. RD 948/2015), for tracing, recovery, conservation, administration, and realisation of assets: a) delivery to NGOs or public administrations, b) by specialized person/entity, or c) in public auction.

Legislative measures assimilating Directive 2014/42/EU (art. 10.3) on the social and public re-use of confiscated assets at national level

The Sixth Additional Provision of the Spanish Code of Criminal Procedure, the Royal Decree 948/2015 and Order JUS/188/2016, establish the creation of the national Asset Recovery Office and Asset Management Office contact points. The ORGA will act when so entrusted by a competent Judge or Court, sua sponte or at the behest of the State Prosecutor Office or the Office itself. It will also proceed to trace assets at the request of the Public Prosecution Service within the framework of its competences in the areas of criminal investigation, international legal cooperation and autonomous confiscation procedures, or in whatever other actions within the terms provided by criminal or procedural law.

The Organic Act 1/2015 on the Penal Code, amending the Organic Act 10/1995, establishes that the judge or the court, ex-officio or at the request of the Public Prosecutor or of the ORGA itself, may entrust the location, preservation and administration of assets, property, instruments and proceeds from criminal activities committed within a criminal organisation. Additionally, the fifth final provision of Organic Act 1/2015 introduces important modifications to the regulation of confiscation without conviction in exceptional circumstances, extended confiscation and third party confiscation, which although already provided for in previous normative texts were lacking practical application.

Furthermore, the Act 41/2015, amending the Code of Criminal Procedure, in view of the acceleration of penal justice and strengthening procedural safeguards completes this regulation by providing for the appearance of third parties affected by the confiscation in the criminal proceedings and the inclusion of a new autonomous confiscation procedure. This last procedure may be initiated at the request of the Public Prosecutor when there is a punishable act and the perpetrator is dead or not subject to prosecution being in default or unable to appear in court. It may also be employed when the prosecutor reserves the right to confiscation, when a final conviction is delivered for the offence from which the property object of the procedure comes.







To improve management efficiency and to avoid duplication, it is encouraged the necessary coordination between the ORGA and the Government Delegation for the National Plan on Drugs (GDNPD). The Royal Decree 948/2015 does not apply to assets, proceeds or interests received from them that, according to the Act 17/2003, are owned by the Special Fund from Confiscated Assets arising from illegal trafficking in drugs and other related crimes.

The ORGA will employ the revenue from the management and disposal of the items, assets, instruments and proceeds of crime for the purposes envisaged in the Law of Criminal Procedure with the following priority objectives (Royal Decree 948/2015):

a) Support for programmes to provide assistance to victims of crimes, including programmes promoted by Public Administrations and non-governmental organisations and private non-profit bodies, with particular focus on the victims of terrorism, gender-based violence, human trafficking, violent crimes and offences against sexual freedom, along with victims with disabilities who require special protection and victims who are minors.

b) Providing impetus and resources to the Victim Support Offices.

c) Support for social programmes aimed at preventing crime and treating offenders.

d) Intensification and improvement of actions to prevent, investigate, prosecute, and suppress crime, including the following:

1. Eexpenditures required to obtain evidence during investigations, which includes the cost of the expert reports of the Institute of Legal Medicine and Forensic Science or the National Toxicology and Forensic Science Institute.

2. Purchase of material resources for the competent bodies for law enforcement, investigation and the gathering of expert evidence.

3. Specialised training within the bodies charged with preventing and repressing organised crime.

4. Reimbursement of the expenses lawfully incurred by private individuals or the services of Public Administrations whilst collaborating with the competent bodies during investigations.

e) International cooperation to combat serious crimes.

f) Payment of the Office's operating and management costs, including expenses arising in the exercise of certain functions outlined in the legislation.



