

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?

The Netherlands has a police ARO and a judicial ARO.

- The police ARO is part of the Regional Police of The Hague, but has a national task for all regional police units and all other law enforcement authorities. Within the organisation of the Regional Police the police ARO is situated at the International Legal Assistance Center of the Unit The Hague.

The main task of the police ARO is the exchange of (police) information on the basis of Framework Decision 2006/960/JHA. The police ARO is the national channel for both incoming ARO requests and sending outgoing ARO requests. In the case of the incoming request the police ARO will investigate the assets of the persons concerned and forward this information to the requesting ARO.

- The judicial ARO is situated within the National Office for Serious Fraud, Environmental Crime and Asset Confiscation (Functioneel Parket) of the Netherlands public prosecution service.

The National Office for Serious Fraud, Environmental Crime and Asset Confiscation (Functioneel Parket) is responsible for tackling fraud and environmental offences, and handles complex criminal cases. It also serves as the Public Prosecution Service’s centre of expertise on confiscating proceeds of crime. For this it has specialized multidisciplinary teams on asset recovery and confiscation. These teams consist of:

- public prosecutors;
- assistants to the public prosecutors;
- forensic accountants;
- international legal advisors;
- civil law advisors;
- asset tracers.

The National Office for Serious Fraud, Environmental Crime and Asset Confiscation has offices at Zwolle, Amsterdam, Den Bosch and Rotterdam. Next to that the national office has an office in Leeuwarden which is nationally responsible for the management of frozen assets.

The judicial ARO consists of 5 international legal advisors (specialized in international cooperation on asset tracing, asset recovery and the freezing and confiscation of assets), 1 asset tracer and 1 public prosecutor (specialized in confiscation procedures), who are also part of the national multidisciplinary teams on asset recovery and confiscation.

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.

- The police ARO has no involvement in the application of Regulation 2018/1805.

- One of the main tasks of the judicial ARO is to advice on the possibilities of cross-border tracing, freezing and confiscation of assets. As part of that task the judicial ARO was involved as an expert advisor on freezing orders for the Ministry of Justice during the EU negotiation phase of the Regulation. Later on the judicial ARO was involved as an expert advisor on freezing orders for the Ministry during the implementation of the Regulation to the national law and practise in the Netherlands. Once the implementation law for the Regulation came into force the judicial ARO drafted the national instructions and forms for applying the Regulation in practice.

In daily practice the judicial ARO – amongst others – advices national colleagues from law enforcement and the public prosecution service on the use of the freezing order under the Regulation in practice. This can concern advice on which type of freezing is possible in the specific case, or how to draft the certificate, but can also concern assisting with contacting colleagues in the other Member States to try to enhance/streamline the cross border cooperation and the process of the enforcement of the freezing orders.

The judicial ARO also advises the colleagues of the International Legal Centres on the recognition of incoming freezing orders from other Member States and how to execute these freezing orders in the Netherlands.

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

Judicial ARO:

- Exchange of best practices both national and international.
- Training and education of national colleagues.
- Advising both national colleagues of law enforcement and public prosecution service as colleagues from other Member States on the application of the freezing order in practise.
- International coordination between national colleagues en colleagues in other Member States f.i. in case of complex or urgent freezing orders.
- Assisting colleagues from the International Legal Centers with the execution of incoming freezing orders – this can consist of assisting in tracing of assets, assisting with financial investigation, advising on how to freeze specific assets, etc.

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

The Dutch system has two confiscation procedures. On the one hand, there is a procedure regarding the provability and criminality of the conduct accused and the criminality of the suspect. This procedure may involve object confiscation. If the suspect has obtained unlawful benefits through these criminal offenses or other criminal offenses, that advantage can be taken away from the suspect through a value confiscation procedure.

In order to execute freezing orders quickly and efficiently, it is important that the executing authority has a good understanding of the case and the purpose of the freezing/seizure. There is an important role for the issuing authority, although it should not be forgotten that the executing authority is often not familiar with the legal system of the issuing country.

Outgoing freezing orders

It is important that it is decided before or during the investigation which confiscation strategy will be chosen. The international advisors (or other specialists from the The National Public Prosecutor's office for serious fraud, enviromental crime and asset confiscation) can advise on this. It is important that this happens in a timely manner, for both national affairs and (the instruments to be used in) international cooperation. It often happens that the choice is only made at a late stage, leaving (too) little time for preparation, sending and, if necessary, coordination of a freezing/seizure with foreign authorities.

