

Best Practices and Reform Proposals on AROs Activities and the Management of assets

Final Conference of the RECOVER Project (GA
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08/11/2024 – Catania

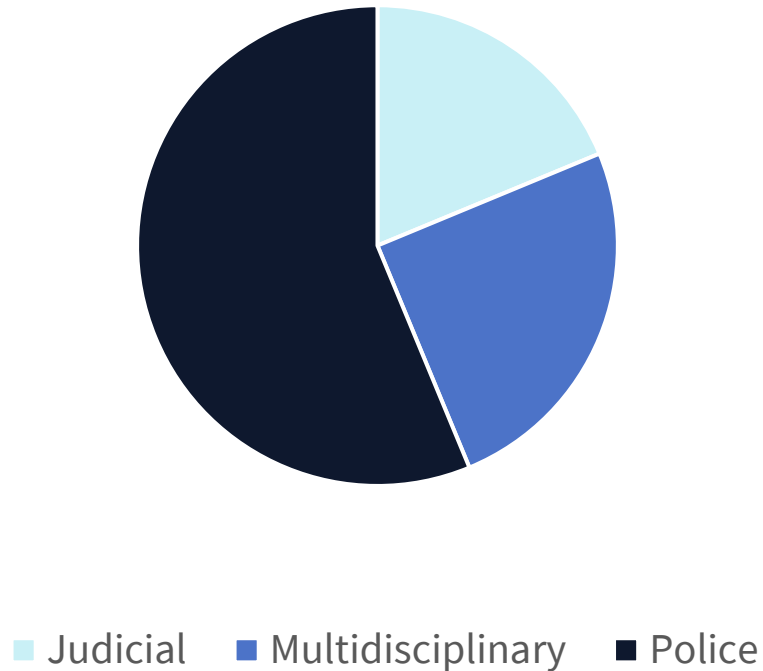
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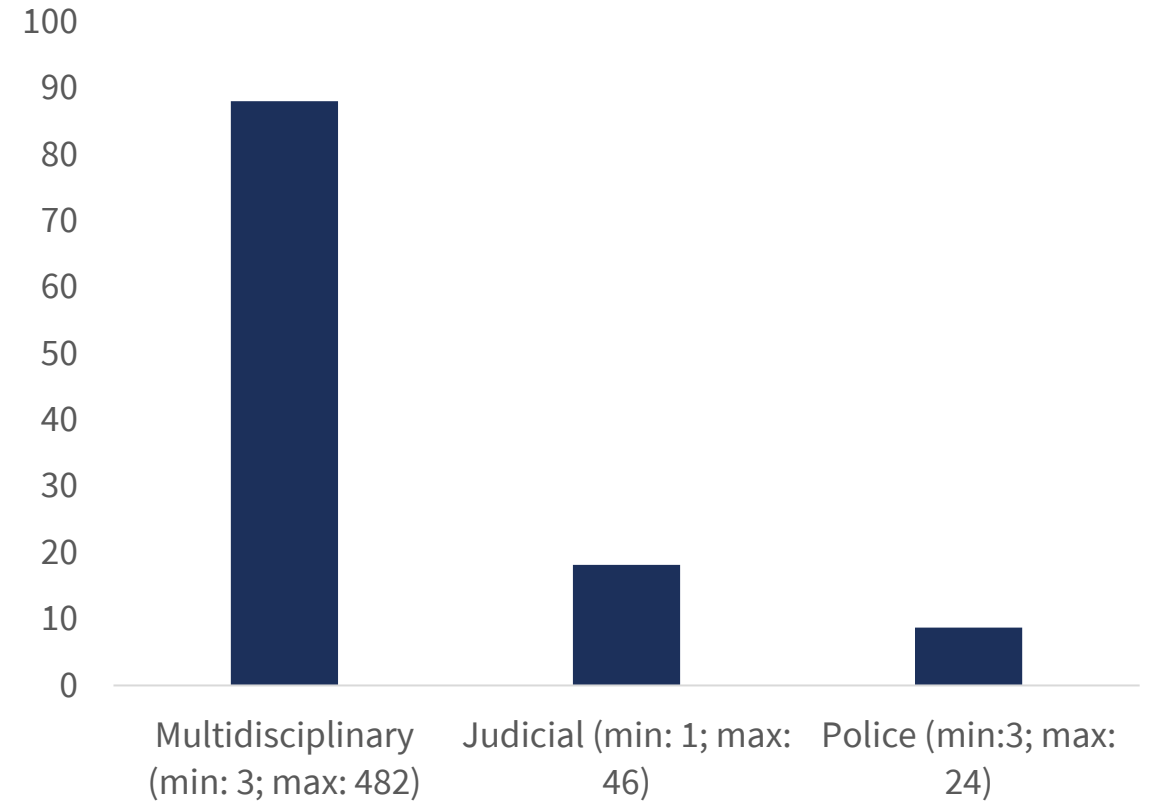
AROs Structure and Activities