The Committee for Allocation of the Proceeds of Crime (Article 8, Roval Decree 948/2015) is set up as a collegiate body that is a dependency of the Ministry of Justice via the State Secretariat for Justice, which is assigned the functions of distributing the economic resources obtained by the ORGA, under the terms envisaged in Article 15 RD 948/2015. This Committee is presided over by the Secretary of State for Justice, and the Vice-Presidency is held by the Director General of the ORGA. The Commission is made up of six members assigned by the Ministry of Justice, Ministry of the Interior, Ministry of the Treasury and Public Administrations and Ministry of Health, Social Services and Equality, respectively, from amongst Deputy Directors General or those holding a similar rank, and by the General Council of the Judiciary and the Prosecutor General's Office, under the collaboration agreement signed for this purpose. The post of secretary entitled to speak but with no vote is assigned to a public official within the ORGA. A representative of the State Legal Service, a dependency of the Ministry of Justice, will participate in the Committee for the allocation of the Proceeds of Crime but without the right to vote. This Commission's operation must adhere to the stipulations governing collegiate bodies in the legislation on the legal system applicable to the Public Sector.

The distribution of resources among the beneficiaries will take place by agreement of the Commission for the Allocation of the Proceeds of Crime, within the criteria established by agreement of the Council of Ministers yearly (Article 15. RD 948/2015)

The realisation of assets or goods may consist in their delivery to non-profit organisations or public administrations, the realisation by means of a specialised person or entity, or in public auction (Article 26. RD 948/2015). Furthermore, Article 27. RD 948/2015 focuses on the delivery to non-profit making entities or public administrations:

1. The Office will propose the judicial authority to deliver the assets to nonprofit making bodies or public administrations when their value is negligible or when it can be expected that realisation by any of the other forms established will be uneconomical, in compliance with procedural regulations.

2. The delivery of assets to a non-profit making body or a specific public administration shall be carried out with prior judicial authorization, unless the judicial body agrees that the choice is to be made by the ORGA.

In case of assets or goods on which attachment or assignment to a public body or entity is applicable, the ORGA shall submit the corresponding proposal to the *Dirección General del Patrimonio del Estado* (Directorate General of National Heritage) or, as appropriate, to the competent authority. Finally, the management tasks carried out by the ORGA shall not include the deposit of the assets placed to their care nor the management of societies, as long as the State Secretariat for Justice does not provide for these actions to be carried out.

Actions foreseen to facilitate this approach in the management of confiscated assets



The Government Delegation for the National Plan on Drugs (GDNPD, Act 17/2003) regulates the Special Fund from Confiscated Assets arising from illegal trafficking in drugs and other related crimes. It is focused on confiscated assets subject to a final conviction from Criminal Code crimes, smuggling crimes, money laundering, sanctions and confiscations made under Act 3/1996 manufacture and trading substances used in the manufacture of illegal drugs. The Fund has specific regulation in state property, budgetary rules, confiscated assets, and administrative organisation.

The beneficiaries of the Fund are (Art 3.1, Act 17/2003):

- · Law Enforcement authorities in charge of fighting against drug trafficking.
- NGOs and other non-profit organisations (nationwide entities).
- · Local and regional authorities.
- Government Delegation for the National Plan on Drugs.
- International organisations and other Governments.

and follow a National Strategy on addictions (currently for the period 2017-2024). The goals are divided into three programmes: towards a healthier and betterinformed society; towards a safer society; cross/cutting areas such as coordination, knowledge management, legislation, international cooperation, communication and dissemination, and evaluation and quality.

The GDNPD proposes a distribution of the Fund that is evaluated by the Award board and, then, makes a decision and the money is transferred to the beneficiary. The Award Board is composed of:

- The Government Delegate for the National Plan on Drugs.
- The Management Deputy Director of the Fund.
- 3 members from the Ministry of Economy and Finance.
- 1 member from the Ministry of Interior.
- 1 member from the Ministry of Justice.
- 1 member from the Ministry of Health.
- The Secretary of the board.

