

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 ?

In France, 2 entities serve as ARO : a police ARO (PIAC) and a justice ARO (AGRASC) that is also an AMO.

PIAC belongs to the national direction of the judicial police of the Ministry of Interior. It is mainly composed of investigators. Its missions are:

- carrying out national and international inquiries to trace, identify and seize criminal assets.
- to act as the national contact point for international police cooperation regarding asset tracing.
- assistance to law enforcement agencies
- training of investigators regarding tracing and seizing of assets
- collecting and checking statistics on seized assets by police and gendarmerie

AGRASC is an interministerial agency under the administrative supervision of the Ministry of Justice and the Ministry of Public Accounts.

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.

Within the framework of police cooperation, PIAC handles all the international requests for asset tracing from foreign AROs. 236 requests from foreign AROs were carried out in 2023.

PIAC also centralises the requests for asset tracing from all the French law enforcement agencies and sends them to the AROs. The received data is processed. In 2023, PIAC managed 577 requests of that kind.

One of the AGRASC’s missions is international cooperation, the agency provides assistance to the magistrates who want to seize assets in foreign countries, helping them to draw up seizure orders and freeze certificates.

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

As aforementioned, PIAC is the central point of contact for asset tracing. It can provide information to help for seizing.

AGRASC plays an important role in international cooperation, providing assistance to magistrates and negotiating sharing agreements with foreign states in the case of confiscations ordered by a French court for assets located abroad, and in the case of confiscations ordered by a foreign court for assets located in France.

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

-PIAC uses a lot of databases to trace assets. The challenge is to check the possible links between the suspects and strawman or shell companies.

-The French ARO hasn't got any temporary freezing power.

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)?

PIAC uses the police, tax and customs databases and open sources to identify movables, properties, bank accounts, life insurances, safes, financial products, vehicles, ships, aircraft, legal entities.

Providing the specific legal framework of the French AROs, PIAC can request any information to trace assets to any legal or natural person, without the right to professional secrecy being unenforceable against it.

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

PIAC exchanges through SIENA channel with other AROs from EU member states. According to our legal framework, all the information sent to the foreign AROs can be used in proceedings (H0 code).

AGRASC works very well with AROs from other EU member states.

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? //

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

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

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

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? //

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

All the AROs should answer through SIENA with H0 code, in order to save time to seize assets.

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

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

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

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.

The changes proposed by the new directive are designed to make seizures more effective. AROs will have access to more information at national level, and will be able to exchange this information more easily with their European counterparts. They will also be able to carry out urgent seizures to preserve property while awaiting a freezing order.

The directive provides for a national strategy and the setting up of a central register, interesting measures but which will take longer to implement for logistical reasons.

It will be difficult to answer all the requests for asset tracing within 7 days and even more within 8 hours. In order to answer in due time, more people will be needed and it will be difficult to obtain bank information during the weekend such as bank statements and balance.

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?

AGRASC and PIAC don't 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.

AGRASC is responsible for managing frozen and confiscate asset in France.

Its missions are :

- ❖ **Provide assistance and training to courts (judges and court registries) and to investigation departments: Article 706-161, paragraph 1 of the CPP**
- ❖ **Management of seized assets throughout the national territory:**
 - Centralised management of amounts seized (cash amounts and bank accounts)
 - Publication of crime-linked real property seizures and confiscations
 - Sale of movable (personal) property before judgement, allocation to investigative and judicial services
- ❖ **Enforcement of confiscations and restitution orders:**
 - Payment of confiscated amounts to the general State budget or to the support fund (drug support fund, anti-prostitution fund).
 - Sale of real property and allocation to social purposes
- ❖ **Compensation of civil parties for confiscated assets: Article 706-164 of the French Code of Criminal Procedure (CPP)**
- ❖ **International co-operation in seizure and confiscation matters**
- ❖ **AGRASC representation abroad, in the various debt collection agency networks (CARIN, ARO), on specific bodies (FATF)**

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?

AGRASC statistics on the types and values of assets currently managed are available in its activity report, including international cooperation.

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

In France, there are two mechanisms to prevent the depreciation of seized assets :

- Sales prior to judgement : they reduce the cost of guarding seized assets. The proceeds of sales remain in Agrasc's account pending the court's final decision.
- Allocation of movable assets movable assets is also a way of reducing legal costs by enabling investigative and judicial services to benefit from seized assets.

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

In Europe, the ARO network fosters international cooperation, essentially concerning the tracing and identification of goods in a foreign country.

In April 2024, at the initiative of Luxembourg, the Netherlands and EUROPOL, a meeting between criminal asset management agencies was organized in Luxembourg. The agenda included 2 main pillars :

➤ Specialized presentations by experts and open questions from the floor, on :

- 1) General management of assets : AGRASC
- 2) Crypto assets tracking and tracing : Germany
- 3) Seizure and confiscation of crypto assets : the Netherlands
- 4) Managing seized securities : Luxembourg

➤ Bilateral meetings between participants allowing discussions on ongoing cases. There were several workshop, during which the two countries concerned discussed operational issues. It was very interesting because it enabled each country to have update information.

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?

