

## RECOVER Project (GA no. 101091375)

### WP5 - Asset Recovery Office's Activities and Management of Frozen and Confiscated assets

#### Questionnaire for the partners

#### Section 1 - Asset Recovery Offices (AROs): Structure and Activities

1. Which agencies serve as the Asset Recovery Offices (AROs) in your country? Under which government department or agency do they operate?

According to Article 2 of Law no. 318/2015, in Romania, the **National Agency for the Management of Seized Assets**, hereinafter **ANABI** or the **Agency**, is designated both as the national **Asset Recovery Office (ARO)**, in the sense of Council Decision 2007/845/JHA of 6 December 2007, and the national **Asset Management Office (AMO)**, within the meaning of Article 10 of the Directive 2014/42/EU of the European Parliament and the Council of 3 April 2014.

ANABI is a public institution endowed with **legal personality**, under the subordination of the **Ministry of Justice**.

For numerous video representations of ANABI's activity (ARO and AMO), you can consult our YouTube channel: <https://www.youtube.com/@anabi6496>.

ANABI is the **main specialised body involved in cross-border asset tracing**, but cooperation with ANABI is not mandatory. Law enforcement and judicial authorities can request data and information directly. However, ANABI remains the first choice of law enforcement and judicial authorities for cross-border asset tracing, taking into account that ANABI - through the networks in which it is a member - can reach over 170 jurisdictions. In addition, the exchange of data and information is swift (8 hours, 7 days or 14 days).

2. Are there any instances in your country where the Reg. (EU) 2018/1805 (hereinafter, the REG) was applied with the involvement of the ARO? Please provide examples and data if available.

We have identified five cases in which the Regulation (EU) 2018/1805 was applied with the involvement of ANABI, as following:

Type of requested data	Total no.	Prosecutor's Office	Requested Member State	Type of seizure
Number of freezing orders sent to other Member States according to Regulation (EU) 2018/1805, with ANABI's involvement	5	Prosecutor's Office of the Buzău Tribunal	Spain	Several immovable assets in Spain tax evasion
		Prosecutor's Office of the Cluj Tribunal	Hungary	On 19 July 2023, the Prosecutor's Office requested the freezing of some amounts from one's company bank accounts
		Prosecutor's Office of the Covasna Tribunal	Hungary	€20,009 frozen on OTP Bank Hungary from an individual's account
		Prosecutor's Office of the Timișoara Court	Germany, Hamburg	Approx. €30,000 frozen on a bank account embezzlement
		Prosecutor's Office of the Timișoara Court	Spain, Almeria	Immovable asset (land) swindling

**3. What are the main activities undertaken by your ARO in applying the REG (e.g., asset tracing, investigative support, international coordination)?**

The main activity carried out by ANABI, as ARO, in the application of the REG is cross-border asset tracing both in **criminal proceedings** and in **post-conviction cases**.

Therefore, according to Article 3 let. a) of Law no. 318/2015, as the national ARO, ANABI **facilitates the tracing and identification of proceeds** from, and other property related to crime, and which may be subject to a freezing, seizing or confiscation order issued by a competent judicial authority throughout criminal proceedings, including during the enforcement of judgments in criminal matters.

In this respect, according to **Article 20** of Law no. 318/2015, ANABI:

*a) cooperates with asset recovery offices or authorities having similar duties in other Member States of the European Union, by ensuring data and information exchange, for the purpose of carrying out the function provided for in Article 3 let. a);*

*b) cooperates with the competent Romanian public authorities and institutions laid down in Article 4 para. (1) for the purpose of identifying and tracing the assets that may be subject to protective measures during judicial proceedings in criminal matters, special confiscation or extended confiscation, by sending data and information it has direct or indirect access to;*

*c) ensures Romania's representation at the level of the Camden Asset Recovery Inter-Agency Network (CARIN), and exchange data and information to this purpose, including at the level of other similar networks.*

Also, according to **Article 24** of Law no. 318/2015:

*(2) ANABI is authorised to request data and information from other asset recovery offices or authorities having similar duties in other European Union Member States or third countries for the purpose of enforcing a confiscation order, in the instances laid down in Article 112 para. (3) and (5) [direct confiscation] and Article 112<sup>1</sup> para. (6) [extended confiscation] of Law no. 286/2009 on the Criminal Code.*

*(3) ANABI shall inform the enforcement authority or, as applicable, the appointed enforcing judge about the data and information obtained under the terms set out in the previous paragraph, to issue and communicate the confiscation order to the enforcing state.*

In addition, ANABI develops and implements **projects and programs funded from European and international funds**, such as:

1. Project "Strengthening CARIN's Capacity as a Centre of Expertise by Further Developing the Network and Disseminating Best Practices by Addressing the Challenges Faced by Asset Recovery Professionals";
2. Project "Strengthening and Efficiency of the National Asset Recovery System" (code SIPOCA 56), in cooperation with the Prosecutor's Office of the High Court of Cassation and Justice;
3. Project "Development of the Romanian Assets Recovery and Management Integrated System - ROARMIS" (code SIPOCA 763), in cooperation with the Prosecutor's Office of the High Court of Cassation and Justice;
4. Project "Further Enhancing the Fight Against Trafficking in Human Beings by Focusing on Prevention, Cooperation and Recovery of Crime Proceeds - WESTEROS 2", coordinated by the Prosecutor's Office of the High Court of Cassation and Justice, through the Directorate for the Investigation of Organized Crime and Terrorism (ISFP-2019-AG-THB);
5. Project "Increasing the Efficiency of the National Agency for the Management of Seized Assets in Asset Recovery", in cooperation with the Dutch Embassy;
6. Project "DATACROS II - Empowering a Tool to Assess Corruption Risk factors in firms' Ownership Structure" (ISFP-2020-AG-CORRUPT), European Consortium;

7. Project "Further Strengthening and Efficiency of the National Asset Recovery System" (code SIPOCA 1157);
8. Project "KLEPTOTRACE: Strengthening EU Asset Recovery and Sanction Tracing Against Transnational High-Level Corruption", European Consortium;
9. Project "Improving the Storage Capacity of the National Agency for the Management of Seized Assets on the Management and Sales of Assets Seized in Criminal Proceedings";
10. Project "Development of the Romanian Assets Recovery and Management Integrated System (ROARMIS 2), Modernisation of the Institution's Presentation Website and the ANABI Portal for Electronic Auctions".

**4. What are the biggest challenges your ARO faces in the application of the Regulation, and how are these addressed?**

The biggest challenges ANABI experienced in respect of cross-border asset tracing:

- **time limits** for the responses are not respected by some of the AROs or the responses are sent after a long period of time;
- **the on-line land register** does not have all properties in Romania integrated in the information system - therefore, ANABI sends written requests to the Land Register and receives the replies in approx. 30 days.

**5. What tools and databases does the ARO most commonly use when applying the REG, especially for asset tracing (e.g., accessing public records, utilizing professional services or software)?**

In performing its cross-border asset tracing function, ANABI has access to relevant information, as mentioned below:

**DIRECT ACCESS DATABASES:**

- Population Register - General Directorate for Persons Record and Database Administration (DEPABD);
- Passport Register - General Directorate for Persons Record and Database Administration (DEPABD);
- Vehicle Register - General Directorate for Persons Record and Database Administration (DEPABD);
- Land Register - National Agency for Cadastre and Land Registration (ANCPI);
- Company Register - National Trade Register Office (ONRC);
- Boat Register - Romanian Naval Authority (ANR);
- Aircraft Register - Romanian Civil Aeronautical Authority (AACR);

- Bank Account Register - PatrimVen IT system (managed by the National Tax Administration Agency - ANAF);
- Fiscal data - PatrimVen IT system (managed by the National Agency for Fiscal Administration - ANAF).

#### INDIRECT ACCESS DATABASES:

- Immigration Register (General Inspectorate for Immigration - IGI);
- Beneficial Ownership Register (National Trade Register Office - ONRC);
- Notary National Registers (National Union of Notaries Public from Romania - UNNPR);
- Other relevant competent authorities.

#### OTHER:

- OSINT;
- DATACROS II.

According to Article 4 para. (1) of Law no. 318/2015, in performing its functions, ANABI shall cooperate with:

- a) the Public Ministry;
- b) the Superior Council of Magistracy;
- c) the Ministry of Internal Affairs;
- d) the Ministry of Public Finance;
- e) the National Agency for Fiscal Administration;
- f) the National Trade Register Office;
- g) the Financial Supervisory Authority;
- h) the National Office for Prevention and Combating of Money Laundering;
- i) the Anti-Fraud Department;
- j) the National Agency for Cadastre and Land Registration;
- k) the National Union of Bailiffs;
- l) the National Union of Notaries Public of Romania;
- m) the National Union of Romanian Bars;
- n) any other public authority or institution with duties that are relevant for the Agency's activity.

**6. How does your ARO collaborate with AROs from other EU member states in applying the REG? Please provide examples and data if available.**

ANABI collaborates with ARO's from other EU Member States according to provisions of Chapter III. Duties related to facilitating the identification and tracing of assets that may be subject to protective measures during judicial proceedings in criminal matters, special confiscation or extended confiscation, from Law no. 318/2015, as mentioned below:

**Article 20**

Related to the identification of assets that may be subject to protective measures during judicial proceedings in criminal matters, special confiscation or extended confiscation, the Agency shall perform the following duties:

- a) cooperate with asset recovery offices or authorities having similar duties in other Member States of the European Union, by ensuring data and information exchange, for the purpose of carrying out the function provided for in Article 3 let. a);*
- b) cooperate with the competent Romanian public authorities and institutions laid down in Article 4 para. (1) for the purpose of identifying and tracing the assets that may be subject to protective measures during judicial proceedings in criminal matters, special confiscation or extended confiscation, by sending data and information it has direct or indirect access to;*
- c) ensure Romania's representation at the level of the Camden Asset Recovery Inter-Agency Network (CARIN), and exchange data and information to this purpose, including at the level of other similar networks.*

**Article 21**

*(1) Data and information requested by other asset recovery offices or authorities having similar duties in other Member States of the European Union in crime cases falling under Article 97 of Law no. 302/2004 regarding international judicial cooperation in criminal matters, reissued, as further amended and supplemented, shall be sent within the following deadlines:*

- a) 8 hours - for urgent requests;*
- b) one week - for non-urgent requests.*

*(2) For data and information requests concerning deeds other than the crimes provided for in Article 97 of Law no. 302/2004, reissued, as further amended and supplemented, the deadline shall be 14 days.*

*(3) If data or information requested as described at para. (1) or (2) cannot be sent within these deadlines, the requesting competent authority shall be informed using the form given in annex no. 1.*

*(4) The request for assistance shall be sent by any means that can produce a written document, and so that the recipient authorities can establish their authenticity.*

## Article 22

*(1) The Agency shall send the data and information it has, either ex officio, or at the request of an asset recovery office or an authority having similar duties in other Member States of the European Union or a Romanian judicial authority.*

*(2) Data and information shall be sent ex officio when the Agency assesses that such data and information may facilitate the tracing and identification of assets by such offices or authorities.*

*(3) Persons in charge with communicating the data and information requested by the Agency shall be appointed at the level of the institutions laid down in Article 4 para. (1) for the purpose of assuring urgency in sending the data and information requested according to the provisions of Article 19.*

## Article 23

*(1) When a special authorisation is needed in order to obtain certain data and information required for carrying out the duties laid down in Article 20, the Agency has the obligation to make all efforts to obtain such authorisation, under the terms of the law.*

*(2) When the requested data and information is obtained from another European Union Member State or a third country, and is subject to the rule of speciality, sending such data and information to the requesting office or authority may only happen after obtaining the agreement of the communicating European Union Member State or third country.*

## Article 24

*(1) In carrying out the duties stipulated by the law, the criminal investigation body, the prosecutor or the court may request data and information either from the Agency, or from other asset recovery offices or authorities having similar duties in other European Union Member States or third countries, through the Agency.*

*(2) The Agency is authorised to request data and information from other asset recovery offices or authorities having similar duties in other European Union Member States or third countries for the purpose of enforcing a confiscation order, in the instances laid down in Article 112 para. (3) and (5) and Article 1121 para. (6) of Law no. 286/2009 on the Criminal Code, as further amended and supplemented.*

*(3) The Agency shall inform the enforcement authority or, as applicable, the appointed enforcing judge about the data and information obtained under the terms set out in the previous paragraph, to issue and communicate the confiscation order to the enforcing state.*

*(4) The requests laid down in para. (1) and (2) shall be made using the form given in annex no. 2.*

## Article 25

*When obtaining data and information exceeds the framework of facilitating asset identification and tracing, the Agency shall inform the criminal investigation body, the prosecutor or the court requesting such data about the procedure to be followed according to the regulations in the field of international judicial cooperation in criminal matters.*



## Article 26

*(1) In the situations described in Article 21, the Agency may refuse collecting or sending the requested data and information:*

*a) when there is reason to assume that such collection or provision:*

*(i) would affect national security;*

*(ii) would endanger the proper performance of police investigation or of the criminal trial;*

*(iii) would require disproportionate efforts or would be of no relevance for the purposes that the data and information was requested for;*

*b) when the punishment provided by the Romanian criminal law for the crime referred to in the request is imprisonment for up to one year.*

*(2) The Agency shall refuse to collect and communicate data and information if the competent judicial authority did not authorise access to and sending of the requested information when the provisions of Article 23 apply.*

Please see below how cross-border asset tracing works in practice:

### **ASSET TRACING ABROAD - for national law enforcement and judicial authorities**

- Receiving an asset tracing request from a law enforcement or judicial authority - during the criminal investigation, and from fiscal authorities - in post-conviction cases. Also, ex officio, ANABI can send requests - in all phases of the criminal proceedings; registration of the request;
- Analysing the request and assigning;
- Requesting additional information from the requesting authority, if needed;
- Translating the request. Regularly, correspondence is in English. In practice, we use annexes to the Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union;
- Sending the request to the ARO/CARIN CONTACT POINT/other similar networks;
- Requesting the status of the request, if no answer is received;
- Contacting the ARO/CARIN CONTACT POINT/other similar networks for urgent requests for which no electronic acknowledgement of receipt has been received (within 8-hour time limit);
- Receiving information from the ARO/CARIN CONTACT POINT/other similar networks (8 hours / 7 days / 14 days);
- Sending the reply to the requesting national authority;
- Ex officio transmission of data and information on the basis of a prior request, where ANABI considers that this would facilitate the tracing and identification of assets by these offices or authorities (8 hours / 7 days / 14 days from receiving the data and information).



## ASSET TRACING IN ROMANIA - for foreign law enforcement and judicial authorities

- *Receiving an asset tracing request from ARO/CARIN CONTACT POINT/other similar networks; registration of the request;*
- *Analysing the request and assigning;*
- *Proposing the databases to access;*
- *Approving the databases to access;*
- *Consulting the available requested databases;*
- *Sending written requests to other national relevant authorities, if necessary (8 hours, 7 days, 14 days);*
- *Sending the answer/partial answer to the requesting ARO/CARIN CONTACT POINT/other similar networks (8 hours, 7 days, 14 days);*
- *Informing the ARO/CARIN CONTACT POINT/other similar networks in cases where the deadlines laid down by law cannot be met, by filling the appendix to the Decision 2006/960/JHA (8 hours, 7 days, 14 days);*
- *Receiving the replies from the requested national relevant authorities;*
- *Sending the final answer to the requesting ARO/CARIN CONTACT POINT/other similar networks;*
- *Ex officio transmission of data and information on the basis of a prior request, where ANABI considers that this would facilitate the tracing and identification of assets by these offices or authorities (8 hours / 7 days / 14 days from receiving the data and information).*

All data and information exchanged are registered in the **Romanian Assets Recovery and Management Integrated System - ROARMIS**, as a unique system to monitor assets seized, confiscated and disposal during criminal trials.

According to Article 38 of Law no. 318/2015, ANABI manages the Romanian Assets Recovery and Management Integrated System - ROARMIS, which shall include data on:

- a) the protective measures ordered during the criminal trial, the disposal or giving back of the assets subject to such measures;*
- b) the precautionary measure of confiscation and the disposal of the confiscated assets, both in the case of special confiscation and in the case of extended confiscation;*
- c) bail confiscation, as stipulated in Article 217 para. (5) of Law no. 135/2010;*
- d) enforcement of asset freezing orders issued by another state;*
- e) enforcement of confiscation orders issued by another state;*
- f) disposing of the confiscated assets, within the meaning of Article 265 of Law no. 302/2004, reissued, or the meaning of the agreements providing for sharing of confiscated assets;*

g) compensations granted to the state, the authorities or the public institutions for the purpose of remedying the damage caused by the crime, and enforcement of the provisions regarding such compensations, contained in the decision;

h) the fine applied as main punishment, and enforcement of such fine in the ways provided by the law;

i) the amounts of money deposited voluntarily by the suspect, the defendant, the party having civil liability on account of damages, under the terms provided in Article 10 of Law no. 241/2005 on preventing and fighting tax evasion;

j) court expenses established by the court in criminal judicial proceedings, and amounts of money obtained from the enforcement of the orders regarding court expenses;

k) compensations awarded to victims as per Law no. 211/2004.