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Concrete implementation of legislative measures on social and public reuse of confiscated assets



SPAIN

There have been several cases of social and/or public re-use of confiscated assets. The following will be briefly described:

- 1. Troika operation (2008)
- 2. Finca El Campell (2016)
- 3. Project GAVEA (Galicia Vela Adaptada Galicia Adapted Sail, 2002)

1) Troika operation

After 2 years of investigation, the Spanish Guardia Civil, Customs and National Police, in collaboration with the judiciary police of USA, Germany, Russia, Switzerland and Belgium, arrested members of the Tambovskaya Malysherskaya group based on the following offenses: money laundering, arms trafficking, contact murders, extortion, drug delivery, forgery, smuggling of cobalt and tobacco. The main member of the group was released on bail and has been missing since 2012 after an authorization to attend his mother-in-law's funeral.

The confiscation of a Villa on the island of Majorca (500 sqm and estimated value $3.500.000 \in$) is an example of non-conviction based confiscation. The Spanish Penal Code (Article 367 quarter) allows it on assets when the "owner expresses their abandonment or when conservation and deposit costs are greater than the value of the object itself; when conservation can be dangerous to health or public safety, or may result in a substantial reduction of its value, or could seriously affect normal use and operation."

The AMADIP.ESMENT FOUNDATION focuses on aiding mentally disabled people and requested the building for restoration and preservation; temporary shelter; and leisure activities. Although a list of cultural activities was presented and preservation of the property was initiated, the suspect was finally acquitted and the asset was returned.

2) Finca El Campell

As a result of the "Necora and Temple" police operations against the narcotraffic in Spain, the villa Finca El Campell was confiscated. In 2007, to avoid deterioration of the property and ensure an adequate and beneficial use for society, to prepare the future final assignment in the classic modality of a crime against public health and money laundering, the administration of the property was handed to the Generalitat Valenciana. In 2016, the Award board of the Special Fund from Confiscated Assets approved the Pedreguer County's Municipal Plan for Drug Addiction and Other Addictive Disorders (Ayuntamiento de Pedreguer, Alicante). As a result, the headquarters of the Centre for the community prevention of addictive behaviors was set in El Campell. Since than, many drug prevention and rehab activities have been developed in the confiscated asset.

3) Project GAVEA

The Galicia Vela Adaptada (Galicia Adapted Sail) Project started in 2002 as the result of the confiscation of the Laion sailboat. Technically modified by the criminals for narcotraffic purposes, the 13-meter length has now been transformed to allow people with disabilities to sail. The Association for the Disabled People of Bisbarra de Muros (ADISBISMUR in Spanish), member of the Confederación Galega de Persoas con Discapacidades (COGAMI Galician Confederation of Disabled People), requested the boat and committed every summer to bring the social integration experience of sailing to people with some kind of disability. Furthermore, through this activity, they are promoting the adaptation of the marinas to disabled people, a characteristic that is scarce in general.

The confiscated asset allows COGAMI the following objectives:

- Sensitize public opinion and people with disabilities so that they can play an active role in society, emphasizing their abilities rather than their limitations.
- Work with people with disabilities who participate in navigation, taking advantage of teamwork and recreational activities on board, to facilitate their personal growth and the discovery of the necessary skills to overcome integration difficulties, both in this experience and in everyday life,
- Create leisure activities for the recreation of people with disabilities.
- Generate synergies between the crew members and the organizing institutions of the GAVEA Project through teamwork with common goals.



GME's ROADMAP the challenges of the coming months



concluding event of the project with the 4 national teams to evaluate the results and to launch a new civic monitoring action

12 October 2021

"Good(s) Monitoring, Europe!: the monitoring of confiscated assets for a Europe closer to citizens" workshop at The European week of Regions and Cities to present the final results of the project

July 2021

summer school in Palermo, Sicily; the objective will be the construction and testing of a toolkit on civic monitoring, advocacy and public and social re-use of assets confiscated from organised crime

February 2021 to May 2021

Identification of the four countries involved and construction of national teams

CONCLUSIONS

This mapping of good practices of public and social re-use of confiscated assets at European level is the result of a long-term action that we finally executed this year thanks to the project "Good(s) Monitoring, Europe!", co-funded by the European Commission.

