

RECOVER
CRIME DOESN'T PAY



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RECOVER

**Mutual recognition of freezing and confiscation
orders between efficiency and the rule of law**

Grant Agreement No. 101091375

OPENBAAR MINISTERIE

The Netherlands

26 September 2023

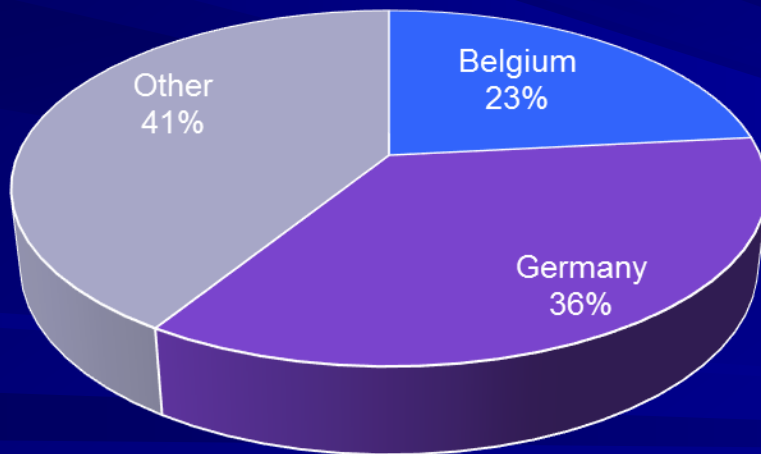
Content

- Some statistics
- Problems and solutions under Regulation (EU) 2018/1805

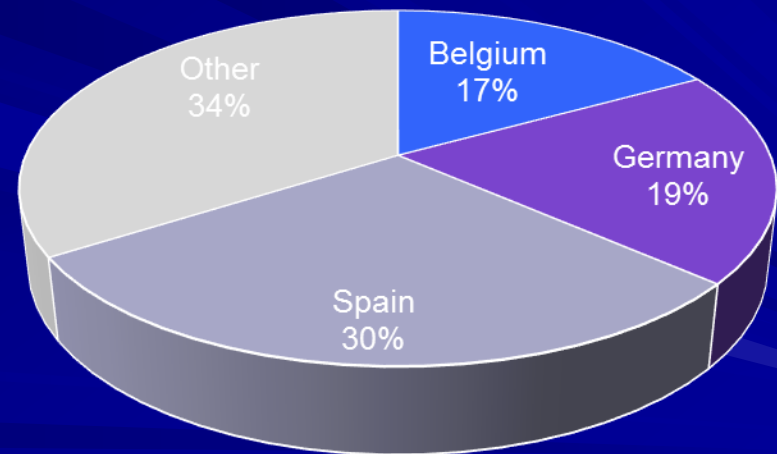
Statistics (2021-2022)

European Freezing Order	2021	2022	Total	Countries
Incoming	93	89	182	18
Outgoing	125	122	247	21

Incoming



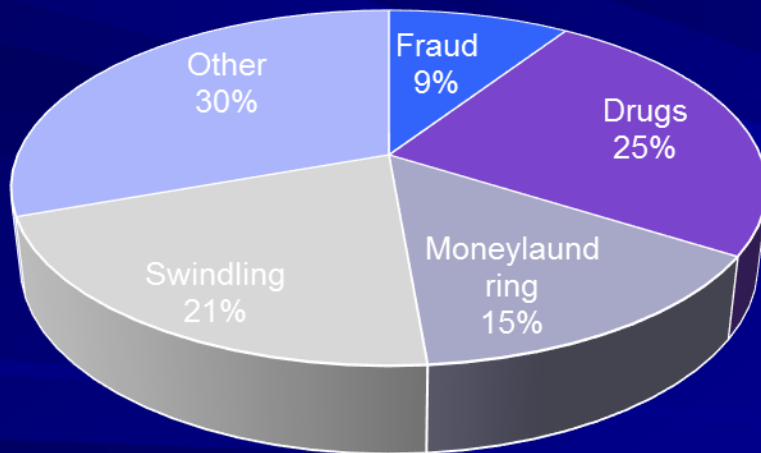
Outgoing



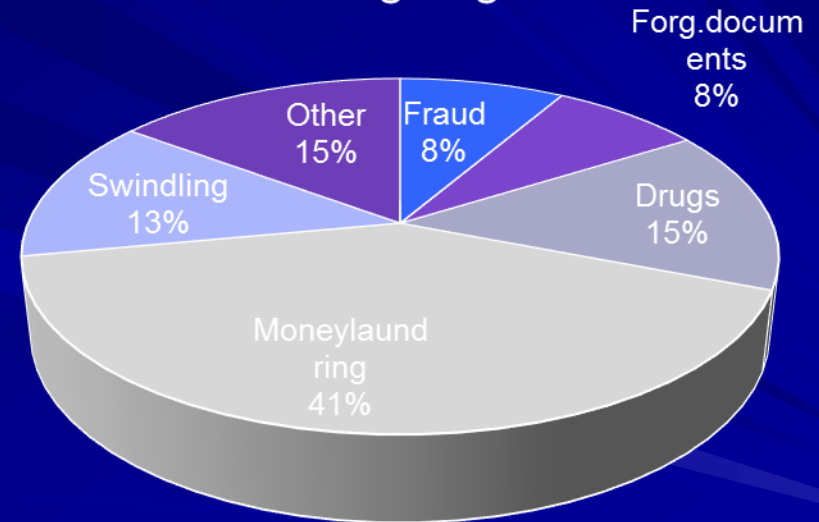
Statistics (2021-2022)