**7. How many times has your office contacted the ARO for information or assistance in the past three years? What was the subject of your request?**

Please see below the statistical data of ANABI's activity on asset tracing, in the last three years:

2023							
Requests received from AROs/CARIN CONTACT POINTs/other similar networks				Requests received from national law enforcement, judicial and fiscal authorities			
267 <sup>1</sup>				223 <sup>2</sup>			
Assets identified/value (EUR)				Assets identified			
754 <sup>3</sup>	329	1.277	222	67 <sup>4</sup>	149	1.243	145
Immovable assets/ 16.139.221 EUR	Vehicles/ 1.728.187 EUR	Bank accounts	Companies	Immovable assets/ 1.943.666 EUR	Vehicles / 731.200 EUR	Bank accounts	Companies

<sup>1</sup> 199 requests received from AROs. Most ARO requests received from Germany (73), France (23), and Belgium (20). 68 requests received from CARIN/similar networks. Most common offences were money laundering, participation in a criminal organisation, fraud, including fraud against European Communities' financial interests, corruption, and pimping.

<sup>2</sup> 253 requests sent to AROs. Most ARO requests sent to Germany (44), Spain (38), Italy (27), and France (22). 86 requests sent to CARIN/similar networks. Most common offences were fraud, including fraud against European Communities' financial interests, computer fraud, tax evasion, money laundering, participation in a criminal organisation, swindling, and abuse in office.

<sup>3</sup> 131 houses, 88 apartments, 500 lands, and 35 parking lots.

<sup>4</sup> 30 houses, 7 apartments, and 30 lands.

2022							
Requests received from AROs/CARIN CONTACT POINTs/other similar networks				Requests received from national law enforcement, judicial and fiscal authorities			
281 <sup>5</sup>				161 <sup>6</sup>			
Assets identified/value (EUR)				Assets identified			
488 <sup>7</sup>	189	1.004	141	50 <sup>8</sup>	30	160	84
Immovable assets/ 13.406.412 EUR	Vehicles/ 3.222.640 EUR	Bank accounts	Companies	Immovable assets/ 2.596.450 EUR	Vehicles / 450.790 EUR	Bank accounts	Companies

<sup>5</sup> 170 requests received from AROs, and 111 requests received from CARIN/similar networks. Most data and information was exchanged with Moldova, Germany, France, Italy, the United Kingdom, and Hungary. Most common offences were money laundering, participation in a criminal organisation, fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, corruption, swindling, and pimping.

<sup>6</sup> In total, ANABI sent 229 requests to other AROs, CARIN and similar networks, as following: 167 requests sent to AROs, and 62 requests sent to CARIN/similar networks. Most data and information was exchanged with Germany, the United Kingdom, Italy, Spain, Hungary, and France. Most common offences were fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, swindling, computer fraud, tax evasion, money laundering, participation in a criminal organisation, and corruption.

<sup>7</sup> 66 houses, 94 apartments, 186 lands, and 142 parking lots.

<sup>8</sup> 19 houses, 2 apartments, and 29 lands.

2021					
Requests received from AROs/CARIN CONTACT POINTs/other similar networks			Requests received from national law enforcement and judicial authorities		
205 <sup>9</sup>			90 <sup>10</sup>		
Assets identified			Assets identified		
1.769 <sup>11</sup>	147	374	64 <sup>12</sup>	58	255
Immovable assets	Vehicles	Bank accounts	Immovable assets	Vehicles	Bank accounts

**8. In which areas does the ARO provide the most support to your authority? (e.g., asset tracking, legal support, international cooperation)**

According to Law no. 318/2015, for the national law enforcement and judicial authorities, as ARO, ANABI provides most support on asset tracing and international cooperation.

Therefore, ANABI *facilitates the tracing and identification of proceeds from, and other property related to crime, and which may be subject to a freezing, seizing or confiscation order issued by a competent judicial authority throughout criminal proceedings*. In this respect, ANABI exchanges data and information in the EU via ARO Platform and outside the EU via CARIN<sup>13</sup> network and other 7 regional networks: RRAG, ARIN-SA, ARIN-EA, ARIN-WA, ARIN-AP, ARIN-CARIB, ARIN-WCA, including other relevant organisations such as: EUROPOL, EUROJUST, EPPO, UNODC, UNCAC, StAR Initiative, INTERPOL.

<sup>9</sup> 148 requests received from AROs, and 57 requests received from CARIN/similar networks. Most data and information was exchanged with Moldova, Germany, France, Italy, Belgium, the Netherlands, and Bulgaria. Most common offences were money laundering, participation in a criminal organisation, fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, corruption, swindling, and illicit trafficking in narcotic drugs and psychotropic substances.

<sup>10</sup> In total, ANABI sent 154 requests to other AROs, CARIN and similar networks, as following: 110 requests sent to AROs, and 44 requests sent to CARIN/similar networks. Most data and information was exchanged with Germany, the United Kingdom, Italy, Spain, Hungary, and France. Most common offences were fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, swindling, tax evasion, money laundering, and participation in a criminal organisation.

<sup>11</sup> 858 houses, 694 apartments, and 217 lands.

<sup>12</sup> 26 houses, 11 apartments, and 27 lands.

<sup>13</sup> Camden Asset Recovery Inter-Agency Network. It consists of: 61 jurisdictions, 12 organisations (European Public Prosecutors Office - EPPO, EUROPOL, European Anti-Fraud Office - OLAF, EUROJUST, UNODC, INTERPOL, EGMONT GROUP, United Nations Interregional Crime and Justice Research Institute - UNICRI, International Criminal Court, International Monetary Fund, WORLD BANK GROUP, GIZ), and 7 regional networks.

In addition, ANABI shall perform the following tasks, as laid down in Article 43 of Law no. 318/2015:

- a) exchange best practices with asset recovery offices and seized asset management offices or with authorities having similar duties in other countries;*
- b) as provided by the law, organise professional training for practitioners in its field of competence; to this purpose, the Agency shall take action to obtain the required accreditations and authorisations;*
- c) conduct analysis and research, by synthesising, systematising and interpreting statistic data regarding its activity;*
- d) draw up public policy proposals in its field of competence;*
- e) attend conventions of regional and international bodies and organisations operating in the field of asset recovery and management;*
- f) draw up and publish an annual activity report, which includes the findings, developments and recommendations pertaining to its field of competence;*
- g) develop and implement projects funded from European and international funds;*
- h) attend conventions of regional and international bodies and organisations operating in the field of management and disposal of seized/confiscated assets;*
- i) may appoint a representative in the Valuation Commission provided for in Article 6 para. (4) of Government Ordinance no. 14/2007, reissued, when the disposal concerns assets confiscated in criminal proceedings.*

Also, ANABI supports national authorities by:

- Organizing training sessions on asset recovery and the Romanian Assets Recovery and Management Integrated System - ROARMIS, through the implemented projected;
- Sharing best practices on asset recovery (national and international experience);
- Issuing guides on asset recovery;
- Training asset tracing and management inspectors in areas such as: financial investigations and cryptocurrencies (ANABI is a member of the US-European Cryptocurrency Working Group which meets twice a year).

## **9. Which technologies or tools provided by the ARO do you find most useful in your activities/investigations?**

One of the most useful tools provided by ANABI is **DATAACROS II**, a real-time risk assessment tool with global coverage (300+ million companies and 200+ countries) - helpful in identifying cross-border linkages.

ANABI is also part of the European Consortium of project "KLEPTOTRACE: Strengthening EU Asset Recovery and Sanction Tracing Against Transnational High-Level Corruption", which addresses kleptocracy, transnational high-level corruption and sanction circumvention in the EU. To achieve these objectives, the corruption and EU sanction evasion will be monitored, by also developing a data-driven toolbox. Training and policy recommendations will be provided to strengthen EU authorities' capabilities and raise awareness of transnational corruption risks.

It is also crucial that AROs have direct access to all relevant databases that can provide useful and consolidated information for a complete financial investigation. As mentioned above, ANABI has direct access to population, passport, vehicle, property, company, boat, aircraft, bank account registers and fiscal data. For information on beneficial ownership and other relevant information, ANABI sends written requests to the relevant competent authorities.

#### **10. Could you provide examples of successful cases or challenges encountered in collaborating with the ARO?**

##### **POST-CONVICTION ASSET TRACING**

At the request of ANABI, an ARO provided us with data on the ownership of a vehicle by the convicted persons and the conclusion of a rental contract worth €14,400 per year. Subsequently, ANABI referred the matter to the enforcement court, in order to follow the procedure for the recognition of the freezing and confiscation orders in accordance with Regulation (EU) 2018/1805. Both freezing and confiscation orders were recognised by the requested Member State.

Challenges encountered in this case: Procedures by Member State authorities took a considerable amount of time (1 year), which could have affected the effective execution of the confiscation order.

#### **11. What legal or administrative challenges prevent effective collaboration between your authority and the ARO? Are there regulatory or bureaucratic barriers that limit effective cooperation?**

As mentioned above, ANABI is the main specialised body involved in cross-border asset tracing, but cooperation with ANABI is not mandatory; law enforcement and judicial authorities can request data and information directly. However, ANABI remains the first choice of law enforcement and judicial authorities for cross-border asset tracing.

The effective cooperation is limited by the following aspects:

- Law enforcement, judicial and fiscal authorities are not fully aware of the mandate/powers of ANABI in relation to cross-border asset tracing (e.g.: not knowing that they can trace and identify assets in foreign jurisdictions via ANABI);
- Lack of information about the jurisdictions in which assets should be traced and identified or just mentioning "EU" or "worldwide";
- Lack of information about the links with the foreign jurisdictions;
- Lack of all information needed to send a request for exchange of data and information;

- Phishing expedition requests - requesting asset tracing for 60, 70, 80, 100 persons (not suspects/defendants in the criminal investigation, no links provided) - thinking that ANABI has access to all international databases, accesses the databases and provides the results of the checks;
- Law enforcement and judicial authorities do not know the legal nature of the data and information obtained via ANABI, which is for intelligence purposes only.

**12. Do you have any proposals for the harmonization of EU MS legislation on the structure and the activities of AROs?**

No, but the transposition of the new Directive (EU) 2024/1260 on asset recovery and confiscation will create the possibility of harmonization of EU MS legislation and to grow the strength of AROs through: extended access to databases and to other relevant information that AROs can obtain directly or on request; the clear and swift time limits; the powers of immediate action for a limited period of time to preserve assets pending the freezing orders.

**13. Could you provide us with potential guidelines regarding the structure and the activities of AROs?**

In our opinion, ARO must be a compact structure, where the staff is very well trained, with competence covering different areas. The staff within the ANABI - ARO is specialized either in legal sciences or in the financial-fiscal field. It is also important to continuously inform the judicial bodies about the tools that ARO makes available in criminal investigations. **Details of the structure and HR policy of ANABI, that is common to ARO and AMO, can be found at the answer to question 5 in the AMO section.**

**14. Do you have any further reform proposals, at a national or international level, concerning the structure and the activities of AROs?**

Given the increased powers of AROs under the new Directive, Member States will need to strengthen Asset Recovery Offices.

The role of the AROs will be to facilitate cross-border cooperation in asset tracing and to support asset tracing investigations by national authorities and the EPPO. At the same time, AROs will be empowered to take immediate action where there is an imminent risk of the assets traced and identified by these offices disappearing.

In view of the limited number of staff working in the ARO (5 posts now) and the increase in their powers, it will be necessary to extend the establishment plan of the ARO in order to meet the requirements of the new Directive.



This is also a legal obligation under Article 26 of the Directive: *Member States shall ensure that asset recovery offices and asset management offices performing tasks pursuant to this Directive have appropriately qualified staff and appropriate financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall ensure that specialised training and the exchange of best practices is available to staff involved in asset identification, tracing and recovery and confiscation.*

Also, on the occasion of the transposition of Directive 2024/1260, the entire legislative framework will have to be reanalysed. **One of the aspects that needs to be improved is related to the way of applying art. 18 para. 5 of REG.** The change is imposed by reference to the following factual situation. In one case, a court in Malta ordered the value-based confiscation of a sum of money from a Romanian citizen. In the procedure to enforce the confiscation order, the Maltese authorities requested the help of ANABI to identify the assets and accounts held by the convicted person. ANABI communicated to the Maltese authorities the fact that the person has certain bank accounts.

With the formulation of the confiscation certificate, Maltese authorities expressly indicated that they are only requesting the confiscation of the respective accounts and not of other assets. Also, recognition of a freezing order was not requested, the authorities only asked for recognition of confiscation order.

In the procedure for recognition of the confiscation order, the Romanian court did not apply art. 18 para. 5 of the REG<sup>14</sup>, establishing a term with the summoning of all interested persons in order to discuss the recognition of the confiscation order. In this context, although the court recognized the confiscation order for the sums of money expressly indicated by the Maltese authorities, because these sums of money had not previously been seized, they were withdrawn by the convicted person before the recognition became final confiscation order. Thus, on the occasion of the execution the recognized confiscation order according to the national legislation, it was found that the convicted person had withdrawn all the sums from the accounts and as the Maltese authorities only requested the confiscation of the sums of money from the expressly indicated accounts, it was not possible to continue the execution of other assets of the convicted person.

Analysing this case and from the perspective of the legislation in Romania, it is found that a better information of the judicial authorities about the existence of art. 18 para. 5 of REG is needed. At the same time, an express provision is required at the national level, because, even in the situation in which art. 18 para. 5 were applied, the court would have had the obligation to order the freezing following a procedure in which the convicted person would have been summoned.

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<sup>14</sup> Where the issuing authority has issued a confiscation order but has not issued a freezing order, the executing authority may, as part of the measures provided for in paragraph 1, decide to freeze the property concerned of its own motion in accordance with its national law with a view to subsequent execution of the confiscation order. In such a case, the executing authority shall inform the issuing authority without delay and, where possible, prior to freezing the property concerned.

Thus, in our opinion, the amendment should regulate a procedure by which, when it is referred to with the recognition of a confiscation order, which is not accompanied by a freezing order, the court in Romania will forward the file to a prosecutor so that he can analyse the appropriateness of the freezing of the assets until the confiscation order is recognized by the court. The efficiency of the provision would be given by the fact that, in this case, the prosecutor will can order the freezing without a summons before taking the measure, informing the convicted person only after the execution of freezing order. In the absence of such a provision, even if the national courts have the ability to freeze assets, such procedure can only be carried out with the summons of the persons concerned, which gives them the opportunity to create a fictitious state of insolvency until the moment of executing the confiscation order.

**15. Do you have any further policy recommendations, at a national or international level, concerning the structure and the activities of AROs?**

**One of the main tools in asset recovery activity is represented by a consolidated vision in this matter.** In this respect, ANABI implements the **National Asset Recovery Strategy 2021-2025** - a catalyst for the efforts and commitment of the Government of Romania to increase the national response capacity against crime. The Strategy lays down a more efficient process of asset recovery, based on the principle that **“crime does not pay”**. The Strategy aims to enable effective and comprehensive identification of assets related to crime; optimised management of seized and confiscated assets, and the reuse of the proceeds of crime for social purposes.

The Strategy responds to the European Union's call for Member States to take joint responsibility for consolidating security. The Strategy reflects the progress achieved in 2020 in the legislative and administrative field, and in the implementation of the national strategic documents in the field of justice, namely the Strategy for the Development of the Judiciary 2015-2020 and the National Anti-corruption Strategy 2016-2020.

The Strategy also responds to the **expectations of citizens regarding the improvement of the asset recovery process**, reflected in the views expressed by representatives of civil society and supported by a wide segment of the population.

The Strategy is in line with the national objectives undertaken for the implementation of UN's 2030 Agenda for Sustainable Development (transposed in the National Sustainable Development Strategy of Romania 2030), the EU Strategy on a Security Union (also transposed in the National Country Defence Strategy 2020-2024), the recommendations included in the Cooperation and Verification Mechanism (CVM) and the European Semester in the field of strengthening the rule of law (also undertaken in the National Recovery and Resilience Plan for the 2021-2027 programming period). This alignment also allows for the objectives of the Strategy to be aligned with the European policy objectives, under which investments from non-reimbursable funds will be supported during the 2021-2027 programming period.