Indeed, since our first hearing at the European Parliament in 1997, we have tried to underline that the fight against organised crime must be a common goal for European Member states, improving common tools such as the public and social re-use of assets confiscated from criminal organisations.

Thanks to the Libera's consultative status in the Asset Recovery Offices – ARO Platform (promoted by DG HOME and Europol) and in particular in the Asset Management Offices Sub-group, we have had the opportunity to deepen knowledge of Member states' different approaches to management of confiscated assets. We have tried to transform the Italian experience into a concrete model to transfer. By creating guidelines and explaining the potential of public and social re-use of confiscated assets, we have designed a new economic model focused on the social and cultural importance of preventing crime through confiscated assets, movable and immovable ones, as well.

Since 2014, the number of European countries which have demonstrated an interest in the re-use of confiscated assets for social purposes has increased and the exchange of information has really helped in improving a new perception on the opportunity of social and public re-use of confiscated assets to tackle organised crime and corruption crimes.

Thanks to our active participation in the ARO Platform, we have decided to start a dialogue with all ARO representatives to find out how the practice of social re-use has been implemented at national level, or not. The adoption by the Commission of the official report "Asset recovery and confiscation: Ensuring that crime does not pay" on June 2020 has permitted to improve the analysis on the implementation of article 10.3 of Directive 2014/42/EU: despite the non-binding nature of the Article, specific legislation on the use of confiscated property for public interest or social purposes exists in 19 Member States.



During the "Good(s) Monitoring, Europe!" project we have designed a questionnaire for ARO representatives which would monitor how the 19 Member states have implemented the possibility to re-use confiscated assets for public and social purposes at national level. This mapping represents the first action of the project (A1.1) and it has allowed to choose 4 European Member States on which focused the next activities of the project, in order to enhance the role of non-profit organisations that already manage assets confiscated in Europe or that could do so, with the aim of creating an informal European network of monitoring communities and supporting reinforcement of existing instruments to strengthen and broaden citizens' involvement in cohesion policy.

The main findings of the mapping are interesting for the implementation of the project and they can be summarized in some important comparative data:

1. The good practices of public and social re-use of confiscated assets belong to 7 Member States (Belgium, Bulgaria, Spain, Romania, France, The Netherlands and - of course – Italy);

2. Not only the 19 Member states declared by the European Commission's report are implementing the public and social re-use of confiscated assets: in particular, even if The Netherlands has not yet developed a legal framework dedicated to the public and social re-use, it has already a boat (movable asset) confiscated for drug trafficking and now re-use by a sailing school;

3. There are countries outside European Union which have introduced the possibility of public and social re-use of confiscated assets, using European funds as well: it is the case of Albania (EU potential candidate country) in which there are already 3 good practices of social re-use in confiscated assets;

4. Among the 19 Member states included in the EU report (June 2020), more than a half have confirmed to have a specific institutional body addressed to the management of confiscated assets, which permit – as the National Agency does in Italy - to assure a more effective procedure on the destination of assets to re-use for public and social purposes;

5. About a national legal framework for reusing confiscated assets, some Member states have declared that they not have a specific legislation on the social re-use: actually, they have a procedure focused on the indirect social re-use of confiscated assets, which means that they foresee to sell the assets and to use the funds obtained for victims' compensation or social projects.

6. The majority of the 19 Member states have experienced only the public reuse of confiscated assets, stressing that it is a first step to improve as well the social re-use (direct or indirect) of confiscated assets in the future.

7. Focusing on the practices of public and social re-use, one in every 2.5 Member states has shared with us concrete experiences, which have been included in this mapping as effective examples to share with other European countries.

8. Totally, there are 13 experiences of public and social re-use throughout the European Union, excluding the Italian ones: 3 in Spain, 2 in Romania, 2 in Bulgaria, 4 in Belgium, 1 in France and 1 in The Netherlands.