If freezing/seizure abroad is chosen by means of a European freezing order, the certificate will be drawn up by employees from the Public Prosecution Service or employees of the investigative services. The impression is that completing the certificate correctly is often a complicated task. Without explanation and/or advice, the certificate is difficult to complete correctly. In connection with this, the international advisors of the ARO have drawn up instructions for completion. These instructions indicate for each part of the certificate what must be stated. Standard texts have also been included in the completion instructions for this purpose. This means that the user does not have to draw up any text him- or herself and it is clear to the requested party how the system works in the Netherlands.

Freezing orders are also provided with advice from the employees of the international legal assistance centers (IRCs) and/or the international advisors of the Justice ARO before they are signed by the public prosecutor.

In the executing country, it is important that third parties clearly understand the consequences of the seizure following a freezing order. It can take a long time before a confiscation decision is made and the seized property is ultimately confiscated.

In cases of urgency, it is desirable that the freezing order can be addressed directly to the executing authority. Sometimes freezing orders are forwarded to other authorities after receipt within the executing country and the authority to which the freezing order was sent is not the authority that executes the freezing order. This can cause valuable time to be lost. Therefore it may be desirable to create a 24/7 freezing channel and/or a central authority, for example in connection with the freezing/seizure of cryptocurrencies.

In order to have emergency cases dealt with urgently, contact is preferably made with the ARO (or the executing authority) prior to dispatch.

In order to increase understanding of the European freezing order instrument, various websites are maintained with information about the European freezing order, articles are written for a national confiscation magazine, and courses are provided for both employees of the Public Prosecution Service and employees of the investigative services. In addition, advice and support is provided in concrete investigations.

[Incoming freezing orders](#)

As mentioned above, the Netherlands has two different procedures: a procedure with object confiscation and a value confiscation procedure. In the certificates of origin from countries that request the Dutch authorities to freeze/seize, it is not always clear which form of seizure should be made in accordance with the Dutch system. Does the issuing authority request freezing/seizure for the purpose of object confiscation or freezing/seizure for the purpose of value confiscation. This challenge is resolved by contacting and discussing directly with the issuing authority.

There is often a lack of sufficient information about the suspicion, the suspect's role in the criminal offense and the requested freezing/seizure. In order to properly execute the freezing order, a request for additional information must first be made, resulting in a loss of time.

In addition, there may be a language barrier, which means that the issuing and executing authorities do not understand each other well. Sometimes the translations are incorrect, which may partly be due to the complexity of the Dutch situation. Clarity can be provided and obtained by contacting the issuing authority.

Answer form

Various certificates have been established in the context of the Regulation. Besides these certificates, no other forms have been established. Pursuant to art. 7(2) of the Regulation, the executing authority shall inform the issuing authority of the freezing order, including a description of the frozen objects and, if available, an estimate of their value. This is important, for example, for the investigation of criminal offenses, the management of the frozen/seized objects/assets and the execution of a confiscation decision. It is desirable for the issuing authority that, in addition to the existing certificates, various forms are also established. This includes an acknowledgment of receipt, a message that the freezing order has been forwarded to another authority (including the details of that authority), a message regarding the recognition of the freezing order and a form on which (including indicating when which object has been frozen/seized and what the estimated value of that object is.

The ARO platform (in Brussels) proposed having these forms developed. In anticipation of such a form, the Justice ARO in the Netherlands has already developed a form that is used for both outgoing and incoming freezing orders. The form can be used by executing authorities to inform issuing authorities of the objects/assets frozen/seized and their estimated value. This form has also been translated into all languages used within the EU. In addition, the response form has been distributed among the AROs.

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)?

N/A Requests will, in principle, be handled by the competent authority, but in the event the asset tracer from the judicial ARO assists, he can use various tools. To additionally query other sources, the public prosecutor can make formal requests. This will take place in the case of (more complex) financial investigations. In case of urgency, the judicial ARO can take over tasks (partially).

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

The Judicial ARO shares best practices through the ARO Network. Furthermore, the use of the Judicial ARO may result in both incoming and outgoing requests (such as requests for information and in emergency cases such as freezing orders) being answered or handled by asset recovery specialists. No data are available.

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?