Thus, the National Asset Recovery Strategy 2021-2025 establishes for the first time a joint national framework aimed at increasing the efficiency of recovering crime instrumentalities and proceeds, through specific approaches, objectives, lines of action, and activities/measures.

**16. In light of the new [Directive \(EU\) 2024/1260](#) on “asset recovery and confiscation”, do you consider the changes proposed for the functioning and composition of AROs to be effective? Please explain your reasoning and any anticipated impacts on your operations.**

Yes, in light of the new Directive (EU) 2024/1260 on asset recovery and confiscation, we consider the changes proposed for the functioning and composition of AROs will be effective, for the following reasons:

- Establishing at least an ARO in each EU Member State;
- Establishing the cooperation with EPPO. EPPO cooperates with AROs in light of Article 28 of Council Regulation (EU) 2017/1939 of 12 October 2017. However, not all AROs have the legal provisions to cooperate with EPPO. Romania, for example, has complied with EPPO's requests on asset tracing as both are part of the CARIN network;
- Establishing the mandatory direct access databases, including the relevant information that AROs can obtain, directly or upon request. Direct access to the established databases is crucial in view of the risk of asset dissipation. We also mention here the transposition of Directive (EU) 2019/1153 - not all AROs have transposed its provisions into national law;
- Legal nature of the information provided as evidence before a national court or competent authority, unless otherwise indicated by the ARO providing the information. This measure will save a lot of time in criminal proceedings;
- Ensuring direct access to SIENA or, exceptionally, to other secure channel for exchanging information. The majority of AROs have direct access to SIENA, but not all of them use SIENA as a single communication channel. For example, Romania does not have direct access to SIENA, but is in the process of connecting to EUROPOL-BPL (basic protection level). However, in order to ensure an appropriate level of security for the information exchanged, it is necessary to use SIENA or another secure channel;
- Establishing clear and swift time limits for exchanging information, which shall start to run as soon as the request for information is received. Time limits could speed up criminal proceedings;
- Extending AROs powers by enabling AROs to take immediate action where there is an imminent risk of the disappearance of the property that those offices have traced and identified, for a limited time period. This measure preserves the assets and ensures that the judicial authorities have time to issue the freezing orders;
- Adopting a national strategy on asset recovery. Romania implements the National Asset Recovery Strategy 2021-2025 “Crime doesn’t pay!”;
- Establishing an efficient system for the management of frozen or confiscated assets, in order to obtain detailed and accurate information on frozen and confiscated assets in a timely manner.

**17. Does your organization collect data on the gender of individuals affected by asset freezing and confiscation orders? How is this information used to inform the functioning and policies of the ARO?**

No, ANABI does not collect data on the gender of individuals affected by asset freezing and confiscation orders.

## Section 2 - The Management and the Social Reuse of Frozen and Confiscated Assets

1. Which entities or agencies are responsible for managing frozen and confiscated assets in your country? Please provide a brief description of the activities performed by each entity or agency.

In Romania, there is a **shared competence** in the matter of the administration of seized and confiscated assets. This competence is mainly divided between the **National Agency for the Management of Seized Assets (ANABI)**, which administers seized assets of significant value during the criminal process, and the **National Agency for Fiscal Administration (ANAF)**, which administers all assets that have been confiscated. This shared competence is also preserved in the matter of asset selling, with ANABI being the body designated for selling of seized assets during the criminal process, while ANAF realizes the selling of confiscated assets after final confiscation.

### Administration of seized assets - ANABI - AMO

According to art. 2 para. 2 of Law 318/2015, ANABI is appointed as the **national office for the management of seized assets (AMO)**, within the meaning of art. 10 of the Directive 2014/42/EU of the European Parliament and the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.

AMO was set up in 2015 and is part of the National Agency for the Management of Seized Assets (ANABI), which fulfils both the roles of AMO and Asset Recovery Office (ARO). ANABI was established as a public institution of national interest, with a legal personality, subordinated to the Ministry of Justice. ANABI has legal personality, which ensures its organisational and financial independence.

The mandate of the AMO is to ensure that seized assets are effectively managed, maintaining their value and preparing them for eventual disposal in accordance with legal and procedural requirements.

For this purpose:

- AMO is responsible for temporarily **storing and managing seized movable high-value assets** whose individual value exceeds **15,000 euros** and stocks of goods or products whose cumulative value exceeds **300,000 euros**. For assets below these thresholds, other state bodies, such as police evidence rooms, are involved.
- AMO **administers and records the amounts of money** that are subject to seizure under the Romanian Code of Criminal Procedure.
- AMO is authorized to **sell movable and immovable assets** during criminal proceedings (interlocutory sale) under specific legal conditions. AMO organizes online public auctions for the selling of seized movable assets and physical public auctions for the selling of seized immovable assets.
- AMO **supports judicial authorities** by providing expertise and best practices in the seizure, and management of assets that may be subject to confiscation.

- AMO manages the national integrated IT system (named **ROARMIS - Romanian Assets Recovery and Management Integrated System**) for recording claims derived from crimes, ensuring transparency and accountability in the management of seized and confiscated assets.
- AMO facilitates the **reuse of confiscated real estate for public/social purposes** by transferring it to public institutions or NGOs, in accordance with legal regulations.

AMO has the following key powers:

- **Simple administration**, in cases provided by the national law, of seized movable high value assets within the criminal process.
- **Interlocutory sale**, in cases provided by law, of seized movable and immovable assets within the criminal process.
- **Management of the integrated national IT system** for recording claims derived from crimes.
- **Supporting judicial authorities**, under the conditions of the law, in utilizing best practices for identifying and managing assets that may be subject to seizure and confiscation within the criminal process.

AMO is **not directly involved in pre-seizure planning** through a specific legal provision that mandates this obligation. However, as mentioned earlier, one of the AMO's functions is to **support judicial authorities**, under the conditions of the law, in utilizing best practices for identifying and managing assets that may be subject to seizure and confiscation within the criminal process. Consequently, there have been situations where AMO personnel were requested to provide support in pre-seizure planning. For example, AMO staff have provided templates for asset evaluation, or have assisted in evaluating the potential value and condition of assets, advising on the logistics of asset handling and storage, and providing expertise on the legal implications of asset seizure to ensure compliance with all procedural requirements.

The operation of the Agency is inextricably linked to its direct relationship with the authorities involved in criminal cases that focus on the imposition, enforcement, and management of precautionary and confiscation measures. ANABI receives direct support from the Public Ministry and its subordinate prosecutor's offices. The key agencies the AMO interacts with to fulfil its duties include primarily courts and prosecutors, who issue orders for asset seizure and provide legal oversight, law enforcement agencies, including the police, who are involved in the seizure and security of assets, the fiscal authorities, such as the National Agency for Fiscal Administration, as well as other state agencies in various fields such as The National Authority for Consumer Protection (ANPC), Treasury, Environmental Agency. This cooperation is formalized in legal provision, but also in protocols and agreements to ensure efficient asset management and compliance with legal requirements.

AMO is involved upon receiving an order from judicial authorities—prosecutor, judge—from the moment the seizure is instituted until the decision for confiscation is rendered. After the final confiscation decision, the AMO hands over the assets to the fiscal execution bodies - National Agency for Fiscal Administration (ANAF).

## Administration of confiscated assets - ANAF

Under a confiscation order ordered by a court, the confiscated assets become the private property of the state. Starting from this moment, the Romanian state, through the Ministry of Finance, under which ANAF is located, takes over the management and selling of assets according to Ordinance no. 14/2007. The rule is that all assets entering the property of the state will be sold. The exceptions are determined by the following: 1) the assets must be destroyed - for example drugs; 2) social and public reuse of immovable assets; 3) free transfer of assets to public or private entities. ANAF has the competence in execution of value-based confiscation, which is practically a form of forced fiscal execution, with certain particularities.

**2. Can you provide statistics on the types and values of assets currently managed by authorities responsible for frozen and confiscated assets? How many of these assets result from the application of the REG?**

### **Seized assets - ANABI:**

- 35.034 bank accounts in administration/records with a total of seized value of 882.096.382,35 lei (equivalent to 177.283.563,23 euros);
- 430.290.997,35 lei (86.461.108,23 euros) sums of money seized in the ANABI unique account - date 31.05.2024;
- 451.805.385 lei (90.822.455 euros) sums of money seized in other bank accounts - date 31.12.2023.
- Seized movable assets under the administration of ANABI with a total value of approximately 13.7 million euros;
- Cars - May 2024: approximately 210, 12.325.610 euros;
- Watches - May 2024: approximately 60, 1.251.206 euros;
- Motorcycles - May 2024: approximately 12, 102.000 euros.

For the first time since its operationalization, in 2023, ANABI has taken over, in a single file, 29 movable assets (motor vehicles and luxury watches), as well as several sums of money, in lei, euros, pounds sterling, US dollars and cryptomonads. The total value of the assets and sums of money taken over, in this case administered by ANABI, is estimated at approximately 18 million lei (3,636,000 euros).

ANABI has taken over seized **virtual currencies** since the end of 2018. Currently, at the level of the Agency, there are more than 35 types of cryptocurrencies in administration, respectively: BTC, ETH, USDT, LINK, DOGE, XMR, XTZ, XRP, SOL, AMP, FDUSD, GBP, DOT, THETA, LTC, ETC, CKB, ARB, USDC, BNB, ETHW, FTT, TRX, LUNA, SOLO, SRM, EGLD, GMT, AVAX, AR, WBTC, HARD, KZT, LUNC, JEX, WOO, SHIBU INU and HEART.

The nominal value of each type of cryptocurrency managed by ANABI cannot be specified precisely, given their volatile nature, but we can show that their total value is between 2,000,000 and 4,000,000 euros.



### Confiscated assets - ANAF:

In the period 01.01.2017 - 31.12.2023, ANAF received a total number of 10.155 court decisions by which final confiscation of assets and sums of money was ordered in criminal matters (787 from 2017, 1.271 from 2018, 1.458 from 2019, 1.382 from 2020, 1.557 from 2021, 1.840 from 2022 and 1.860 from 2023). Regarding the court decisions, the structure on categories of goods is as follows:

Types of assets	Number of decisions 2017	Number of decisions 2018	Number of decisions 2019	Number of decisions 2020	Number of decisions 2021	Number of decisions 2022	Number of decisions 2023
exclusively immovable	7	9	10	2	5	7	7
usufruct rights	0	1	0	0	0	1	0
exclusive of movable assets, total:	470	963	1166	1055	1137	1291	1199
Of which:							
stocks of goods	205	634	870	807	897	927	834
vehicles/boats/ships	195	177	170	168	131	127	141
communication equipment	28	81	80	42	62	105	99
IT equipment	30	27	27	19	30	33	15
highly perishable goods	4	35	18	14	14	94	90
precious metals	8	9	1	5	3	5	20
exclusively sums of money, of which:	277	253	231	267	377	408	444
amounts in foreign currency	22	93	73	101	94	139	149
various categories of goods and/or amount of money, total:	33	45	51	58	38	133	210
<b>TOTAL</b>	<b>787</b>	<b>1.271</b>	<b>1.458</b>	<b>1.382</b>	<b>1557</b>	<b>1840</b>	<b>1860</b>

## The type and value of the assets confiscated in criminal matters and which are in the administration of the fiscal bodies - 30.06.2024

- Real estate - approximately 106.804.557 lei / 21.360.911 euros
- Vehicles - approximately 779.538 lei / 155.907 euros
- Precious metals - approximately 91.861 lei / 18.372 euros
- Shares - approximately 39.000.000 lei / 7.800.000 euros
- Other assets - approximately 75.115 lei / 15.023 euros

### 3. How do competent authorities maintain the value of confiscated and frozen assets, especially for items requiring specific measures to prevent degradation?

**ANABI** - The value of seized assets managed by AMO is estimated from the outset, as AMO only handles assets that exceed a certain value threshold. Additionally, AMO conducts **periodic evaluations** of the assets, approximately every year, utilizing the services of a certified external and independent evaluator (ANEVAR evaluator). Typically, these evaluations are carried out in preparation for the selling of assets at public auctions. The condition of the assets is documented in an evaluation report, and throughout the process, AMO maintains detailed records of the assets it manages, including all conditions and criticalities.

Each type of asset is managed with the goal of maintaining its value, ensuring legal compliance, and supporting judicial processes effectively. Vehicles are stored in secure facilities, financial instruments are held in custody accounts, virtual assets are stored in secure digital wallets, high-value items (art, jewellery) are stored in secure locations. AMO does not manage real estate or animals but can sell them at public auctions when requested by judicial authorities.

Private sector contractors are utilized by AMO to assist in managing complex assets, especially when specialized skills are required that are not available in-house. These contractors, often used for asset evaluation, are engaged following public procurement procedures to ensure transparency, efficiency, and legal compliance. Similarly, AMO can delegate the sale of assets to other competent agencies and authorities, such as fiscal authorities and judicial executors.

**The best way to protect goods from further deterioration is by selling them.** That is precisely why, according to art. 252 para. 3 C.proc.pen., *Perishable goods are to be delivered to the relevant authorities, according to their field of activity, which are required to receive and sell them immediately.* In these particular cases (food stocks, live animals), the selling is not carried out by ANABI, as usual, but by, for example, the fiscal bodies - ANAF. Also, when, within one year from the distraint ordering date, the value of the seized goods has decreased significantly, by at least 40% compared to the time of enforcing the asset freezing, the goods can be selling without the owner's consent, through the disposition of a judge. In this case ANABI will do the selling.

**ANAF** - Storage contracts are concluded with natural and legal persons for the storage of movable goods represented by large stocks of goods and concrete platforms for storing vehicles. Also, for the storage of movable goods, the existing storage spaces at the level of the regional general directorates of public finances are used, as well as other forms of storage in the form of free temporary custody with various economic operators with whom ANAF concludes storage agreements temporary until the disposal of the goods or their transfer in the premises held in the property and those used on the basis of storage contracts.

**4. Are there any international or interagency collaborations aimed at improving the management of assets frozen or confiscated under the REG?**

AMO is a key factor in cases of international cooperation. When assets are seized at the request of a foreign authority, AMO is responsible for managing these assets according to the legal framework in place. The tasks assigned to the AMO by law in this regard include: managing seized assets, supporting judicial authorities, and facilitating asset sharing agreements.

AMO ensures that the seized assets are properly stored, maintained, and, if necessary, evaluated or sold through interlocutory sales, following international cooperation agreements.

AMO offers support to judicial authorities, but its main activity in this context occurs at the final stage, where the Agency is authorized to negotiate and facilitate bilateral agreements for the sharing of confiscated assets. With the approval of the Minister of Justice, the Agency can conclude bilateral agreements for asset sharing. AMO is a member of several international networks for managing assets, including: CARIN, European Union Asset Recovery Offices (ARO) Network, UNCAC, UNDOC, Star Initiative.

AMO constantly participates in regional or European meetings to identify best practices in the field. However, with regard to express collaboration on a specific case where goods were seized or confiscated under the Regulation, we have not identified such a case. This is also because, at the moment when the freezing or confiscation order is recognized, it is integrated into the national law system, and all aspects regarding administration and selling will be carried out according to national law.

**5. How do competent authorities ensure transparency in the management and disposal of frozen or confiscated assets in your country? How are risks of corruption or mismanagement addressed?**

**ANABI** - The main aspects in ANABI activity that support transparency in the process of administration and interlocutory sales of seized assets are:

- **the existence of an electronic register**, in which the goods can be continuously monitored, from the moment of freezing, until the moment of confiscation and final sale. Since its establishment under Law No. 318/2015, AMO has developed and managed the national integrated IT system for recording claims derived from crimes as a unique system for monitoring seized, confiscated, and disposed assets within the criminal process. In 2023, the ROARMIS application became operational. ROARMIS, (Romanian Assets Recovery and Management Integrated System), includes data and information to identify assets, specify the authority that ordered the freezing measure, the type of crime that led to the issuance of the order, the decision to impose the seizure, and other details that ensure transparency in the recovery process. This database is accessible to all relevant actors, including police, judges, prosecutors, and fiscal authorities involved in the process.
- the procedure for the interlocutory sale of movable goods is carried out **online** only;
- interlocutory sale is made by a **team formed by three inspectors** and all their documents are approved by the Legal Service which is mainly composed of assimilated magistrates and magistrates seconded within the Agency.

We mention that the **human resources policy is one of the most important elements against corruption**. At the same time, **professional training of employees** ensures protection against **ineffective administration**.

ANABI operates with the following categories of positions:

- a) Legal specialists assimilated to judges and prosecutors;
- b) Inspectors for tracking and managing assets;
- c) Public servants;
- d) Contractual staff.

**AMO and ARO** primarily operates with **inspectors** for tracking and managing assets who have **legal or economic studies**, and **staff assimilated to judges and prosecutors**. During the recruitment process, police officers may also be recruited, considering they have a legal background.