The AGRASC is under the supervision of Ministry of Justice and Ministry of public account, and must report on its activities to the supervisory authorities, and the Board of Directors, which approves all major decisions.

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.

The main challenge for Agrasc is to be informed of seizure and confiscation decisions, in order to execute them.

Agrasc gives numerous training courses in the courts, during which it makes judges and court clerks aware of the importance of transmitting decisions.

The law of June 24, 2024 requires all seizure and confiscation decisions to be communicated to Agrasc.

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?

AGRASC's real estate department issues a call for bids or organizes an auction of confiscated assets.

French law on social reuse of confiscated assets is really restrictive, and it is hard to find buildings that meet with legal requisites (see décret du 2/11/2022 :

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044282534>

Consequently, when a building is suitable, we first try to organize a social reuse proceeding.

Regarding the movable assets, the movable asset department mandates a private service provider (commissaire de justice) or a public service provider (service des Domaines) to sell seized or confiscated goods. Sale is preferred to assignment for high-value assets and for cases where there are victims to be compensated.

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?

Concerning the real assets :

Call for bids: organized by a notary or following online call for bids : for instance www.agorastore.fr

Public auctions: organized by a notary

Selling price is discussed between AGRASC, notaries and real estate agent.

Concerning the movable assets :

Sales mandates to service providers

Public auctions

A reserve price is set before the auction. The final sale price is determined by the auction and the highest bidder.

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

It depends on the type of assets : the average time between the confiscation and the sale for a real estate asset is longer than for a real estate asset. The average time to sell a real estate asset is about one year.

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.

In the case of goods confiscated in France, the proceeds of sale are paid into the general State budget or into special funds (to combat drug trafficking and pimping).

In the case of goods confiscated within the European Union, in accordance with the REG, the proceeds are shared between the requesting and requested countries, for sums in excess of €10,000.

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?

No.

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

Since the law of June 24, 2024, it has been possible to allocate confiscated movable property to public interest associations. It is also possible to allocate confiscated real estate to public benefit associations, socially responsible real estate companies and local authorities.

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

In France the main challenge is to find a building, a house, a flat, that meet with the requisite of Decret 2.11.2022 (the main challenge is to find assets that are not mortgaged)

The main challenge when it comes to assigning tangible assets is to match the supply and demand of the various beneficiaries. Agrasc is currently developing a project to create a platform for assets to be allocated.

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

The allocations concern essentially vehicles, technological goods, bicycles, scooters and small furniture.

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

Agrasc, magistrates, ministry of interior, ministry of public account, ministry of Justice.

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

Beneficiaries of a confiscated real estate asset has to send each year a report to AGRASC. AGRASC is also authorized to visit the building whenever necessary

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

Confiscated goods are vested in the State, and their allocation entails a definitive transfer of ownership to the assigning department.

18. Have there been any successful or unsuccessful cases of social reuse of confiscated assets that could provide lessons for improving future practices?
5 successful projects
5 projects under construction
In some cases AGRASC did not received any application

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?
French legislation on victims makes no gender distinction, but grants extensive rights. The French Code of Criminal Procedure provides that : *Any person who, having instituted a civil action, has been awarded damages as compensation for the loss incurred as a result of a criminal offence may request from the AGRASC that these amounts be paid by deducting them from the funds or from the liquidated value of the assets of its debtor.*

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

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

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? //

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

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? //

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?

The French Code of Criminal Procedure provides that : *Any person who, having instituted a civil action, has been awarded damages as compensation for the loss incurred as a result of a criminal offence may request from the AGRASC that these amounts be paid by deducting them from the funds or from the liquidated value of the assets of its debtor.*

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

No, except the Reg. (EU) 2018/1805

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

Any person who, having brought a civil action, has benefited from a final decision awarding damages to compensate for the harm suffered as a result of a criminal offence, as well as costs pursuant to articles 375 or 475-1, and who has not obtained compensation or reparation pursuant to articles 706-3 or 706-14, or recovery assistance pursuant to article 706-15-1, can request Agrasc.

This request for payment must, under penalty of foreclosure, be sent by registered letter to the agency within six months of the date on which the decision became final.

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

The request for payment must, under penalty of foreclosure, be sent by registered letter to the agency within six months of the date on which the decision became final.

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

The main difficulty is the time required to obtain recognition of the confiscation order abroad, which lengthens the time required to compensate the victims.

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

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

There are discussions and negotiations between foreign homologues to reach an agreement.

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

In the EU, restitution to victims in the course of proceedings works rather well. The same applies to the compensation of civil parties with all confiscated funds.

On the other hand, we encounter difficulties if the French court has forgotten to rule on an asset. In such cases, it can be difficult to request the repatriation of the property to compensate the civil party, even though in France there is a mechanism (art. 41-4 of the CPP) which allows property to devolve to the State if no request for restitution is made within 6 months of the last court ruling.

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? //

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

We have no statistics on this subject.

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

Not to our knowledge

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

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

Third parties must be summoned to the hearing to present their observations on the confiscation measures envisaged. they may request the return of property.

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

They are notified of seizure and confiscation decisions.

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

They have a right of appeal

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?

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