N/A

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

N/A

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

A manual for seizure under a European freezing order and instructions for completing the accompanying certificate have been prepared by the Judicial ARO. These documents are available via websites for employees of the Public Prosecutor's Office and for employees of investigative services.

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

An example of a successful case involves an investigation into, among other things, the importation and trafficking of narcotics and money laundering. The investigation revealed that assets could be located in multiple countries within the EU and beyond. Through ARO (and FIU) requests, the assets were identified and a significant amount of assets in several countries were seized. Information from the FIU also proved to be of great importance. During an international action day, objects were frozen with a value of millions of euros.

Challenges were that not all assets found were seized by the requested authorities. This was partly due to the fact that selling the assets in question without a court order proved difficult/not possible. And as in many other cases, it proved difficult to be properly informed about the assets seized and the value of the assets seized. It also turns out that it often takes a long time to receive a response from abroad.

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?

N/A

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

Directive (EU) 2024/1260 clearly states what the activities of an ARO should be. This represents a valuable expansion of tasks and possibilities compared to the current situation. It is now very important that the directive is converted into new legislation in a timely manner in all EU member states and that the AROs can actually make use of the options mentioned in the directive. Consider, for example, the query of bank data. It has important added value if the EU member states also have an ARO with a judicial component. This allows rapid contact to be made with other central authorities for information exchange, coordination and the execution of freezing orders.

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

The structure and activities of an ARO are closely related to the organization of the police and justice system in a specific country. We don't have a guideline.

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

We have no concrete proposal. However, we can report that in the Netherlands, a structure for the police and judicial ARO and the associated structure are being considered.

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

No.

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 and no.

Art. 5-6 of the Directive expand the mandate of the ARO’s and the sources to which the ARO’s need to have access. This will enhance the effectiveness of ARO’s in tracing and identifying of assets. Especially the access to information on the balance of bank accounts and bank transactions will enhance the tracing of criminal money flows and will prevent the use of freezing orders for bank accounts with little to no money on it. Also the access to information on crypto assets will make asset tracing more effective.

Art. 9 encourages Member States to enable ARO’s to provide the information on assets and transactions as evidence, which will lead to enormous saving of time in financial investigations. Since this evidence now needs to be gathered via EIO’s which take a lot more time than an ARO request.

Art. 10 gives extreme short time limits within which the ARO’s need to be able to access all these extra sources of information on assets, also being dependent on requests to other institutions and the time they need to respond to those requests. This will form a real challenge to all ARO’s I expect.

Especially since the Directive gives no concrete rules on the composition of the ARO’s. There is just a general article stating that ARO’s need to be provided with enough recourses to be able to perform their tasks under the Directive. It will be difficult under the Directive for the Commission to effectively follow up if the Member States do what is needed to comply with this obligations.

For the Dutch situation we expect that we will need more staff at the Police ARO and Judicial ARO since the amount and type of work they will have to do after implementation of the Directive will increase.

Also, art. 11 gives the ARO's the power to secure assets via an immediate action, but also limits this power to 7 working days. In practise it will be a real challenge to have a formal freezing order transferred and executed within these 7 working days, especially since some Member States still do not accept freezing orders in English.

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, we do not collect this data.

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.

The ‘Landelijke Beslag Autoriteit (Asset Management Office, AMO) is situated within the department in Leeuwarden of the National Office for Serious Fraud, Environmental Crime and Asset Confiscation.

The National Office for Serious Fraud, Environmental Crime and Asset Confiscation (Functioneel Parket) is responsible for tackling fraud and environmental offences, and handles complex criminal cases. It also serves as the Public Prosecution Service’s center of expertise on confiscating proceeds of crime. The National Office for Serious Fraud, Environmental Crime and Asset Confiscation is situated at Zwolle, Amsterdam, Den Bosch and Rotterdam. Next to that the national office has a department in Leeuwarden which is nationally responsible for the management of frozen assets.

The main tasks of the AMO are:

- To manage seized items
- To minimize costs & maximize revenue
- To achieve efficiency & uniformity in entire chain
- To provide management information

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?