9. Among the different practices of re-use included in the mapping, the common feature is the purpose of inclusion, cooperative promotion and social economy, youth engagement, services to people, urban regeneration, and environmental sustainability.

This mapping has collected for the first time the different types of approach to the implementation of article 10.3 of Directive 2014/42/EU, deepening the legal framework chosen by Member states for including the public and social re-use of confiscated assets in their legislation. Asking the competent authorities directly how they are working on this practice, we have noticed how complex it could be to understand well the potential of reusing criminal assets (movable and immovable ones) for social purposes. The Member states that have taken more evidence of their commitment on the topic, many times had a direct experience on a project of public or social re-use through which they learned in person how powerful it can be on a cultural, social and economical level as well.

For this reason, during the last years, Libera with the **CHANCE - Civil Hub Against orgaNised crime in Europe** – network has increased the promotion of social inclusion strategies for the most disadvantaged layers of the population, through public and social re-use of assets confiscated from organised crime in Europe and activation of bottom-up participatory processes for integrated territorial development.

Indeed, through the presentation of the Political Agenda of the CHANCE network on April 2019 at the European Parliament, we have stressed the need to:

- boost the AMO platform (Asset Management Offices), as a key tool in promoting the exchange of knowledge and good practices on the management of seized/confiscated assets;

- have greater provision and recourse to non-conviction based confiscation measures, including those for patrimonial prevention, through a specific Directive that includes the guarantee of a fair trial;

- create a fund dedicated to the re-use of confiscated assets through the



Cohesion Policies in the 2021-2027 programming period, encouraging the creation of a European strategy for the public and social destination of criminal assets.

Thanks to this project we are improving the use of Cohesion policies funds to enhance confiscated assets, after having traced which European countries are really committed in implementing the public and social re-use of assets confiscated from organised crime and corruption crimes.

With this report, we want to stress that the implementation of social re-use is an effective strategy to tackle the enormous and inexorably growing financial power of organised crime to defend democracy and the rule of law.

A decisive shift towards the perception of the collective nature and economic dimension of the most serious crimes is essential, creating a progressive diversification of sanction models, including national legislation in the trends emerging at European and international level, and improving the synergy between public institutions and civil society in crime prevention dynamics.

As the Italian national strategy for confiscated assets rehabilitation through Cohesion Policy says "a modern anti-mafia policy requires concentrating efforts not only on repressing specific individuals but, even before that, on countering their assets and properties. A central role must undoubtedly be assigned to the system for management and destination of confiscated assets and properties, required to prove more adequately efficient to reaffirm legality and foster development in territories affected by mafia crime."

APPENDIX

Questionnaire for ARO representatives

The public and social re-use of confiscated assets in Europe: questions for ARO-AMO representatives

1. Which are the legislative measures assimilating the Directive 2014/42/EU (art. 10.3) on national-level social and public re-use of confiscated assets?

2. Have these legislative measures changed your approach to management of confiscated assets? Which actions have you foreseen to facilitate this new approach in the management of confiscated assets?

3. Have these legislative measures on social and public re*use of confiscated assets been concretely implemented in your country? On which types of assets? Which services have been developed?

4. In your country, is it possible to involve CSOs and social cooperatives in the implementation and management of confiscated assets? Which other types of organisation can manage an asset for social re-use in your country?

Optional questions

5. Italy has developed a Strategic National Plan that included the opportunity to enhance social and public re-use of confiscated assets at national level through the EU Cohesion Policy funds. Do you know that EU Cohesion Policy funds could be used for this purpose in your country as well?

6. During the last EU Cohesion Policy Fund programmeme period (2014-2020) and in the last new one (2021-2027), has your country invested a portion of these funds for enhancing social and public re-use of confiscated assets at national level? If not, do you think this opportunity could be interesting in the future to prevent and support the fight against organised crime?

7. In your country, is there a National Plan for implementation of Cohesion Policies funds? Does this Plan include actions to strengthen social inclusion and/or citizen engagement?





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