Structure and Composition of AROs

Judicial, police, and multidisciplinary AROs in the EU

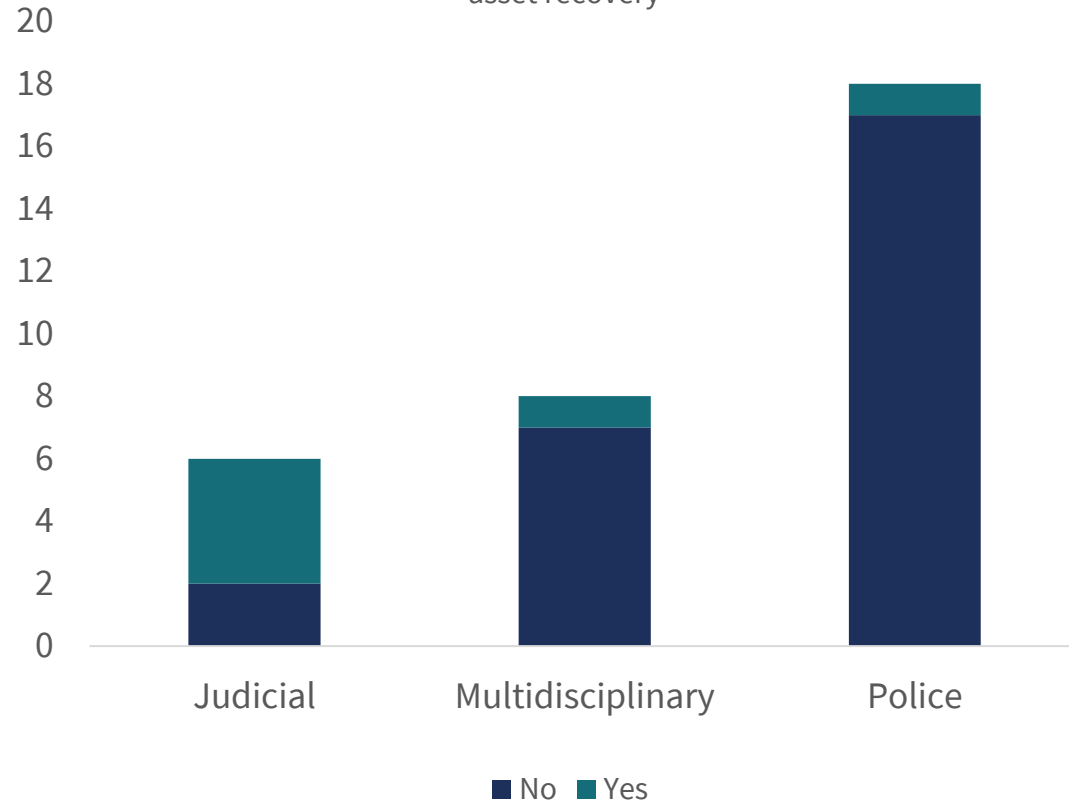


Average staff per ARO category