The recruitment policies for ANABI staff involves a competitive examination. As previously mentioned, AMO and ARO primarily operates with inspectors for tracking and managing assets, with individuals who have a legal or economic background. To be recruited, an inspector can be chosen based on a written exam and an interview. The position of inspector for tracing and managing assets is a specific public function that exists only within ANABI.

The Agency is led by a Director General, who can be a judge, prosecutor, or legal specialist assimilated to judges and prosecutors, appointed by order of the Minister of Justice. The Director General is appointed by the Minister of Justice for a 4-year term, which can be extended once for another 4 years. To be appointed as Director General of the Agency, the individual must meet the following cumulative conditions:

- a) Have effectively served in the last 5 years, until the date of appointment, as a judge, prosecutor, or legal specialist assimilated to judges and prosecutors;
- b) Have at least 8 years of experience in the functions mentioned in point a);
- c) Not have been disciplined in the last 5 years;
- d) Have a minimum of 3 years of managerial experience in leadership positions.

AMO and ARO employees are remunerated at an appropriate level that allows for the employment of a sufficient number of qualified staff to fill the positions outlined in the organizational chart. There are approximately **15 inspector positions in the AMO and 5 inspector positions in the ARO**.

At the same time, all employees have the obligation to complete **wealth and interests declarations** every year, which are published online by the National Integrity Agency.

**ANABI officials receive both initial and continuous training** to ensure they are well-equipped to perform their duties. The training includes comprehensive programs on aspects of asset management, best practices in asset seizure, and workshops on topics of interest such as cryptocurrencies and high-value assets. Continuous training is provided to keep the officials updated with the latest developments in legal frameworks, technology, and best practices. This ensures that **ANABI staff remain competent and effective in their roles over time**.

**AMO and ARO are supervised both internally and externally**. According to the law, the Agency operates under the coordination of a **Council**, composed of the Agency's Director General, three representatives from the Prosecutor's Office attached to the High Court of Cassation and Justice, including one from the National Anticorruption Directorate and one from the Directorate for Investigating Organized Crime and Terrorism, as well as representatives from the Ministry of Justice, the Superior Council of Magistracy, the Ministry of Internal Affairs, the Ministry of Public Finance, and the National Agency for Fiscal Administration. Annual activity reports are produced, presenting findings, developments, and recommendations within its competence. ANABI's activities are periodically evaluated through **independent audits**. The Agency publishes regularly and annually reports on AMO and ARO activities and results, with statistics available on the ANABI website.

There are mechanisms in place to assess the ANABI's performance, including periodic evaluations and external independent audits, which help ensure accountability and transparency in its operations.

In 2023, **ANABI organized 10 regional meetings and 2 national meetings** with representation to all the prosecutor's offices next to the courts of appeal and tribunals. More than **700 participated** by prosecutors, police officers, ANABI experts, financial investigation specialists and specialists ANAF. With this occasion, it was analysed over 90 cases and was selected 19 relevant case studies disseminated as good practices at national level in two book editions (500 copies in total).

Also, in 2023, ANABI developed a **mobile application that incorporates the various work tools** used by practitioners during the criminal process and which facilitate freezing the assets.

**ANAF** - The structures that carry out the activity of administration and selling of confiscated assets are subordinate to the Ministry of Finance. **The representatives have access to ROARMIS** to observe the evolution of the asset during the criminal process, including the ratio between the administration costs and the amount of money obtained from the sale. Last but not least, in the near future **ANAF will realize the selling of confiscated assets through the online platform managed by ANABI.**

The transparency of the activity of disposal of assets confiscated in criminal matters is ensured through the portal [www.anaf.ro](http://www.anaf.ro), section Asset selling announcements, instrument through which they are brought to public knowledge of all announcements of direct sale or organization of public auctions for the sale of goods confiscated in criminal matters. The section represents a communication tool for potential buyers, but also a tool that provides information to the general public about the confiscated assets put up for sale by the Agency.

Also, according to the law, the announcements regarding the goods that are the subject of public auctions are published in the print and online press of a daily newspaper of wide circulation selected by the Agency in the public procurement procedure of advertising services.

Another tool used so that the information regarding the sale of confiscated goods is disseminated as much as possible, is the Agency's social media page, ANAF - Asset recovery announcements.

These communication tools allow an increase in the degree of transparency of the disposal procedures as a result of the fact that this information is also taken over by written and online media publications.

**The National Agency for Fiscal Administration is currently running a project financed by European fund, through which a digital platform is being developed for the organization of public auctions for the sale of confiscated goods and those subject to forced execution, a project that will transfer the disposal part of goods from the headquarters of a fiscal body in the online environment, consolidating the digitalization process of the Agency's activity.**

**6. What are the main challenges that competent authorities in your country face in managing confiscated and frozen assets, and how do they tackle them? If possible, make specific reference to goods frozen and confiscated under the REG.**

**One of the primary challenges was establishing a robust legal framework that clearly defined the roles, responsibilities, and powers of AMO.** This required extensive consultations and amendments to existing laws. Ensuring effective cooperation and coordination between multiple agencies, including fiscal authorities, law enforcement, and judicial bodies, was initially challenging due to differing protocols and operational procedures. Adequate funding and resources were necessary to set up the AMO, including hiring specialized staff, developing IT infrastructure, and securing physical storage facilities for seized assets.

Key problems/challenges affecting the AMO functioning:

**Asset management complexity:** Managing a diverse range of assets, from vehicles to virtual assets, poses ongoing logistical and administrative challenges. For example, the AMO faced difficulties in accurately valuing and maintaining high-value movable property such as art and jewellery.

**Technological integration:** Implementing and maintaining a comprehensive IT system like ROARMIS required significant technical expertise and continuous updates. Ensuring data security and seamless integration with other national databases also posed challenges.

**Public and social reuse:** Facilitating the social reuse of confiscated properties, such as transferring real estate to public institutions or NGOs, required navigating complex legal and administrative processes.

Overcoming obstacles is achieved through **meetings between the main stakeholders** and through **professional training programs**. Thus, ANABI is represented in the **Romanian Network of International Cooperation in Criminal Matters**, with annual meetings between the representatives of the courts and the prosecutor's offices at the level of the Courts of Appeal. In such occasions, are analysed the aspects of international criminal law, including the matter of freezing and confiscation. A similar network is also at the level of cooperation with **EUROJUST**, where, at the last meeting, ANABI discussed the issues regarding the applicability of REG. Moreover, preliminary results of the RECOVER project were sent to both meetings by ANABI representatives.

## 7. What procedures are followed for the sale or disposal of frozen and confiscated assets? What criteria are used to decide whether to sell or reuse an asset?

### ANABI:

During the criminal process, the interlocutory sale can only be made according to the decision of a prosecutor or a judge. The prosecutor orders the interlocutory sale in the situation where, during the criminal investigation, the owner gives his consent, as well as in the case where the seizure of perishable goods is ordered. If the owner does not express his consent, interlocutory sale can only be ordered by a judge. There is no possibility of social reuse during the criminal process, only to sell the seizure assets.

For better understanding, we reproduce below the provisions of the Code of Criminal Procedure:

### ART. 252

#### Distrain procedure

(3) **Perishable goods** are to be delivered to the relevant authorities, according to their field of activity, which are required to receive and sell them immediately.

### ART. 252<sup>1</sup>

#### Special cases of sale of seized movable and immovable assets

(1) During the criminal trial, before return of a final judgment, the prosecutor, the judge of the preliminary chamber or the court ordering the distraint may immediately decide to have the seized movable and immovable assets sold, **at the property owner's request** or when the latter's agreement is secured.



(2) During the criminal trial, before return of a final judgment, when agreement from the goods' owner cannot be secured, movables assets upon which distraint was established can be sold, exceptionally, in the following situations:

- a) when, within one year from the distraint ordering date, the value of the seized goods has decreased significantly, i.e., by at least 40% compared to the time of enforcing the asset freezing. Art. 252 par. (1) shall apply accordingly in this case, too;
- b) where there is the risk of expiry of the guarantee or when the distraint was applied against live stock or birds;
- c) when the distraint was applied to flammable or petroleum products, to wood mass and wooden materials, to pharmaceutical products and sanitary materials;
- d) when the distraint was enforced against goods the storage or maintenance of which involves expenses disproportionate to the value of the property;
- e) when the distraint was applied to a stock of goods or products with a cumulative value less than or equal to the equivalent in lei of the sum of 300,000 euros.

(3) During the trial, before return of a final judgment, when the following conditions are cumulatively met: the owner could not be identified and the sale cannot be performed according to par. (2), motor vehicles subject to distraint may be sold in the following cases:

- a) when they were used, in any manner, in the commission of the offense;
- b) if a time period of one year or more has passed since the date of ordering asset freezing against such goods.

(3<sup>1</sup>) During the criminal process, before the pronouncement of a final decision, when the distraint has been applied to a means of road, rail, naval or air transport and interlocutory sale cannot be done according to the provisions of para. (2), the goods can be sold, when the following conditions are cumulatively met:

- a) the freezing measure was ordered to avoid the concealment, destruction, alienation or evasion of the assets that may be subject to special confiscation or extended confiscation;
- b) within one year from the date of the establishment of the freezing measure, the owner does not record, in the account established according to the special law, a sum of money equal to the value of the seized property;
- c) the asset is in the custody of a public institution.

(4) The sums of money resulting from the selling of movable assets made according to para. (1)-(3<sup>1</sup>) are deposited in the account provided for in art. 252 para. (8).

## ART. 252<sup>2</sup>

### Sale of movable assets seized during the criminal investigation

(1) During the criminal investigation, in the situations provided for in art. 252<sup>1</sup> para. (2)-(3<sup>1</sup>), if the prosecutor who required the distraint over property deems that the sale of the seized assets is necessary, they shall apply to the Judge for Rights and Liberties by a reasoned proposal for an order to have the seized assets sold.

(2) The Judge for Rights and Liberties notified as per par. (1) sets a term of at least 10 days to summon the parties and the property custodian, in case that one was appointed. The prosecutor's attendance is mandatory.

(3) On the set term, the parties and the custodian are informed, in chambers, that the sale of movable assets is intended and that they are entitled to submit objections or claims related to the property to be sold. After considering such objections and claims submitted by the parties or the custodian, the Judge for Rights and Liberties shall rule, by a reasoned court resolution, on the sale of the movable assets referred to in Art. 252<sup>1</sup> par. (2) - (3<sup>1</sup>). The absence of the duly summoned parties shall not impede the conducting of proceedings.

(4) The judgment of the Judge for Rights and Liberties set out in par. (2), can be challenged by the parties, the custodian, the prosecutor, and any other interested party before the Judge for Rights and Liberties of the hierarchically superior court, within 10 days.

(5) The term referred to in par. (4) starts running from the notification of the prosecutor, the parties or the custodian or from the date when the court resolution is brought to their knowledge, in case of other interested parties.

(6) The parties or the custodian may only challenge the court resolution whereby the Judge for Rights and Liberties ordered the sale of seized movable assets. The prosecutor may only challenge the ruling whereby the Judge for Rights and Liberties denied their application for sale of the seized movable assets.

(7) The challenge referred to in par. (4) suspends the measure's enforcement. The case shall be ruled on in emergency procedure and the judgment on such challenge is final.

## ART. 252<sup>3</sup>

### Sale of movable assets seized during preliminary chamber and trial

(1) During the preliminary chamber and trial, the judge of the preliminary chamber and the court, ex officio or upon request by the prosecutor, by either party or the custodian, may order the sale of seized movable assets. To this end, the court sets a term of no less than 10 days for summoning the parties as well as the property custodian, if one was appointed, in chambers. The prosecutor's attendance is mandatory.

(2) At the set term, the parties shall discuss in chambers about the sale of the seized movable assets and shall be informed that they are entitled to submit objections or claims in this respect. The absence of duly summoned parties does not impede the conducting of the proceedings.

(3) On the sale of seized movable assets, as well as on the requests provided for in para. (2), the judge of the preliminary chamber or, as the case may be, the court orders by reasoned resolution.

(4) Against the resolution provided for in para. (3) an appeal can be made to the preliminary chamber judge from the hierarchically superior court or, as the case may be, to the hierarchically superior court, respectively to the competent panel of the High Court of Cassation and Justice, by the parties, custodians, prosecutors, as well as by to any other interested person, the provisions of art. 252<sup>2</sup> para. (4)-(7) applying accordingly.

## ART. 252<sup>4</sup>

### Challenging the manner of selling seized movable assets

(1) The manner of enforcing the court resolution provided by Art. 252<sup>2</sup> par. (3) or the court judgment on the sale of seized movable assets set forth by Art. 252<sup>2</sup> par. (7) or Art. 252<sup>3</sup> par. (3), can be challenged, during trial, by the suspect or defendant, the person with civil liability, the custodian, any other interested party, as well as the prosecutor, before the court that has jurisdiction to try the case in first instance.

(2) The challenge referred to under par. (1) shall be filed within 15 days of the enforcement of the challenged act.

(3) The court shall rule on such challenge in an emergency procedure, in public session, with summoning of the parties, through a final court resolution.

(4) If, after the final settlement of the criminal trial, no challenges were filed against the manner of enforcing the court resolution or the court decision regarding the sale of seized movable assets set forth under par. (1), a challenge may be filed under the civil law.

In 2023, 52 public selling were completed, within which the Agency sold on goods such as: cars, trains, wood, raw materials, electronic equipment, freon, ferrous material waste. **As a novelty**, at the disposal of the judicial bodies, ANABI received precious metals for selling - gold jewellery, works of art - paintings, as well luxury watches.

The money conversion rate of movable assets is **107%**, by reference to prices of the start of public bidding, as established in the reports made by ANEVAR authorized evaluators contracted by ANABI.

For the first time since the entry into force of the new legal framework adopted by the Parliament of Romania in 2022, the Agency was notified to interlocutory sale of **three real estate assets** evaluated at the amount of 2.401.285 lei (**486.690 euros**):

- apartment composed of 4 (four) living rooms and outbuildings, in a constructed area of 260.69 sqm;
- parking space, basement, in built-up area on the ground of 19.10 square meters;
- parking space, basement, in built-up area of 18.30 square meters.

The real estate was valued at the second public auction (22.02.2024 - 7 bidders) at the price of 2.976.600 lei (**approx. 600,000 euros**).

The Agency issued during 2023, pursuant to art. 252<sup>2</sup> Criminal Procedure Code, requests regarding the interlocutory sales of some seized movable assets with a total value of 2.882.417 euros. Thus, ANABI sent to the prosecutors or to the courts 29 requests for selling seized movable assets, regarding 67 motor vehicles under the Agency's administration, with values between 15,000 euros and 280.000 euros.

After the disposition of interlocutory sale remains definitive during the criminal process, ANABI evaluates the asset and sells it. The sale is carried out online in the case of movable property, while in the case of immovable property the sale is carried out by public auction. Depending on the particular situation of the goods, ANABI can establish that the sale is carried out through a bailiff, through ANAF or even through other entities specialized.

#### **ANAF:**

Confiscated movable or immovable assets are transferred to the private ownership of the state and is, as a rule, sold by the fiscal authorities - ANAF. As an exception, goods that do not meet the conditions to be sold are destroyed. Also, depending on the needs of other public institutions or private entities, they can be granted free of charge, and confiscated immovable assets can be social reused.

**8. Describe the process of selling confiscated assets. What sales methods are used (public auctions, private sales, online sales, etc.)? How is the selling price of confiscated assets determined?**

#### **ANAF:**

According to art. 9 para. (1) of OG 14/2007, the selling of confiscated goods can be done: through commodity exchanges, through own stores, through public auction, under consignment or directly from the place where they are located.

The detailed selling procedure by ANAF can be found in the 2007 Methodological Norms for the application of Government Ordinance no. 14/2007. In the following, we present the relevant legal provisions in detail.

#### **Art. 20**

(1) The goods entered, according to the law, into the private property of the state are sold through **own stores** of ANAF, **directly** from the place of storage or from the place where they are located, by **public auction**, **under consignment** or **through commodity exchanges**, as appropriate.

(2) The choice of the selling method is made by the head of the selling body, before the evaluation of the assets or upon approval of the evaluation minutes.

## Art. 21

(1) **Own stores** can be organized by the selling body under the conditions in which the volume of goods to be sold ensures continuity in their operation.

(2) The sale of goods through own stores can be done in retail and/or wholesale, at the value established by the evaluation commission.

(3) The sale of goods from the place of storage or from the place where they are located, in the wholesale system, is done on the basis of an invoice.