Functioneel Parket LBA

6-feb-24 Waarde van het conservatoir-beslag							b	
soort	DVOMF waarde	valuta	Vorderingen	Onroerendgoed	overige goederen	Auto's	Totaal waarde	
	204.777.720	87.240.637	818.258.810	838.586.848	20.041.585	8.374.475	1.977.280.074	
aantallen	14364	9173	5436	5368	25976	3768	64085	

1-jan-24 Waarde van het strafrechtelijk beslag								
soort	DVOMF waarde	valuta	Vorderingen	Onroerendgoed	overige goederen	Auto's	Totaal waarde	
	n.v.t.	148.933.705	19.987.234	17.333.397	4.709.241	8.288.626	199.252.202	
	n.v.t.	13046	212	17	25755	740	39770	

€ 288.926.197 (3911 assets) of which results from the application of the REG.

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

The aim of the AMO is to sell those assets that are eligible for sale as quickly as possible.

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

National/interagency: The AMO works closely together with the Police ARO and Judicial ARO in the Netherlands. Also, for the storage and sale of frozen assets the AMO works together with the Movable Goods Agency. They are part of the Ministry of Finance and facilitate in the selling and returning of movable assets.

International: There is the EU ARO platform, however that is more geared towards the ARO's. The EU used to have an AMO subplatform which was essential for international collaborations between the different member states. We feel very strongly that this should be set up again as we believe a lot of AMO's would benefit from this. Especially now that the new Directive (EU)2024/1260 prescribes that all Member States should set up at least one AMO it is important for all AMO's to build an international network, exchange best practises and be able to discuss cases.

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?

A centralized register plays a vital part. This system can be seen as a 'track and trace' for the seized assets. The police will register the assets in the system, the Public Prosecution Office will make a decision regarding the asset and list that in the register as well. The Movable Goods Agency will execute the decision and will also register that in the system.

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.

Registration of frozen assets. After the freezing order has been sent, it may take a long time before conformation is received from the other Member State that the seizure was successful and what the results are. Also, we not always receive an answer that the freezing order has been executed and if (and which) property is frozen. It might take a long time before decisions regarding the assets frozen under the REG can be taken due to not every country having an AMO .

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?

Sale or disposal based on section 117 Dutch Criminal Procedure Code:

Section 117 DCCP

1. The seized objects may be sold, destroyed, relinquished or used for a purpose other than the investigation only with authorisation.
2. The Dutch Public Prosecution Service (DPPS) may grant the authorisation referred to in subsection (1) in regard of objects
 - a. which are not suitable for storage;
 - b. whose custody costs are not in reasonable proportion to their value;
 - c. which are replaceable and whose equivalent value can be easily determined.

(Also see the paragraph on ‘Swift settlement of confiscation / management’ on p. 48 of our country report).

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?

Sales are done through the Movable Goods Agency. They are part of the Ministry of Finance and facilitate in the selling and returning of movable assets. They will store the movable goods pending the decision and will value the assets. The sale will happen through public auction (website).

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

This depends. Assets will be sold as soon as possible. There is a difference between those assets seized in a national case and those assets seized under the REG (due to coordination between member states, it might take longer to sell).

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 proceeds will be deposited into the account of the AMO, where it stays until there is a final verdict. And in case of goods frozen under the REG, until the final verdict is transmitted to the Netherlands for recognition and enforcement.

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?

No. This is not possible yet in the Netherlands. We are in the phase of research how this could be organised (both in legislation and in practice) in the Netherlands. Therefor this might change in the future.

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

We don't have the experience yet. See question 12. We anticipate that a challenge can be to whom the assets will be allocated for social reuse, and under which conditions.

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

See question 12.

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

It is not organized yet.

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

This is not organized yet. One of the key issues in the research is investigating which risks there are when assigning asset for social reuse and how to organize it.

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

not applicable yet.

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

N.a.

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?

There are no specific measures for female victims in cross-border crimes than the measures that are in place for victims in general.

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

not at this time.

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

N.a.

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?

N.a.

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?

N.a.

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?

It is too early to say. We are still in the implementing stage of the new Directive. At the same time, with regards to asset management most measures of the new Directive are already in place in the Netherlands. With regards to asset management it is a good development that interlocutory sales will have to be possible in all Member States and that all Member States will have to set up at least one AMO. We believe this will have a significant positive effect on the management of frozen assets in cross-border cases and, will lower management costs and increase the revenue of the frozen assets.

We also believe that it is positive that the Directive does not contain obligatory provisions on social reuse. It should be up to Member States to decide if and how to set up a regime for social reuse.