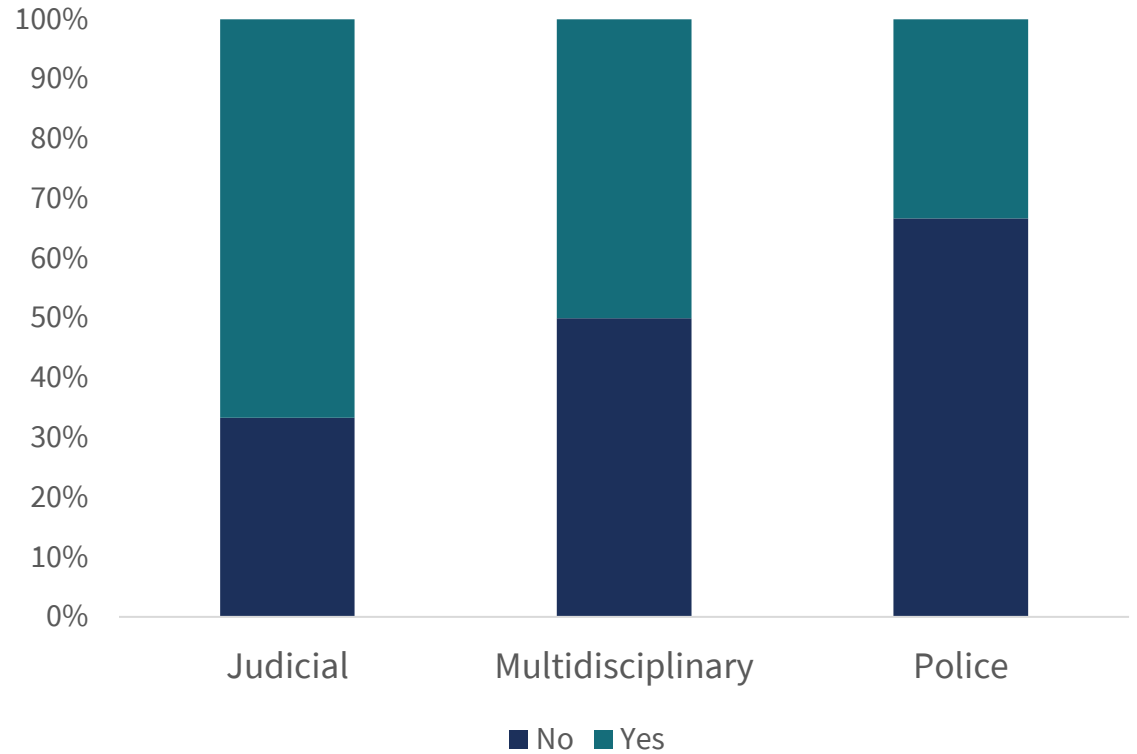


AROs and Asset Recovery

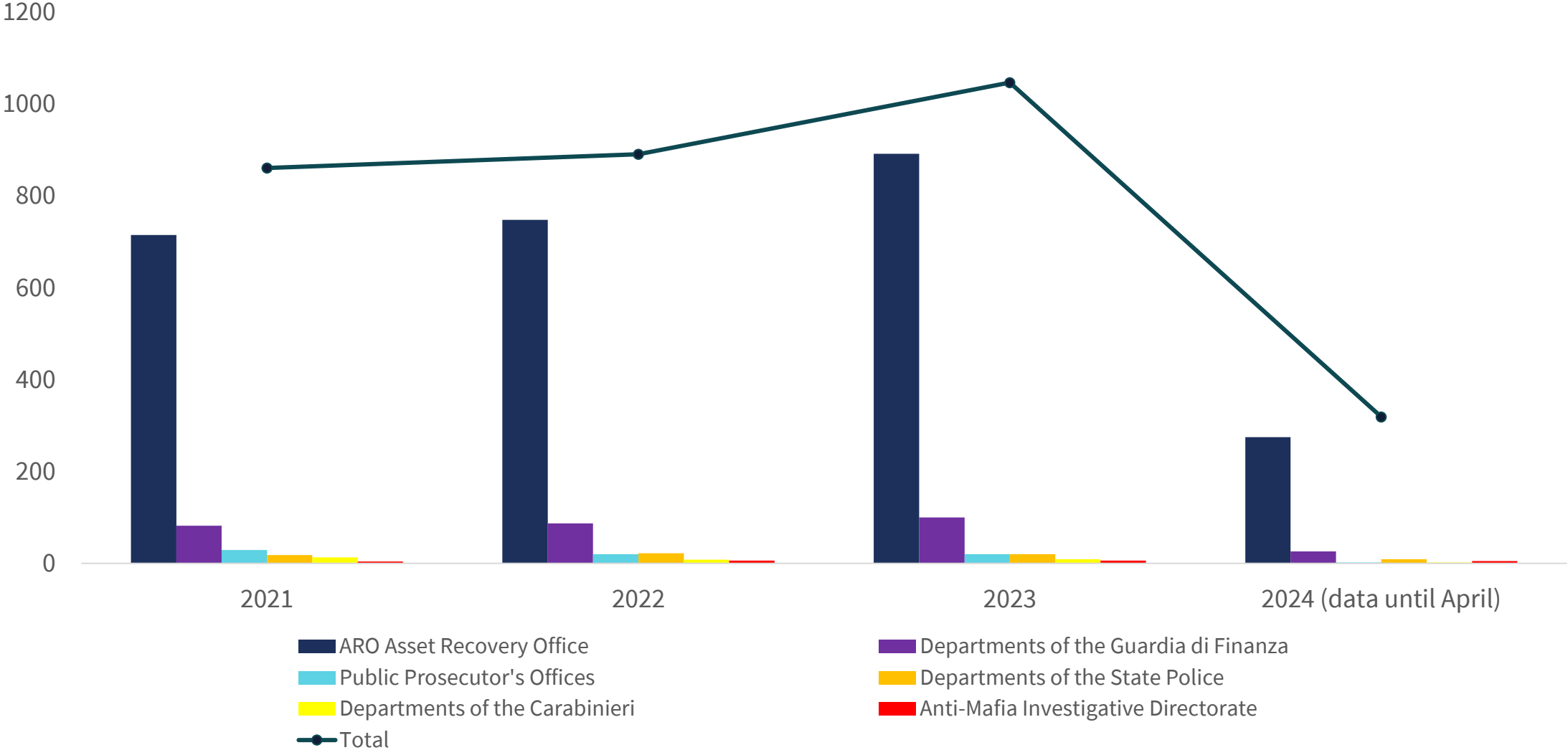
AROs are central point for incoming MLA requests related to asset recovery