(4) The sale of goods in the wholesale system can be done with full payment or in instalments over a maximum period of 12 months. In case of sale in instalments, the natural or legal person presents a bank guarantee or letter of bank guarantee representing the value of 3 monthly instalments and pays, at the time of picking up the goods, at least 50% of their value. The monthly instalments are updated according to the official rate established by the National Bank of Romania.

## Art. 22

(1) Immovable goods entered, according to the law, into the private property of the state are valued only **through a public auction**, if the law does not order otherwise.

(2) **Make an exception** from the provisions of para. (1):

c) immovable property owned by the state in undivided share;

d) real estate for which there was a lease contract in force at the time of their entry into the private ownership of the state.

(6) Real estate owned by the state in an undivided share is valued directly to the co-owners, if they offer at least the price set by the evaluation commission based on the technical expertise or evaluation report, within 30 days from the date of notification in this sense by the selling bodies, and pay the amount in full within 60 days from the date of submission of the purchase offer. Otherwise, the building will be sold through a public auction.

(7) If some of the co-owners do not submit the purchase offer within the above term, the direct sale of the share owned by the state is made to those who submitted the offer. The sale-purchase contract is concluded in authentic form within no more than 30 days from the date of payment of the amount provided above.

(8) Immovable property entered into the private ownership of the state, for which at the date of entry into the private ownership of the state there was a lease agreement in force, may be sold by direct sale to tenants, if they offer at least the price set by the evaluation commission on the basis of the technical expertise or evaluation report, within 30 days from the date of notification in this regard by the selling bodies, and pay the full amount within 60 days from the date of submission of the purchase offer.

(9) If the tenants in the situation provided for in para. (8) does not express the purchase offer or does not pay the amount due within the terms specified in paragraph. (8), proceed to the selling of the goods through a public auction.

## Art. 23

(1) The starting value of the auction is established by the evaluation committee.

(2) In order to organize the auction, sales announcements are published in the press, which must include the following information regarding the organization of the auction:

- a) the date, time and place of the auction;
- b) the starting value of the auction;
- c) description of the goods subject to the auction;
- d) the auction step, set in percentage or value. Other forms of advertising can also be used.

(3) The publication of the sale notice is done in no more than 10 working days after the evaluation of the goods.

(4) The public auction takes place in a minimum of 5 days and a maximum of 10 working days from the date of publication of the sale notice.

(5) The list containing the goods that are the subject of the public auction is displayed at the headquarters of the selling bodies, starting from the date of publication of the sale notice, and other necessary information is made available to those interested by the disposal services or offices.

(6) The list containing the goods that are the object of the public auction may be published in the central or local press, as well as via the Internet, on the website of the Ministry of Public Finance.

(7) The public auction takes place in the presence of a commission made up of 3 members, one of whom has the capacity of president of the commission, appointed by decision of the head of the disposal body or, if it does not have legal personality, of the institution with legal personality from which is part of the valorisation body. Alternate members are also designated by decision.

(8) The auction commission verifies the fulfilment of the conditions for participation in the auction and prepares the list including the persons accepted at the auction. The guarantee for participation in the auction is deposited/transferred by the participants in the auction to the corresponding availability accounts opened at the State Treasury units according to the provisions of art. 36 para. (4).

## Art. 24

(1) Both natural and legal persons can participate in the **public auction**, with the following conditions:

- a) registration for the auction based on a request;
- b) payment of a guarantee for participation in the auction, representing at least 10% of the starting value of the auction;
- c) the authorization of the person who represents the tenderer;
- d) for legal entities of Romanian nationality, a copy of the single registration certificate issued by the trade registry office;

- e) for foreign legal entities, the registration document translated into Romanian and legalized;
  - f) for Romanian natural persons, a copy of the identity document;
  - g) for foreign natural persons, a copy of the passport or identity card, as the case may be;
  - h) proof issued by tax creditors that he has no outstanding tax obligations.
- (2) The public auction takes place at the place, date and time indicated in the sale notice, if there are at least 2 bidders.
- (3) The public auction is resumed if 2 bidders are not presented or the starting value of the auction is not obtained. In these situations, a minute of proceedings is drawn up, signed by all members of the auction committee, and the evaluation committee will proceed to reduce the price of the auctioned goods, within no more than 10 days from the date of the auction, by reducing the sale price with at most 50% of the initially established one.
- (4) The date of the resumption of the public auction is established by the auction commission, within a maximum of 30 days from the date of the first auction.
- (5) After the revaluation of the goods, the new value established by the evaluation commission constitutes the starting value of the auction.
- (6) If no bidder appears at the second public auction, the goods may be subject to recovery through the other methods of recovery.
- (7) If only one bidder presents himself at the second public auction and he meets the conditions for participation, he is admitted and the sale price of the goods is negotiated.
- (8) In the event that the starting value of the second public auction is not obtained, including in the case of negotiation with a single bidder, a minute of the proceedings is drawn up, signed by all members of the auction committee, and the auction it resumes. In this situation, the evaluation commission proceeds to reduce the price of the goods subject to the auction, within 10 days from the auction date, so that the total reduction of the sale price, after the 3 auctions, does not exceed 75% of the initial value. The auction commission sets the date of the third public auction, within no more than 30 days from the date of the previous auction. If only one bidder is presented at the third public auction, the sale price is negotiated with him, which cannot be lower than 25% of the value initially established by the evaluation commission.
- (9) If the goods are not disposed even after the third public auction, other methods of disposal may be used.
- (10) The publication of the sale announcement is mandatory before each public auction, under the same conditions as in the case of the first auction.
- (11) The bidding step is established before each public auction, in absolute amount or in percentage of the starting value of the auction, by the service, office or disposal department within the disposal bodies.



(12) The payment of the value of the goods is made in full when they are taken over by the winner of the auction. In the case of negotiating the sale price with a single bidder, according to para. (7) and (8), the sale can also be done in instalments, with a bank guarantee representing the equivalent of three-monthly instalments, the winner of the auction paying at the time of taking over the goods at least 50% of the awarded value. The interest rate is updated according to the level of the reference interest rate of the National Bank of Romania.

(13) After each public auction, an auction report is drawn up in which the results are recorded and which is signed by all the members of the auction commission and the bidders. The adjudicator receives the tender report from the tender committee.

(14) The guarantee submitted by the participants in the auction shall be returned within 5 working days from the date of the end of the auction. In the case of the adjudicator, this is retained on account of the price or the amount of at least 50% of the price due upon taking over the goods, in the case of the sale in instalments, the disposal body transferring the guarantee to the availability accounts opened at the State Treasury units according to art. 36 para. (1).

(15) In case of non-attendance at the auction, as well as bidders who refuse to sign the auction minutes, the guarantee is not returned and becomes income to the state or, as the case may be, local budget and is transferred to the corresponding budget revenue accounts opened at State Treasury units according to the provisions of art. 36 para. (3).

(16) The successful bidder is obliged to pay the price, reduced by the value of the guarantee, within no more than 5 days from the date of the auction.

(17) In case of sale in instalments according to para. (12), the adjudicator is obliged to pay the sum of at least 50% of the price, reduced by the value of the deposited guarantee, within no more than 5 days from the date of the auction.

(18) The auction report constitutes a claim against the adjudicator, for the amount owed, respectively the price reduced by the security deposit. The deadline for payment of the obligation is a maximum of 5 days from the date of the auction or the deadlines established by the auction minutes, in the case of the sale in instalments.

(19) After payment of the reduced price with the guarantee, the adjudicator takes over the goods on the basis of the "invoice" document, which also constitutes title to them, in the case of movable goods.

(20) in the case of immovable goods, the adjudicator takes them over on an invoice basis after payment of the price, reduced by the guarantee, but the title of ownership is the sale-purchase contract concluded in authentic form, within 30 days from the payment of the amount.

(21) If the adjudicator does not pay the amount owed in order to take over the goods within a maximum of 5 working days from the awarding of the goods, he loses the right to return the guarantee, and the auction is resumed within 15 working days from the awarding date, with the same starting value as the previous auction.

(22) In the situation provided for in para. (21), the deposited guarantee will cover, in order, the expenses caused by the organization of a new auction and the price difference, in case the price obtained at the new auction will be lower.

(23) If the security deposited exceeds the sums provided for in para. (22), the amount remaining from the guarantee after covering them becomes income to the state or, as the case may be, local budget and is transferred to the corresponding budget income accounts opened at the State Treasury units according to art. 36 para. (3). Otherwise, the former adjudicator is obliged to pay the expenses caused by the organization of a new public auction and, as the case may be, the price difference not covered by the deposited guarantee.

(24) In the situation provided for in para. (21), the adjudicator owes interest and penalties for non-payment of the obligation to the state budget, established by the tender minutes, according to para. (18), until the claim is extinguished. In this case, the claim is extinguished by paying the counter value of the goods by the new adjudicator, as well as the price difference by the old adjudicator, if applicable.

(25) In the situation provided for in para. (21), the adjudicator can take possession of the goods by paying the amount provided for in paragraph. (16), together with the related interests and penalties and expenses caused by the organization of the next auction, not covered by the guarantee, if applicable, until one day before the date of its organization. In this case, the new auction will not take place.

(26) If the adjudicator who has not paid the amount owed within the deadline does not proceed according to para. (25), does not have the right to participate in the next auction.

(27) In the case of the resumption of the auction according to para. (21). These amounts are recorded in the tender report, which is also communicated to the first adjudicator.

(28) The interests and penalties provided for in para. (24) are established according to the provisions of Law no. 207/2015 on the Fiscal Procedure Code, with subsequent amendments and additions.

## Art. 25

(1) The goods entered, according to the law, into the private property of the state are valued also under the **consignment regime**, as well as through consignment type commercial companies, based on the principle of commission bidding within the limit of 0.5-25% of the value of the goods.

(11) The procedure and powers regarding the organization of the commission auction are approved by order of the president of the National Fiscal Administration Agency.

(2) The auction of the commission can be done at the beginning of the year or whenever necessary, provided that when establishing it, the auction commission takes into account the criteria established in para. (3).

(3) When determining the commission, the auction commission must consider the following criteria, as the case may be:

a) the volume of goods that can be taken over for selling;

b) the commercial form of the consignee;

c) compliance with the obligations regarding the payment of the value of the goods or payment in advance.

(4) The consignee sells the goods taken over at the price set by the evaluation commission without VAT, which includes the commission, to which the related VAT is added.

(5) Payment of the value of the sold goods is made in full or according to the sale, within a maximum of 5 working days from the date of sale.

(6) For the non-payment on time of the sums collected from the selling of goods entered, according to the law, into the private property of the state, the disposal bodies calculate interests and penalties, according to the fiscal legislation in the matter.

#### Art. 26

(1) The goods entered, according to the law, into the private property of the state are also valued through **commodity exchanges**, based on the legal provisions in this regard.

(2) The securities entered, according to the law, into the private property of the state are sold on the securities market according to the legislation in force.

#### Art. 27

If, within 150 days from the first revaluation of the assets, they are not sold through the methods provided for in art. 9 of the ordinance or is not awarded free of charge, the fiscal authorities can proceed to:

- a) recovery through waste collection and recovery units;
- b) disassembly of the goods and recovery of the resulting components, including the packaging, as appropriate;
- c) destruction of goods or their components.

#### 9. What is the average time between the confiscation of an asset and its sale?

Although there is no exact statistic in this matter, we estimate that the selling of a confiscated asset is achieved in approximately **3-8 months**. That depends a lot on the type of good and its condition.

#### 10. How are the proceeds from the sale of confiscated assets managed? If possible, make specific reference to goods frozen and confiscated under the REG.

The sums of money obtained from the interlocutory sale of seized assets are deposited in a special account until final confiscation. Amounts in the account bear interest.

The sums of money obtained from the sale of confiscated goods are deposited in a special account and represent privately owned goods of the state.

With regard to the assets confiscated under the REG, after selling, ANABI is authorized to negotiate and, with the approval of the Minister of Justice, conclude international sharing agreements.

The sums of money obtained from the sale of confiscated asset in the last 3 years are:

- 2021 - approximately 16.998.357 lei / 3.399.671 euros;
- 2022 - approximately 31.498.643 lei / 6.299.728 euros;
- 2023 - approximately 19.539.197 lei / 3.907.839 euros.

11. Have there been cases where assets frozen or confiscated under the REG have been used for the benefit of the community? Could you provide some examples?

We have not identified such cases.

12. Are there specific procedures for transferring confiscated assets to public bodies or non-profit organizations?

Confiscated goods can be given free of charge to public institutions or other private entities. The granting of goods free of charge is carried out on the basis of art. 10 of OG 14/2007.

#### Art. 10

(1) The Ministry of Public Finances may transmit or, as the case may be, propose to the Government the transmission free of charge of assets subject to disposal to natural or legal persons, as follows:

a) To the General Secretariat of the Government - motor vehicles, medical ambulances with related equipment, boats and engines attached to them, which will be distributed by the interministerial commission, free of charge, to the ministries, central and local public authorities, within the limits of equipment regulations, in compliance with the procedures declaration and evaluation, as well as religious institutions, the Romanian National Red Cross Society and non-governmental organizations accredited by the Ministry of Labour, Family, Social Protection and the Elderly as providers of social services/social canteens and which actually carry out such activities;

b) nurseries, kindergartens, foster care centres and child reception centres, nursing homes, canteens for the poor, asylums, hospitals, schools, libraries, religious institutions, people with disabilities, the Romanian National Red Cross Society, as well as non-governmental organizations accredited by the Ministry of Labour, Family, Social Protection and the Elderly as providers of social services/social canteens and which actually carry out such activities, as well as natural persons who have suffered as a result of natural disasters, at the proposal of the disposal bodies, by order of the minister or decision of the head of the disposal body, according to the provisions of the methodological rules for the application of this ordinance;

c) ministries, central and local public authorities - communication equipment, computing and office equipment, supplies, durable goods, household inventory, maintenance and repair materials, in compliance with the declaration and evaluation procedures, by order of the Minister of Public Finance or decision of the manager of the disposal body, as the case may be;

d) Ministry of Foreign Affairs - movable and immovable property located abroad, by decision of the Government;

e) to legal entities that administer memorial houses, by decision of the Government;

In the period 01.01.2020 - 06.30.2024, they were awarded free of charge pursuant to art. 10 of OG no. 14/2007, the following categories of goods:

- Vehicles - 4.323.467 lei / 864.693 euros;

- Other goods - 19.023 lei / 3.804 euros.

Also, ANABI has competence in **social reuse of immovable assets**. Real estate assets confiscated and transferred to the private ownership of the state **can be handed over free of charge** to the private domain of administrative-territorial units at the request of the county council, the General Council of Bucharest Municipality, or the local council, as applicable, by a Government decision initiated by the Ministry of Public Finance at the proposal of the ANABI, to be used for social purposes.

Regarding social reuse, real estate assets confiscated and transferred to the private ownership of the state can be **granted for free use** to associations and foundations, as well as the Romanian Academy and branch academies established by special law, by a Government decision initiated by the Ministry of Public Finance at the proposal of the ANABI, to be used for social purposes, public interest, or in relation to their activity, as applicable.

### 13. What are the main challenges in reusing confiscated assets, and how are they addressed?

The challenges that the authorities face in reusing confiscated assets are as follows:

- deterioration of assets determined by improper administration;
- the long period of time in which the asset is seized, which affects the ability to function;
- the existence of certain hidden defects of the goods;
- the existence of a complex legal regime of the goods - for example, prior to the confiscation, a house was built on the land that was confiscated without a building permit - which implies entering into legality or obtaining permits for demolition of the house;

In order to fight the previously mentioned challenges, we believe that the sale of assets during the criminal process is the most effective way to preserve the value of the seized asset and not to block the civil circuit. Also, the creation of multidisciplinary teams, which have a good professional training, ensures overcoming the blockages determined by the complexity of the legal nature of the goods.

### 14. What types of confiscated assets are commonly allocated for social reuse (e.g., real estate, vehicles, technological goods)?

**Vehicles** are the goods most often granted free of charge to public institutions. Until now, only two immovable assets have been socially reused.

**15. Which entities or organizations are involved in deciding and implementing the social reuse of confiscated assets?**

When an **immovable** asset is confiscated, it becomes the private property of the state, being administered by the Ministry of Finance through ANAF. After the evaluation of the asset by ANAF and the establishment of its legal regime, these data are communicated to ANABI, which publishes them on the website, with public and private entities (which were indicated at the 12 question) having a term of 45 days in which to formulate a proposal to take over the asset in order to be socially reused.

After formulating such a proposal, ANABI employees will evaluate it and if they deem it compliant, they will communicate this aspect to the Minister of Finance. As a result of the proposal made by ANABI, the Ministry of Finance can promote a decision that will be issued by the Government of Romania by which the asset will be transferred for social reuse by the public or private entity.