European Freezing Orders crimes:

Incoming

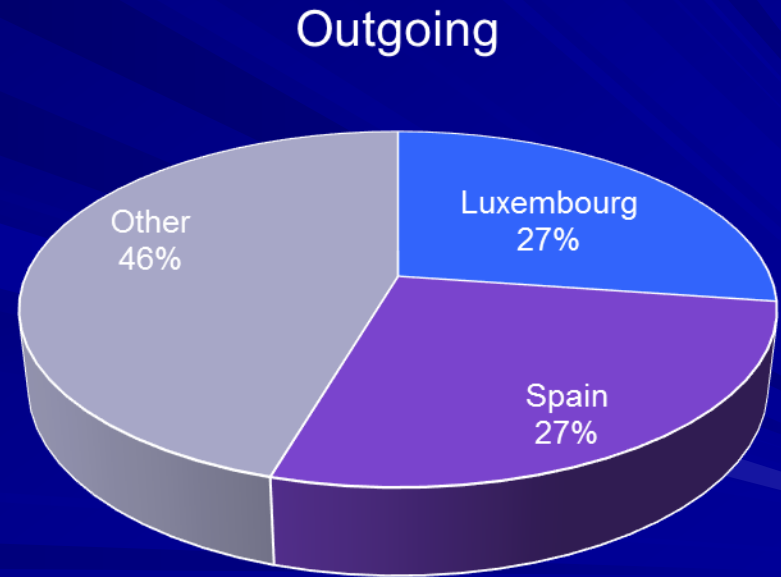
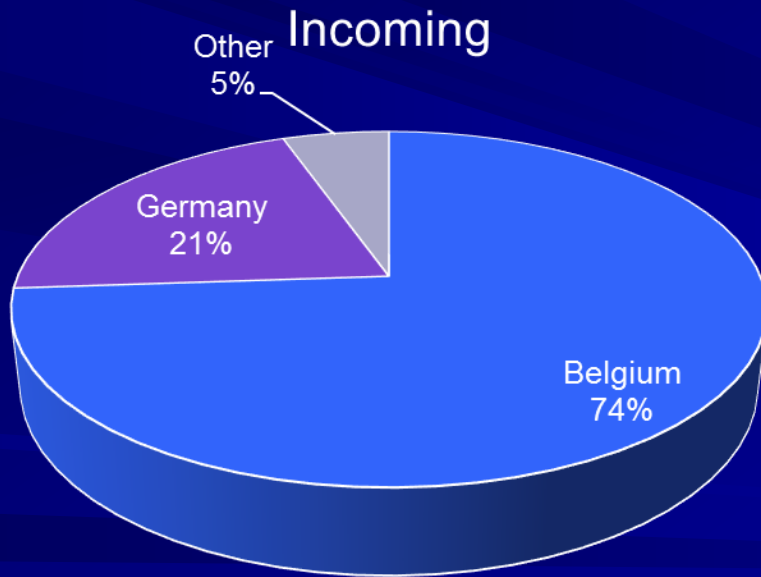


Outgoing



Statistics (2021-2022)

European Confiscation Order	2021	2022	Total	Countries
Incoming	29	63	92	7
Outgoing	12	10	22	10