The ARO Collects relevant statistics on freezing and confiscation at a national level

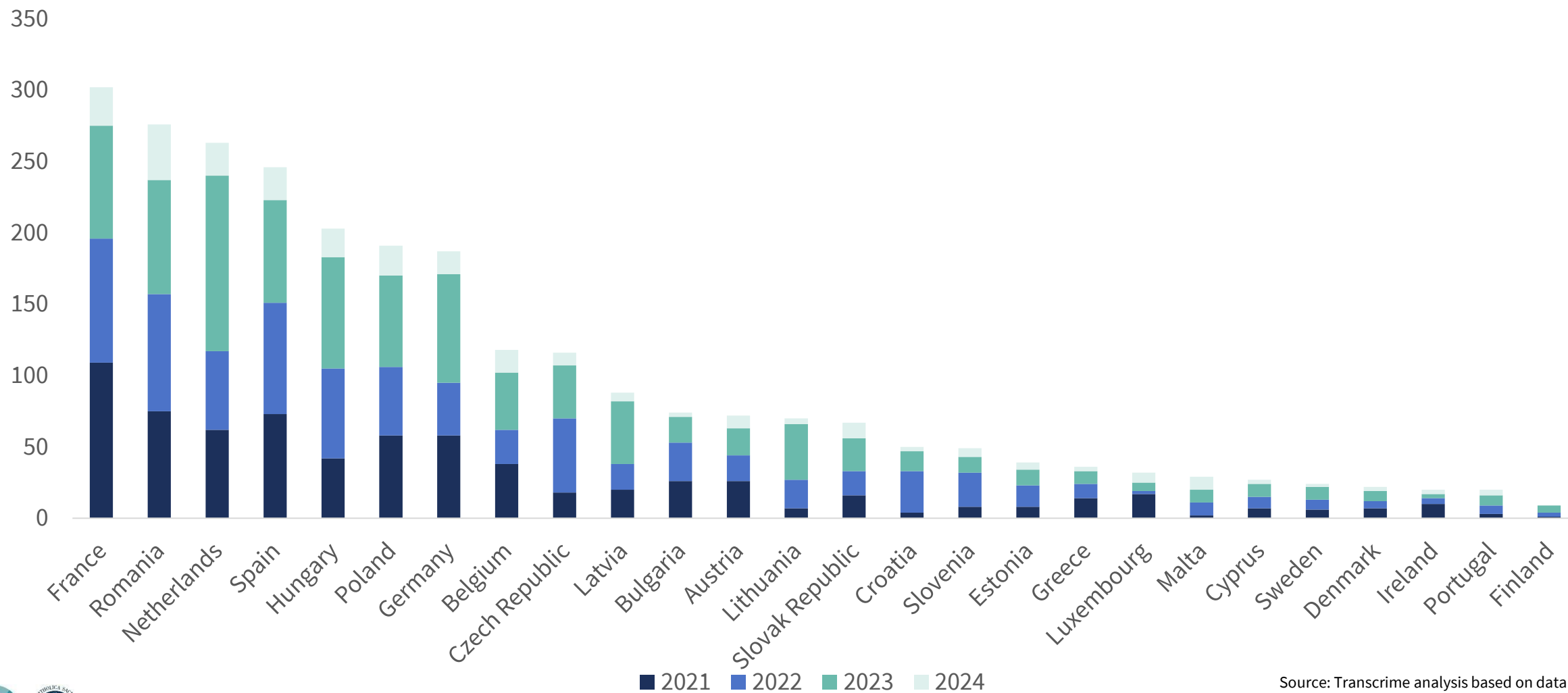


Requests for Assistance to the Italian ARO (2021-2024)



Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

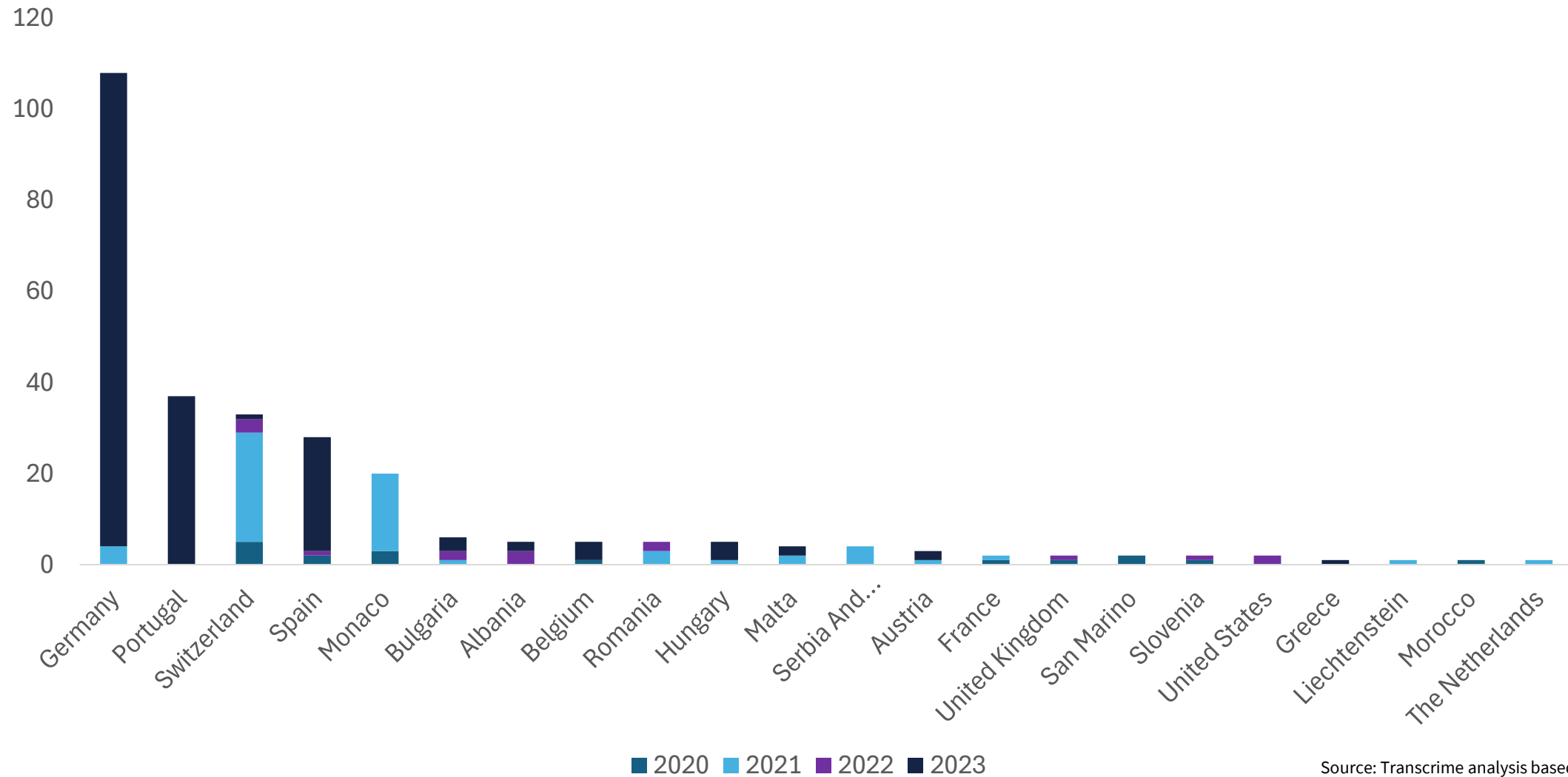
Countries of Origin of Foreign Requests



■ 2021 ■ 2022 ■ 2023 ■ 2024

Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