In the case of **movable goods**, as can be seen from the presentation of art. 10, several institutions are involved, such as: the Ministry of Finance, ANAF, the General Secretariat of the Government.

**16. What is the process for oversight and control to ensure that assets are used appropriately and effectively once assigned for social reuse?**

The Ministry of Finance, through ANAF, monitors whether public or private entities are using the property properly according to the established purpose.

**17. How is the maintenance and insurance of confiscated assets managed during their use for social purposes?**

Unfortunately, there is no very well-regulated legal framework in this matter. In the situation where the ownership is transferred free of charge, then all aspects regarding the management of the property are transferred to the new owner. In the situation where the confiscated asset is granted only for use, for example when an immovable asset is granted for administration to an NGO, the holder of the right of use has the obligation to maintain the asset as a property owner.

**18. Have there been any successful or unsuccessful cases of social reuse of confiscated assets that could provide lessons for improving future practices?**

In 2024, a building entered into the private property of the state through confiscation was transferred free of charge for social reuse from the private domain of the state to the private domain of Traian commune, Bacău county. The purpose was to establish a settlement for the elderly. The criminal case concerned the commission of the crimes of tax evasion and money laundering. According to the court decision issued by the Iași Court of Appeal, which was made final by the decision of the High Court of Cassation and Justice, the building valued at 2,020,000 lei is the product of the crime and was confiscated.

**19. Considering the specific vulnerabilities of female victims in cross-border crimes, what measures are in place to ensure that women's rights to compensation and restitution are prioritized in the management of frozen and confiscated assets?**

We do not have specific provisions about this particular situation. However, part of the value of the confiscated sums can be used by the Ministry of Justice in granting vouchers for disadvantaged female victims. More details can be found in section III of the questionnaire - question no. 17.

**20. Do you have any proposals for the harmonization of EU MS legislation on the management and social reuse of frozen and confiscated assets?**

At this moment, we consider that the aspects regarding the administration of assets are well defined at the European level. However, we appreciate that the regulation on the social and public reuse of confiscated goods can be improved.

**21. Could you provide us with potential guidelines regarding the management and social reuse of frozen and confiscated assets?**

The most important guidelines are given by **ANABI's success stories**:

**Effective interagency coordination:** The establishment of formal agreements and protocols with key agencies such as the National Agency for Fiscal Administration (ANAF) and various law enforcement bodies facilitated smooth operations and clear communication. This coordination enabled the efficient transfer and management of seized assets.

**Online auction Portal:** During the COVID-19 pandemic in 2020, AMO successfully created an online auction portal to ensure the continuous and transparent selling of seized assets. This innovative solution allowed for uninterrupted asset sales and maintained public access to auctions. The portal has attracted over 300,000 unique visitors, demonstrating AMO's adaptability and commitment to transparency even during challenging times.

**Concluding asset sharing agreements:** ANABI has successfully concluded asset sharing agreements in cases with international elements, strengthening the practice of fair and effective distribution of confiscated assets among involved jurisdictions. For example, AMO successfully recovered 6 million lei (1,225,465 USD) by submitting a petition for remission to the U.S. Department of Justice.

**Implementation of ROARMIS:** The development and launch of the ROARMIS application in 2023 marked a significant milestone. This integrated registry provided a centralized system for tracking seized assets, enhancing transparency and accountability. The ability to see detailed information about each asset, including the authority that ordered the seizure and the related criminal case, proved invaluable.

**Successful auctions and selling:** The AMO has successfully conducted public auctions to dispose of seized assets, generating significant revenue. For example, the auction of luxury vehicles not only recovered substantial amounts for the state but also demonstrated the effectiveness of the AMO's asset management and auction procedures.



**Public and social reuse initiatives:** One notable success story involves the transfer of a confiscated property to a local municipality for use as a community centre for the elderly. This project highlighted the positive impact of the AMO's efforts on local communities and showcased the benefits of public and social reuse of confiscated assets.

**Capacity building and training:** The continuous training programs for AMO staff, including workshops on the latest asset management practices and legal developments, have greatly enhanced the agency's capabilities. The investment in staff education has ensured a high level of expertise and professionalism within the organization.

**Clear legislative framework:** The establishment of a clear legal framework through Law No. 318/2015 and also Law No. 230/2022 provided a solid foundation for the AMO's operations. These laws defined the agency's responsibilities and powers, ensuring consistency and legal compliance in its activities.

**External independent audits:** Regular external independent audits of the AMO's operations have ensured transparency and accountability. These audits have identified areas for improvement and validated the agency's effective management practices.

**Use of external experts:** Engaging third-party experts for the evaluation and management of assets proved to be a successful practice. For instance, using certified appraisers for high-value assets ensured accurate valuations and optimal auction outcomes.

**Public reporting and transparency:** AMO's practice of publishing regular and annually reports, along with maintaining accessible statistics on its website, has fostered public trust and demonstrated the agency's commitment to transparency.

**International recognition:** AMO has achieved significant international recognition for its effective practices and contributions to the field of asset management and recovery. Examples include: implemented Recommendation 12 from the Cooperation and Verification Mechanism (CVM), selected as a best practice in the anti-fraud domain at the EU level (Anti-Fraud Resource Centre portal), featured in the 2022 Rule of Law Report by the European Commission, evaluated by Moneyval and under the UN Convention Against Corruption, underwent thematic monitoring under the Warsaw Convention regarding asset management.

## 22. Do you have any further reform proposals, at a national or international level, concerning the management and social reuse of frozen and confiscated assets?

At the national level, the legislation on the administration of assets is coherent and does not require very large changes following the adoption of Directive (EU) 2024/1260. **However, we believe that the entire national legislative framework regarding social reuse should be reanalyzed**, in order to integrate this concept into a single normative act, which would regulate all aspects of this matter: the granting method, supervision, revocation, insurance.

**23. Do you have any further policy recommendations, at a national or international level, concerning the management and social reuse of frozen and confiscated assets?**

Although there are many states that have a dual system in the administration and disposal of seized and confiscated assets, as is the shared competence between ANABI and ANAF, we believe that a necessary reform at the national level is that the **entire activity of administration and disposal of assets in criminal matters should be carried out by a single entity**, which includes under its umbrella: asset identification, asset management and asset recovery during the criminal process and after the end of the criminal process.

**24. Considering the provisions of the new Directive (EU) 2024/1260 on “asset recovery and confiscation”, how effective do you find the new measures regarding the management and social reuse of confiscated assets? Are there aspects of the directive that could be improved or implemented differently?**

Romania's position was one of support for the proposals introduced in Directive (EU) 2024/1260. At the same time, a large part of the provisions regarding the administration and disposal of assets are already found in national legislation, including interlocutory sales. Consequently, we believe that bringing together all the instruments that ARO and AMO manage is efficient and ensures predictability in international cooperation.

At the European level, as we argued during the preparation of previous questionnaires, **we believe that the obligation to constitute electronic registers by the member states should be mandatory**, with the result that these registers would be interconnected in the future. Only with these instruments the assets will be identified more easily during international cooperation and will be avoided the situation of parallel confiscation.

### *Section 3 - Victims' rights to compensation and restitution in cross-border confiscation and third parties' rights*

#### 1. What national laws or regulations govern the rights of victims to compensation and restitution in cross-border confiscations?

In Romania, the rights of victims to compensation and restitution in cross-border confiscations are primarily governed by both national legislation and European Union regulations. The key national laws include:

- **Criminal Code of Romania:** The Romanian Criminal Code outlines the general principles of criminal liability and the rights of victims, including the right to seek compensation for damages.
- **Criminal Procedure Code of Romania:** This code details the procedural rights of victims in criminal proceedings, including the right to claim civil damages in the course of criminal trials. It ensures victims are informed of their rights and have the opportunity to participate in proceedings.
- **Law No. 211/2004 on Measures for Ensuring the Protection of Victims of Crime:** This law provides comprehensive measures for the protection of crime victims, ensuring their right to compensation and support. It establishes mechanisms for financial compensation from the state for certain categories of victims and sets up victim support services.
- **Law No. 302/2004 on International Judicial Cooperation in Criminal Matters:** This law regulates the procedures for international cooperation, including the recognition and execution of foreign judgments and confiscation orders. It facilitates the process for Romanian authorities to collaborate with other jurisdictions in confiscating assets and ensuring victims' rights to compensation are upheld.
- **Law No. 318/2015 on the Establishment, Organization, and Functioning of the National Agency for the Management of Seized Assets (ANABI):** This law implements the provisions of EU Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union. It ensures the mutual recognition of confiscation orders across EU member states, enabling victims to seek compensation from confiscated assets even when they are located in another EU country.

On a broader scale, Romania adheres to European Union regulations and directives that impact victims' rights to compensation and restitution in cross-border cases, such as:

- **EU Directive 2012/29** establishing minimum standards on the rights, support, and protection of victims of crime, which mandates that victims are provided with information, support, and protection, and that they can participate actively in criminal proceedings.
- **EU Directive 2014/42** on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, which sets out rules for the confiscation of assets derived from criminal activities and includes provisions to protect the rights of victims in cross-border cases.

- **EU Directive 2011/36** on preventing and combating trafficking in human beings and protecting its victims, which provides measures to prevent trafficking, prosecute offenders, and protect and assist victims of trafficking.
- **EU Directive 2024/1260** on the recovery and confiscation of assets, which further strengthens the legal framework for victim protection and ensures more effective cross-border cooperation and restitution mechanisms.

These national laws and European Union regulations collectively ensure that victims in Romania have the legal framework needed to seek compensation and restitution for damages incurred, even in cross-border confiscation scenarios.

## **2. Are there bilateral/multilateral agreements that your country utilizes to facilitate compensation and restitution for victims in cases of cross-border confiscation?**

Romania utilizes several bilateral and multilateral agreements to facilitate compensation and restitution for victims in cases of cross-border confiscation. Key agreements include:

### **A. European Union Framework:**

- Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders.
- Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime.
- Directive 2012/29/EU establishing minimum standards on the rights, support, and protection of victims of crime.
- Directive 2004/80/EC on Compensation to Crime Victims
- Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union.

### **B. Council of Europe Conventions:**

- European Convention on Mutual Assistance in Criminal Matters (1959) and its additional protocols.
- European Convention on the International Validity of Criminal Judgments (1970).
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) and its 2005 Warsaw Convention.

### **C. United Nations Conventions:**

- United Nations Convention against Transnational Organized Crime (2000) and its protocols.
- United Nations Convention against Corruption (2003).

#### D. Bilateral Agreements:

- Romania has numerous bilateral agreements with various countries to facilitate mutual legal assistance, including asset recovery and victim compensation.

These agreements provide a comprehensive legal framework for international cooperation, ensuring that victims in Romania can receive compensation and restitution even in cross-border confiscation cases.

### 3. How is the eligibility of victims determined to receive compensation or restitution? What criteria are used?

The eligibility of victims to receive compensation or restitution is determined based on specific criteria outlined in national legislation. **To be eligible, the individual must be recognized as a victim under Romanian law.** According to the Criminal Code and Criminal Procedure Code, a victim is anyone who has suffered physical, mental, or emotional harm, or economic loss directly caused by a criminal act.

The eligibility criteria can vary depending on the type of crime. For example, Law No. 211/2004 on Measures for Ensuring the Protection of Victims of Crime provides compensation for victims of violent crimes such as murder, serious bodily injury, and sexual offenses. Additionally, the harm or loss suffered by the victim must be directly caused by the criminal act. This means there should be a clear causal link between the crime and the damage or injury experienced by the victim.

Victims are generally required to report the crime to the authorities within a certain period to be eligible for compensation (60 days). This ensures that the criminal act is documented and investigated promptly. Moreover, victims must cooperate with law enforcement and judicial authorities during the investigation and prosecution of the crime, including providing necessary information and evidence.

For state compensation under Law No. 211/2004, the financial situation of the victim is also considered, with victims of limited financial means being given priority for state compensation. Victims need to provide evidence of the damage or loss they have suffered, which can include medical reports, receipts for medical expenses, evidence of lost wages, and other relevant documentation.

Victims must submit a formal application for compensation or restitution, detailing the harm suffered and providing supporting evidence. The application is reviewed by relevant authorities, such as the courts or designated victim support services. These criteria ensure that only those who have genuinely suffered from criminal acts and meet the legal requirements are eligible for compensation or restitution. The process is designed to be thorough and fair, ensuring that victims receive the support they need while preventing fraudulent claims.

### 4. What is the process for victims to request compensation or restitution?

The process for victims to request compensation or restitution involves several structured steps. Initially, the victim must report the crime to the police or relevant authorities, which begins the legal process and ensures the crime is officially documented. If the victim has suffered physical or psychological harm, they should seek medical and psychological evaluation and treatment. The resulting medical reports and psychological assessments serve as crucial evidence of the harm suffered.

During the criminal trial, victims can file a civil claim for damages directly within the criminal proceedings. This claim should detail the damages suffered and include supporting evidence such as medical reports, receipts for expenses, and other relevant documentation. If the victim is eligible for state compensation, for example under Law No. 211/2004, they must submit a formal application. This application should include personal information and details of the crime, evidence of the harm suffered (such as medical reports and psychological evaluations), proof of financial loss (including receipts, invoices, and evidence of lost wages), and any other relevant documentation.

The application for state compensation is reviewed by the relevant authorities, such as the Ministry of Justice or designated victim support services, who assess the eligibility and completeness of the application. After reviewing the application, the authorities make a decision regarding the compensation request, and the victim is then notified of the decision. If approved, the compensation amount and payment details are provided. If the victim is not satisfied with the decision, they have the right to appeal. The appeal must be filed within a specified period and should outline the reasons for contesting the decision.

Once the decision is finalized, the approved compensation amount is paid to the victim, typically through direct bank transfer or other agreed-upon methods. Additionally, victims can access ongoing support and assistance through various victim support services, which provide counselling, legal aid, and other necessary support throughout the process. This structured process ensures that victims have a clear pathway to seek compensation or restitution, with multiple avenues for support and recourse if their initial requests are denied.

Furthermore, Law No. 230/2022, initiated with the support of ANABI, introduced several legal provisions to ensure a comprehensive framework for the protection and assistance of victims of all crimes. Essentially, this law brought significant changes to support crime victims. These changes include the establishment of the **National Mechanism for Supporting Crime Prevention, which is an institutional and financial tool aimed at prioritizing the allocation of resources for implementing activities and projects focused on legal education, crime prevention, and victim assistance and protection, as well as strengthening the administrative and logistical capacity of institutions responsible for identifying, managing, or selling confiscated assets.**

The law also introduced an emergency fund and a modern, rapid compensation system in the form of vouchers, allowing the state to advance payments to crime victims within 72 hours to cover urgent needs (such as food, accommodation, transportation, medication, and hygiene products).

The National Mechanism **became operational in January 2023** and is funded by confiscated money and proceeds from the sale of recovered assets. The funds are distributed to various ministries and ANABI, with allocated amounts ranging between 15% and 20%.

Law No. 230/2022 also amended Law No. 318/2015 to introduce the chapter titled "Access of Crime Victims to Compensation," ensuring that victims of crimes specified in Article 21 of Law No. 211/2004 can request an advance on financial compensation in the form of vouchers to cover urgent needs. The law also allows victims to request compensation for moral damages suffered and eliminated the previous threshold for financial compensation for material damages, which was previously limited to an amount equivalent to 10 times the gross minimum basic salary. This ensures that victims can quickly receive support for urgent needs while their claims are processed.

## 5. What are the main challenges that victims face in receiving compensation or restitution in cases of cross-border confiscation?

Victims in Romania face several challenges in receiving compensation or restitution in cases of cross-border confiscation.

One major challenge is **dealing with the jurisdictional issues** that arise when a crime occurs in a different EU member state from where the victim resides. According to Law No. 211/2004, the process involves cooperation between the requesting state (where the victim resides) and the requested state (where the crime was committed). This involves multiple authorities: the assistance authority in the requesting state, which helps the victim file the compensation claim, and the decision authority in the requested state, which processes the claim. Navigating these bureaucratic procedures across different legal systems can be complex and time-consuming for victims.

Another significant challenge is the **complexity of legal procedures involved in cross-border cases**. Victims often need to provide detailed evidence of the harm suffered, including medical and psychological reports, receipts for expenses, and proof of financial loss. Gathering and submitting this documentation in a manner that meets the legal standards of another country can be daunting.

**Language barriers** also pose a significant obstacle. Victims may struggle to understand the legal processes and requirements in another country, and essential documents may need to be translated, adding to the complexity and cost of the process.

Moreover, **effective coordination between judicial and law enforcement authorities** in different countries is crucial but often challenging. Differences in legal frameworks, administrative procedures, and practices can hinder smooth cooperation and timely execution of confiscation orders and compensation payments.