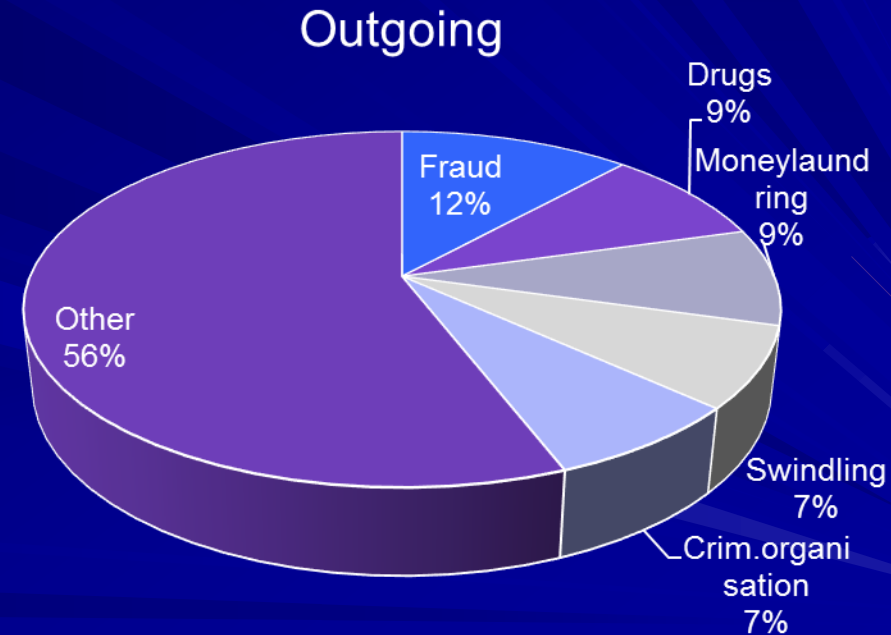
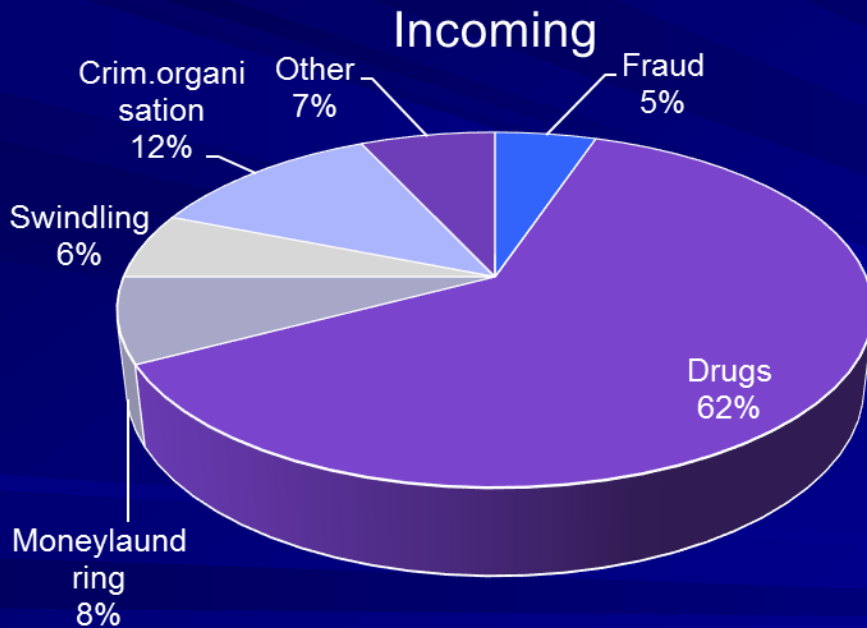


Statistics (2021-2022)

European Confiscation Order Execution in €	2021	2022
Incoming	2.629.056,84	343.700,72
Outgoing	183.640,80	351.970,65

Statistics (2021-2022)

European Confiscation Orders crimes:



Problems and solutions - 1

- Problem: up to date information on assets
- Solution:
 - ARO request prior to EFO/ECO
 - quick way for balance check bank accounts – f.i. via ARO

Problems and solutions - 2

- Problem: Time needed for drafting, sending, executing freezing orders vs urgent requests
- Solution:
 - EFO in English for urgent requests
 - Central authority for urgent requests
 - Urgent freezing/interim measure prior to EFO
 - Soft freeze crypto currency via direct contact exchanges prior to EFO

Problems and solutions - 3

- Problem: Use potential of EFO to full extend – art. 7(1) REG – financial investigations
- Solution:
 - align national law in MS with art. 7(1) REG
 - competent authority for EFO also competent to perform financial investigations to (1) investigate whereabouts of assets; (2) trace other assets of suspects in MS

Problems and solutions - 4

- Problem: Quality of certificates / use of correct certificate
- Solution:
 - EFO adjustments to part D of certificate:
 - (1) freezing needed for object/value confiscation
 - (2) request for financial investigations
 - Education of practitioners in MS
 - Guide/handbook for drafting certificate

Problems and solutions - 5

- Problem: Restitution of money to victim in case of frozen bank accounts
- Solution:
 - EU harmonised rules for banks and law enforcement how to deal with requests for freezing and restitution of transferred funds in case of fraud, swindling, cybercrime, etc.

Problems and solutions - 6

- Problem: Freezing of assets for victim compensation/restitution
- Solution:
 - Extend scope of freezing order under REG (will make execution of victim compensation measures under FD 2005/214/JHA easier)

Problems and solutions - 7

- Problem: Improve (understanding of) communication between competent authorities
- Solution:
 - Use of standard forms for f.i.:
 - (1) confirmation of receipt, including contact details of executing authority
 - (2) recognition/refusal
 - (3) result of execution EFO: assets frozen, estimated value
 - Contact between authorities before sending EFO

Problems and solutions - 8

- Problem: Securing assets in execution phase (ECO)
- Solution:
 - Possibility of sending EFO when ECO is irrevocable
 - Art. 18 (5) REG: freezing assets without EFO prior to recognition ECO (and perhaps include section in certificate ECO to request for freezing/securing assets prior to recognition ECO)