**Financial costs** represent another hurdle. Pursuing compensation or restitution can be expensive, with legal fees, translation costs, and other related expenses potentially burdening victims, particularly those with limited financial resources.

**Delays in proceedings** are common in cross-border cases due to the need to comply with the legal requirements of multiple jurisdictions. These delays can prolong the period before victims receive compensation or restitution, causing further distress.

Additionally, **enforcing judgments across borders can be difficult**. Even when a confiscation order is recognized in another country, ensuring that the confiscated assets are used to compensate the victim can be challenging. There may be legal and practical obstacles in tracking and seizing assets located in different jurisdictions.

## 6. Which entities or organizations are responsible for assessing and processing victims' claims for compensation or restitution?

In Romania, several entities and organizations are responsible for assessing and processing victims' claims for compensation or restitution.



The **Ministry of Justice** plays a central role in the process. It is designated as the authority responsible for assisting victims who seek compensation for crimes committed in other EU member states, according to Law No. 211/2004 and Council Directive 2004/80/EC. The Ministry handles the registration and transmission of compensation claims, provides necessary information and guidance to applicants, and ensures cooperation with the competent authorities in the state where the crime was committed.

Another important institution is the **Bucharest Tribunal**, specifically the Commission for Granting Financial Compensation to Crime Victims. This commission, composed of at least three judges, is the decision-making authority for claims related to crimes committed on Romanian territory. It assesses the applications and determines the compensation to be awarded.

The **National Agency Against Trafficking in Persons (ANITP)** is also vital in this process. ANITP is responsible for coordinating and implementing national policies and strategies against human trafficking. It provides specialized assistance and support to victims of trafficking, helping them access compensation and restitution. ANITP also collaborates with other national and international entities to ensure effective victim protection and support.

When the crime is committed in another EU member state, the assistance authority in the victim's country of residence, which in this case is the Romanian Ministry of Justice, coordinates with the decision authority in the state where the crime occurred. This cross-border cooperation is essential for processing and assessing claims effectively.

**Various non-governmental organizations (NGOs) and victim support services** also play a crucial role in assisting victims with their claims. These organizations provide legal aid, counselling, and help victims gather and submit the necessary documentation.

Last but not least, **ANABI** supports the Ministry of Justice by providing administrative and logistical support. Through the supplementation of the Ministry of Justice's budget with 15% of the funds made available through the National Mechanism for Supporting Crime Prevention, the ministry can finance crime prevention projects and programs, as well as provide the necessary funds for allocating financial compensation or advances to crime victims, in accordance with the provisions of Law 211/2004.

Together, these entities work to ensure that victims receive the compensation and restitution they are entitled to, creating a comprehensive support system that addresses both national and cross-border cases.

## **7. How are conflicts of law or legal complications that may arise during the process of cross-border compensation or restitution managed?**

In Romania, conflicts of law or legal complications that may arise during the process of cross-border compensation or restitution are managed through a combination of national legislation, European Union regulations, and international cooperation mechanisms.

Firstly, national legislation, such as Law No. 211/2004, provides a framework for dealing with cross-border compensation claims. This law outlines the procedures for Romanian citizens and residents to claim compensation for crimes committed in other EU member states, ensuring alignment with EU directives such as Council Directive 2004/80/EC on compensation to crime victims.

To handle conflicts of law, the Ministry of Justice plays an essential role. It acts as the central authority for coordinating cross-border claims, ensuring that Romanian procedures align with those of the state where the crime was committed. This involves providing information, assisting with the application process, and facilitating communication between the victim and the relevant authorities in the other country.

European Union regulations and directives provide additional guidance for managing legal complications. The principle of mutual recognition of judicial decisions, established by various EU regulations, helps streamline the process. Regulation (EU) 2018/1805 on the mutual recognition of freezing and confiscation orders, for example, facilitates the enforcement of confiscation orders across EU member states, thereby aiding in the restitution process.

Furthermore, international cooperation mechanisms, such as those established by the European Convention on Mutual Assistance in Criminal Matters and other Council of Europe treaties, provide a legal basis for collaboration between countries. These agreements facilitate the exchange of information, mutual legal assistance, and the execution of judicial decisions, helping to resolve conflicts of law and other legal complications.

In cases where legal conflicts or complications arise, the Ministry of Justice and other relevant authorities may seek the assistance of European institutions, such as Eurojust, which supports cooperation and coordination between member states in criminal matters. Eurojust can help resolve conflicts and ensure that legal processes are respected and harmonized across borders.

Additionally, bilateral agreements between Romania and other countries can provide specific procedures for managing legal complications. These agreements often include provisions for mutual legal assistance, recognition of judicial decisions, and cooperation in criminal matters, which help address and resolve conflicts of law.

Overall, managing conflicts of law and legal complications in cross-border compensation or restitution cases involves a combination of national laws, EU regulations, international treaties, and collaborative efforts between judicial and law enforcement authorities. This multifaceted approach ensures that victims' rights are protected and that legal obstacles are effectively addressed.

#### **8. Have there been cases where victims have struggled to obtain justice due to linguistic, cultural, or legal barriers? How were these handled?**

Yes, there have been cases where victims in Romania have struggled to obtain justice due to linguistic, cultural, or legal barriers, especially in cross-border contexts. These barriers can complicate the process of seeking compensation or restitution, but various measures and mechanisms have been put in place to address these challenges.

**Language differences** can pose significant obstacles for victims seeking justice in another country. To address this, **the Ministry of Justice provides translation and interpretation services**. When victims need to submit documents or communicate with authorities in another EU member state, the Ministry ensures that necessary translations are provided. Additionally, during legal proceedings, interpreters are made available to assist victims who do not speak the local language.

**Cultural barriers** can also hinder victims' ability to navigate foreign legal systems. Victim support services and non-governmental organizations (NGOs) offer culturally sensitive support and guidance, helping victims understand the legal and administrative processes in a context that respects their cultural background.

**Legal barriers** arise from differences in legal systems and procedures between countries. The European Union framework, including bodies like the European Judicial Network (EJN) and Eurojust, supports cooperation between national judicial authorities, helping to resolve conflicts and streamline processes. Romanian authorities coordinate with these bodies to uphold victims' rights across borders.

In specific cases, **legal assistance** is provided to help victims understand and navigate the foreign legal system, including explaining their rights and assisting with documentation. Modern communication technologies, such as video conferencing, facilitate hearings and interactions between victims and judicial authorities, reducing the need for travel and bridging linguistic and cultural gaps.

Authorities in Romania work closely with their counterparts in other countries to ensure that victims' cases are handled efficiently, supported by EU regulations promoting mutual recognition of judicial decisions. NGOs and victim support organizations play an important role, offering counselling, legal aid, and practical support to help victims cope with the emotional and psychological impact of their experiences and the complexities of foreign legal systems.

Through these measures, linguistic, cultural, and legal barriers are addressed to ensure that victims can access justice and receive the compensation and restitution they deserve. While challenges remain, ongoing efforts to improve coordination and support continue to enhance the effectiveness of these processes.

## **9. What measures are in place to ensure that victims are informed of their rights and the process for claiming compensation or restitution in cross-border confiscation?**

Several measures are in place to ensure that victims are informed of their rights and the process for claiming compensation or restitution in cross-border confiscation cases.

**The Ministry of Justice provides comprehensive information** on the rights of victims and the procedures for claiming compensation or restitution. This information is made available through various channels, including the Ministry's official website, which publishes detailed guides, application forms, and relevant legal texts.

**Victim support services and non-governmental organizations (NGOs)** are also main providers in informing victims of their rights. These organizations conduct outreach activities, distribute informational materials, and offer counselling services to help victims understand their entitlements and navigate the legal processes involved.

Additionally, when a crime is reported, **law enforcement authorities** are required to inform victims of their rights, including the right to seek compensation or restitution. Police officers and prosecutors are trained to provide this information effectively and to refer victims to the appropriate services for further assistance. Moreover, specific provisions in national legislation, such as Law No. 211/2004, mandate that victims be informed of their rights and the procedures for claiming compensation. The law requires authorities to provide victims with detailed information about their options and the support available to them.

## 10. What is the success rate of cross-border compensation or restitution claims for victims in your country?

The success rate of cross-border compensation or restitution claims for victims in Romania can be challenging to quantify precisely due to variations in individual cases and the complexities involved in cross-border legal processes. Currently, we do not possess specific data regarding the success rate of cross-border compensation or restitution claims for victims in Romania.

## 11. Are there any initiatives or future plans to enhance the rights of victims to compensation and restitution in cross-border contexts?

Yes, there are several initiatives and future plans in Romania aimed at enhancing the rights of victims to compensation and restitution in cross-border contexts.

A significant initiative is the **Government Program 2023-2024**, which prioritizes enhancing the rights of victims to compensation and restitution by improving legal and institutional frameworks. This includes ensuring the necessary human and material resources for DIICOT (Directorate for Investigating Organized Crime and Terrorism) and supporting judicial procedures in human trafficking cases that consider the physical and psychological state of victims to avoid aggravating their trauma. The program also involves equipping prosecutors' offices and courts in each county with interview rooms for minor victims, to be used in both criminal and civil proceedings, as part of the government's effort to prevent re-traumatization of victims. Additionally, the government supports the recovery of crime-related damages and victim compensation from dedicated funds by strengthening the operational role of the National Agency for the Management of Seized Assets (ANABI).

Another key initiative is the **National Strategy to Combat Human Trafficking (2024-2028)**. This strategy aims to establish a robust system to support victims, ensuring the necessary resources are allocated efficiently. Central and local institutions, in collaboration with non-governmental organizations and international bodies, will implement measures to improve the identification and assistance of victims, as well as to ensure effective cross-border cooperation. This cooperation harmonizes procedures and enhances response times, directly benefiting victims seeking compensation and restitution.

The **National Strategy for Sustainable Development of Romania 2030** sets a strategic target to eliminate violence against women and girls, including trafficking and exploitation, by 2030. This strategy includes measures that indirectly support the rights of all crime victims to compensation and restitution by promoting a safer environment and addressing systemic issues that affect victims' rights.

Additionally, the **National Strategy on the Recovery of Crime Proceeds for 2021-2025** focuses on using confiscated assets for social purposes, including victim compensation. This strategy promotes the effective identification, management, and use of crime proceeds to ensure that victims receive timely and adequate compensation.

The **National Strategy for the Prevention and Combat of Sexual Violence "SYNERGY" 2021-2030** also supports the rights of victims by enhancing the capacity of institutions to assist victims of sexual violence, including those affected by cross-border crimes.

These initiatives and future plans collectively demonstrate Romania's commitment to enhancing the rights of victims to compensation and restitution, particularly in cross-border contexts. By improving legal frameworks, strengthening institutional capacities, and fostering international cooperation, Romania aims to ensure that victims receive the support and justice they deserve.

## 12. What procedures are in place to identify and protect the rights of third parties before the seizure or confiscation of an asset?

In Romania, several procedures are in place to identify and protect the rights of third parties before the seizure or confiscation of an asset. These procedures ensure that the rights of individuals or entities who are not directly involved in the criminal activity but have a legitimate interest in the asset are safeguarded.

When an asset is identified for seizure or confiscation, **the relevant authorities must notify any known third parties who may have a legal interest in the asset.** This notification includes information about the legal proceedings and the reasons for the seizure or confiscation. **Third parties are then given the opportunity to present their claims and evidence to the court.**

Third parties have the **right to seek judicial review of the seizure or confiscation order.** They can file objections and provide evidence to demonstrate their legitimate interest in the asset. The court will assess the validity of their claims before making a final decision on the seizure or confiscation. **Throughout the process, third parties can be represented by legal counsel.** Legal representatives can file petitions, present evidence, and argue on behalf of the third parties to protect their rights.

If a third party's claim is denied by the initial court, they have the right to appeal the decision to a higher court. This provides an additional layer of protection and ensures that third parties have multiple opportunities to assert their rights. Romanian law also includes provisions to protect the rights of bona fide purchasers, who may have acquired the asset without knowledge of its connection to criminal activity. Courts take into consideration the good faith of third parties when deciding on seizure or confiscation.

During criminal investigations, the right to contest can be exercised by the suspect, the defendant, or any other interested person, such as the owner or possessor of the asset who is not a suspect, defendant, or civilly responsible person. This right is particularly relevant in the case of freezing measures taken to repair damage caused by the crime and to guarantee the execution of judicial expenses.

The deadline to file a contestation is three days, starting from the date of notification of the order or from the date of its execution, according to Article 250 para. 1 of the Criminal Procedure Code. If the freezing measures are decided during the preliminary chamber procedure or during the trial, the legislator has provided a means of contestation. Specifically, Article 250<sup>1</sup> was introduced to the Criminal Procedure Code through O.U.G. No. 18/2016. This regulation establishes that if the freezing measure is taken by the preliminary chamber judge, the court of first instance, or the appellate court, the respective decision can be contested by the defendant, prosecutor, or any other interested person within 48 hours of the decision's pronouncement or notification.

These procedures collectively ensure that the rights of third parties are identified and protected before the seizure or confiscation of assets, providing a fair and transparent process for third parties to assert their interests and seek judicial remedies if necessary.

### **13. How is the claims process handled by third parties who believe they have legitimate rights to seized or confiscated assets?**

In Romania, the claims process for third parties who believe they have legitimate rights to seized or confiscated assets is structured to ensure fairness and transparency.

Here is an overview of how this process is handled:

Firstly, when an asset is subject to seizure or confiscation, the authorities are required to notify any known third parties who may have a legal interest in the asset. This notification includes detailed information about the legal proceedings and the basis for the seizure or confiscation.

Third parties who believe they have legitimate rights to the asset must file a formal claim, presenting evidence to support their interest. This claim should be submitted to the relevant judicial authority, typically the court overseeing the case. The evidence provided can include ownership documents, contracts, or any other relevant legal documentation proving their legitimate interest in the asset.

During criminal investigations, third parties can exercise their right to contest the seizure. For freezing measures taken to repair damage caused by the crime and guarantee judicial expenses, the deadline to file a contestation is three days from the date of notification or execution of the order, as stated in Article 250(1) of the Criminal Procedure Code.

If the freezing measure is taken during the preliminary chamber procedure or trial, the decision can be contested by the third party within 48 hours of the decision's pronouncement or notification, according to Article 250<sup>1</sup> of the Criminal Procedure Code.

Third parties have the right to seek judicial review of the seizure or confiscation order. They can file objections and present their claims and evidence to the court, which will then assess the validity of their claims. If the initial court denies the claim, third parties can appeal the decision to a higher court, ensuring multiple opportunities to assert their rights.

Throughout this process, third parties are entitled to legal representation. Legal counsel can help file petitions, present evidence, and argue on behalf of the third party to protect their interests.

ANABI oversees the management and disposal of seized assets, ensuring the process adheres to legal standards and protecting the rights of third parties.

In conclusion, the claims process for third parties in Romania involves formal notification, submission of evidence-based claims, judicial review, and the possibility of appeal, all supported by legal representation and transparent record-keeping. This structured approach ensures that the rights of third parties are safeguarded throughout the seizure or confiscation process.



**14. Are there specific mechanisms to ensure that third parties are promptly informed of the seizure or confiscation of assets that may concern them?**

Yes, in Romania, there are mechanisms to ensure that third parties are promptly informed of the seizure or confiscation of assets. Authorities are required to notify any known third parties who may have an interest in the asset, using official channels.

According to Article 257 of the Criminal Procedure Code, summoning a person before the criminal investigation body or the court is done through a written citation. Notification can also be made via telephone or telegraph note, with a report being drawn up. Citations and all procedural documents are communicated ex officio by the procedural agents of the judicial bodies or by any of their employees, through the local police, or via postal or courier services. These measures ensure that third parties are informed quickly and can take appropriate action to protect their interests.

**15. What appeal rights are available to third parties who are dissatisfied with decisions regarding seized or confiscated assets?**

In Romania, third parties who are dissatisfied with decisions regarding seized or confiscated assets have the right to contest these decisions. If the seizure or confiscation measure is taken by the prosecutor, third parties can file a contestation with the court. If the measure is taken by the preliminary chamber judge, the court of first instance, or the appellate court, third parties can contest the decision to a higher court.

This contestation must be lodged within a specified timeframe, present evidence and legal arguments to support the claim.

These legal measures are designed to ensure fairness and protect the rights of individuals who believe their assets have been unjustly seized or confiscated.

**16. Have there been cases where the rights of third parties have been recognized after the confiscation of the asset? What was the procedure followed to return the asset or compensate the third party?**

Yes, there have been cases in Romania where the rights of third parties were recognized after the confiscation of an asset. The procedure to return the asset or compensate the third party is structured to ensure fairness and compliance with legal standards.

When an asset acquired from criminal activity is transferred to a third party in good faith, the court typically does not confiscate the asset directly from the third party. The process begins with the third party being notified about the seizure or confiscation order. They can then file a contestation with the court, providing evidence of their good faith and legitimate ownership.

The court reviews the submitted evidence and arguments. If the third party can prove their good faith, the court will recognize their rights and typically cannot order the confiscation of the asset from them. This is because the third party's good faith is presumed, and the burden of proof lies with the judicial authorities to demonstrate otherwise.



Protection under Civil Law is also a key consideration. According to Romanian Civil Code, specifically Article 937 for movable goods and Articles 908-909 for immovable goods, the rights of a bona fide third party are protected. The criminal court should not adjudicate civil claims such as revendication (recovery) of movable property or rectification of immovable property registration. Instead, the court must acknowledge that the asset was transferred to a good-faith third party whose rights cannot be infringed upon.

It is considered erroneous practice for judicial authorities to confiscate an asset from a bona fide third party. The third party, having entered a valid contract, should not bear the risk of the seller's (criminal's) insolvency. In cases where the asset has been transferred to a good-faith third party for value, the proper approach is to confiscate the equivalent monetary value from the convicted person, ensuring that the criminal does not benefit financially from the transaction.

Good-faith third parties cannot be considered civil parties in the criminal process, as they are not directly harmed by the crime. Articles 84 and 19(2) of the Criminal Procedure Code specify that only victims of the crime can act as civil parties in the criminal process. Thus, a third party who purchased an asset in good faith cannot claim restitution through the criminal court if the asset is wrongfully seized. If the court finds in favour of the third party, the asset will be returned to them. If the asset cannot be returned (for example, if it has been sold or destroyed), the state may be required to compensate the third party for their loss.

In cases where the third party acquired the asset knowing it originated from a crime, different procedures apply. The third party is notified and can contest the confiscation order, but proving good faith is more challenging. The court may assess evidence suggesting the third party was aware of the asset's criminal origin. If the court finds that the third party was in bad faith, it can treat the asset as if it remained in the convicted person's estate. This involves using civil law mechanisms such as declaring the transaction void or inapplicable. The court can order the confiscation of the asset directly from the third party if it was deemed a fraudulent transfer to evade justice. The legal mechanisms might involve annulment of the sale or other civil law remedies.

Romanian law provides robust protections for third parties in these situations. Article 257 of the Criminal Procedure Code mandates that third parties must be notified through written citations, telephone, or telegraph notes, with a corresponding report. Third parties can appeal decisions about seizures. If the prosecutor orders the seizure, appeals go to the court. If a judge orders it, appeals go to a higher court. Ensuring third parties are treated fairly involves court hearings where they can present evidence and arguments. Courts must presume good faith unless proven otherwise.

For example, consider a case where an individual unknowingly purchases a car that was used in criminal activities. Upon discovery, the car is seized. The buyer, in good faith, contests the seizure, presenting the purchase contract and proof of payment. The court, recognizing the buyer's good faith, decides the car cannot be confiscated from the buyer. If the car has already been sold or destroyed, the court will determine fair compensation for the buyer, ensuring they are not penalized for their legitimate purchase.

In summary, Romania has detailed procedures to ensure that third parties' rights are recognized after the confiscation of an asset. These procedures involve judicial reviews, civil law considerations, and fair compensation or return of assets, all aimed at ensuring justice and fairness for legitimate third parties.

**17. Do authorities in your country promote the social reuse of confiscated assets to support services and programs specifically aimed at women affected by crime? Can you provide examples of such initiatives?**

Yes, Romanian authorities do promote the **social reuse of confiscated assets** to support services and programs, although not necessarily specifically aimed at women affected by crime. The concept of social reuse of confiscated assets involves the transfer or use of assets obtained from criminal activities for social or public interest purposes.

A significant example of this approach is outlined in European legislation. The Directive 2014/42/EU of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union encourages member states to consider measures that allow confiscated assets to be used for public interest or social purposes. Romania has aligned its national legislation with these recommendations through the adoption of Law No. 318/2015 and Law No. 216/2016, which facilitate the social reuse of confiscated assets.

Law No. 318/2015 allows **immovable** assets that have been confiscated and entered into the private property of the state **to be transferred for free to local administrative units or given for free use to associations and foundations for social or public interest objectives**. Similarly, Law No. 216/2016 permits these assets to be allocated to public administration authorities and other national interest public institutions for social objectives.

Law No. 318/2015 includes specific provisions to promote the social reuse of confiscated assets. Article 34 allows immovable assets that have been confiscated and entered into the private property of the state to be transferred for free to local administrative units for social objectives, upon request from county councils or local councils. Article 35 permits these assets to be given for free use to associations, foundations, the Romanian Academy, and branch academies established by special law for social, public interest, or activity-related objectives. Furthermore, Article 36 mandates that the regulations for the social reuse of confiscated properties be approved by a Government Decision within 180 days from the law's enactment.

**An example of social reuse** is the Government Decision on March 7, 2024. The Romanian Government adopted a decision to transfer an immovable asset from the private domain of the state to the private domain of Traian commune in Bacău County. This decision, initiated by ANABI, facilitated the transfer of a confiscated property seized through criminal proceedings involving tax evasion and money laundering. The property will be repurposed to establish a care home for the elderly, thus transforming a product of crime into a valuable community resource.

ANABI has been actively involved in initiatives to promote the social reuse of confiscated assets and has shown considerable interest in this subject. On November 23, 2022, ANABI and Expert Forum organized a public debate focusing on the social reuse of assets recovered from crimes and mechanisms for victim protection. This event highlighted best practices from Romania and other countries, such as the USA, Spain, and Italy, demonstrating how the state can provide adequate support to crime victims and build an efficient mechanism for the social reuse of criminal assets.

In support of these efforts, Law No. 230/2022, initiated by ANABI, introduced the **National Mechanism for Crime Prevention Support**. This mechanism is financed by 50% of the value of the assets that have been confiscated.

### Article 37<sup>1</sup>

*(1) The National Crime Prevention Support Mechanism, hereinafter the mechanism, is the institutional and financial framework to ensure:*

*a) allocation of resources for the implementation of activities and projects focusing on legal education; crime prevention; assistance and protection of the victims of crime, and strengthening of the administrative capacity, including the logistic capacity of the institutions in charge with identifying, managing or disposal seized assets;*

*b) facilitating access of the victims of the crimes laid down in Law no. 211/2004 regarding some measures to ensure information, support and protection for the victims of crime as further amended and supplemented to fair compensation matching the harm suffered by them.*

*(2) The mechanism shall be established by annually supplementing the budgets of main authorising officers of the public authorities laid down in art. 372 para. (1) let. a) - f) by the amounts representing 50% of the amounts of money confiscated in criminal proceedings, 50% of the amounts of money produced from the disposal of assets confiscated in criminal proceedings, and 50% of the amounts of money obtained from enforcing judgments regarding confiscation of equivalent values in criminal proceedings, which remain after covering the expenses with the disposal, deducting the amounts subject to international distribution by the Agency, and any other amounts to be withheld according to the law.*

*(3) The mechanism shall become operational as of January 2023, and operate over a period of 5 years, which period may be extended by law.*

*(4) The Ministry of Justice shall analyse and assess the efficacy of the mechanism after every 2 years of its operation and initiate, as applicable, draft normative documents for the purpose of extending its period of operation. To this purpose, the institutions and entities set forth in art. 372 para. (1) shall submit their own assessments and proposals to the Ministry of Justice.*

*(5) For year 2023, the quantum of the amounts paid to the state budget, envisaged in para. (2), which are subject to distribution in the first year of operationalisation of the mechanism is as communicated by the National Agency for Fiscal Administration for the drafting of the 2021 annual activity report, stipulated in art. 43 let. f).*

## Article 37<sup>2</sup>

*(1) The amounts under the mechanism shall be allocated as follows:*

*a) 20% for the Ministry of Education;*

*b) 20% for the Ministry of Health;*

*c) 15% for the Ministry of Internal Affairs;*

*d) 15% for the Public Ministry;*

*e) 15% for the Ministry of Justice;*

*f) 15% for the Agency, for the purpose of ensuring non-reimbursable funding for the projects proposed by associations and foundations operating in the field of victim assistance and protection and social assistance.*

*(2) The non-reimbursable amounts allocated to the associations and foundations mentioned in para. (1) let. f) shall be given in accordance with Law no. 350/2005 regarding rules for non-reimbursable funding from public funds allocated for non-profit activities of general interest, as further amended and supplemented. Each individual non-reimbursable funding contract may not exceed 20% of the total funds allocated to the associations and foundations mentioned in para. (1) let. f) in one year, for a period of no more than 24 months.*

This mechanism includes provisions for funding non-reimbursable projects conducted by associations and foundations focused on assisting and protecting victims and providing social assistance.

According to Article 37<sup>2</sup> of Law No. 318/2015, ANABI is responsible for distributing 15% of the funds obtained through the National Mechanism for Crime Prevention Support to finance social projects aimed at crime victims.

In October 2023, ANABI launched a public consultation regarding the annual grant program and the applicant's guide for 2023/2024. The objective of these grants is to support non-profit activities with a focus on legal education, crime prevention, and assistance and protection for crime victims. Direct beneficiaries of the annual ANABI program include associations and foundations with activities in victim assistance and social protection, while indirect beneficiaries include crime victims, individuals at risk or vulnerable to crime, children aged 10-17 in crime-exposed areas, and adults over 18 residing in Romania.

Through these initiatives, Romanian authorities not only comply with European directives but also actively promote the transformation of confiscated resources into support for the community. This approach is also reflected in the National Strategy for the Recovery of Criminal Assets for 2021-2025, which emphasizes that crime should not be profitable and that the proceeds from criminal activities should be redirected for social benefit.

## 18. Do you have any proposals for the harmonization of EU MS legislation on the victims' rights to compensation and restitution and third parties' rights?

Yes, we have several proposals for the harmonization of EU Member States' legislation on the rights of victims to compensation and restitution, as well as the rights of third parties.

Firstly, it is essential to **develop a standardized legal framework across all EU Member States**. This framework should ensure that victims receive similar treatment and have access to comparable levels of support and compensation.

Additionally, **establishing uniform procedures for handling cross-border compensation and restitution cases** would greatly benefit victims. This includes streamlined processes for recognizing and enforcing compensation orders across Member States, making it easier for victims to claim compensation regardless of where the crime occurred or where the assets are located.

It would also be beneficial **to create a centralized EU body or coordination mechanism** to oversee and facilitate the compensation and restitution process for cross-border cases. This body would ensure consistent application of laws and provide guidance to national authorities.

It would be desirable for all Member States to provide **strong victim support services**. These should include legal aid, psychological counselling, and financial assistance, accessible to all victims, regardless of nationality or crime location.

**Harmonizing the protection of third parties' rights across the EU** is also important. Clear criteria and procedures for determining the good faith of third parties who acquire assets from criminal activities should be established, protecting those who unknowingly purchase or receive such assets.

Implementing EU-wide **training programs for judicial and law enforcement personnel** on the rights of victims and third parties would enhance the effectiveness of the harmonized legislation. Additionally, conducting awareness campaigns to inform the public about their rights and available support mechanisms would be beneficial.

**Developing a digital platform** for filing and tracking compensation claims online is another proposal. This platform should provide information in multiple languages and be accessible to victims across all Member States.

Establishing a **system for periodic review and updating of the harmonized legislation** would help adapt to new challenges and ensure that the rights of victims and third parties are adequately protected.

By implementing these proposals, the EU can ensure a more consistent and fair approach to compensating victims of crime and protecting the rights of third parties across all Member States. This harmonization would enhance the support provided to victims and strengthen the overall justice system within the EU.

## 19. Could you provide us with potential guidelines regarding the victims' rights to compensation and restitution and third parties' rights?

In response to your question, we believe that the following information could serve as a foundation for potential guidelines regarding the rights of victims to compensation and restitution, as well as the rights of third parties:

Firstly, it is essential to establish a **comprehensive and standardized legal framework across all EU Member States** to ensure uniform treatment and procedures for victims' compensation and restitution. This framework should define clear and consistent eligibility criteria for victims to claim compensation, ensuring universal access to support regardless of nationality or crime location.

Additionally, providing timely information to victims about their rights and ensuring they have access to comprehensive support services, including legal aid, psychological counselling, and financial assistance, is very important. It would also be beneficial to develop harmonized procedures for cross-border compensation and restitution cases, including the recognition and enforcement of compensation orders across Member States.

**The creation of a centralized EU body to oversee and facilitate cross-border compensation and restitution processes is another major recommendation.** This body would ensure consistent application of laws and provide guidance to national authorities. Harmonizing the protection of third parties' rights by establishing clear criteria and procedures to determine the good faith acquisition of assets is also important, as it protects innocent third parties who unknowingly acquire assets from criminal activities.

**Encouraging all Member States to provide victim support services**, including legal aid, psychological counselling, and financial assistance, accessible to all victims, is desirable. Implementing EU-wide training programs for judicial and law enforcement personnel on the rights of victims and third parties would further enhance the effectiveness of these harmonized guidelines.

**Conducting public awareness campaigns** to inform the public about their rights and available support mechanisms, and developing a digital platform for filing and tracking compensation claims, providing information in multiple languages and accessible across all Member States, would also be beneficial.

Moreover, **establishing a system for the periodic review and updating of the harmonized legislation** to adapt to new challenges and ensure adequate protection of rights is necessary. Finally, implementing **mechanisms for monitoring and evaluating the effectiveness of the harmonized legislation**, including data collection and impact assessment, with necessary adjustments made based on findings, would ensure the guidelines remain relevant and effective.

By considering these recommendations, we appreciate that the EU can ensure a consistent and equitable approach to compensating victims of crime and protecting third parties' rights, thereby enhancing the overall justice system within the EU.



**20. Do you have any further reform proposals, at a national or international level, concerning the victims' rights to compensation and restitution and third parties' rights?**

We believe that at the national level, **improving the efficiency and accessibility** of the compensation process for victims is essential. This could involve streamlining administrative procedures to reduce the time required for victims to receive compensation. Additionally, enhancing the training of judicial and law enforcement personnel on victims' rights and the importance of timely support can improve the overall experience for victims.

Another national reform could include the **establishment of dedicated victim support units** within police departments and prosecution offices. These units would focus on providing comprehensive assistance to victims, including legal aid, psychological support, and guidance through the compensation process.

At the international level, as already mentioned, the **creation of a centralized EU database** for tracking and managing cross-border compensation claims would be beneficial. This database would facilitate the sharing of information between Member States, ensuring that compensation orders are efficiently recognized and enforced across borders.

Additionally, we recommend the **implementation of a periodic review system for international agreements and national laws related to victims' rights**. This system would ensure that legislation remains up-to-date with current challenges and best practices, allowing for timely adjustments and improvements.

To protect third parties' rights, it is important to establish **clear international guidelines** for determining the good faith acquisition of assets. These guidelines would help harmonize the approach taken by different countries, providing consistent protection for innocent third parties.

Finally, **enhancing international cooperation and information exchange** between law enforcement agencies, judicial authorities, and victim support organizations can enhance the effectiveness of efforts to support victims and protect third parties. Regular international conferences and workshops can facilitate this cooperation, allowing stakeholders to share experiences and best practices.

By implementing these reforms, we can significantly improve the support provided to victims of crime and the protection of third parties, both nationally and internationally.

**21. Do you have any further policy recommendations, at a national or international level, concerning the victims' rights to compensation and restitution and third parties' rights?**

Yes, we believe it would be beneficial to establish specialized victim support units, increasing funding for victim assistance programs, and enhancing cross-border collaboration through joint task forces. Additionally, implementing a centralized EU compensation fund and regular international reviews of victim support policies would be beneficial.



**22. Does the approach outlined in the new Directive (EU) 2024/1260 on “asset recovery and confiscation” effectively address the rights of victims, particularly regarding compensation and restitution? If not, what gaps or challenges do you foresee, and how could they be addressed?**

The new Directive (EU) 2024/1260 on "asset recovery and confiscation" makes important progress in addressing victims' rights to compensation and restitution. However, there are still some gaps and challenges.

Firstly, while the Directive strengthens the asset recovery framework, delays in distributing recovered assets to victims can still occur, leaving them waiting for extended periods. This can be addressed by establishing clear timelines and streamlined procedures for asset distribution.

Secondly, coordination between Member States in cross-border cases remains a challenge due to varying national laws and procedures. Enhancing cross-border cooperation mechanisms through a centralized EU body dedicated to overseeing the Directive's implementation could improve coordination.

Lastly, regular training and capacity-building initiatives for national authorities involved in asset recovery and victim compensation could ensure the Directive's provisions are applied more effectively.