Asset Frozen Abroad by Italy by Country (2020-2023)



Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

Asset Frozen Abroad by Italy by Typology (2020-2023)



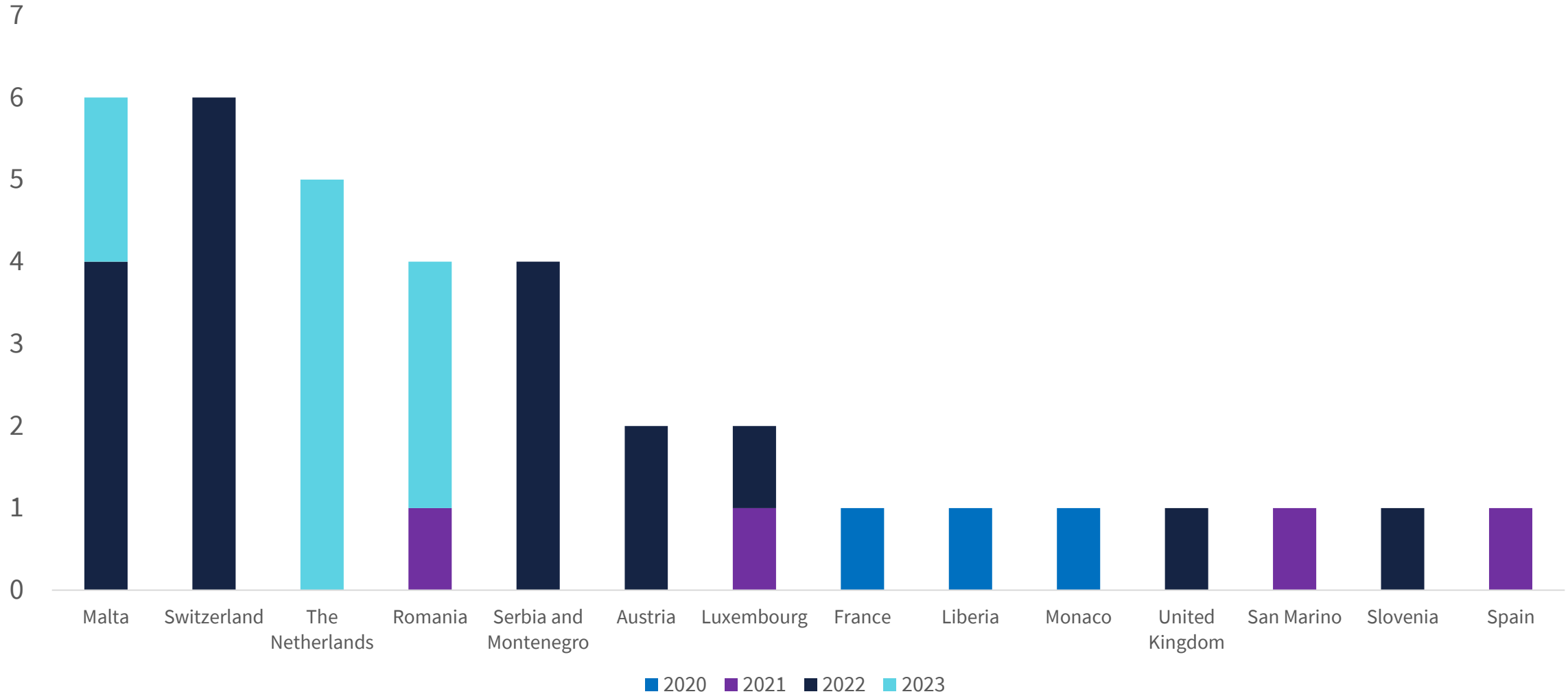
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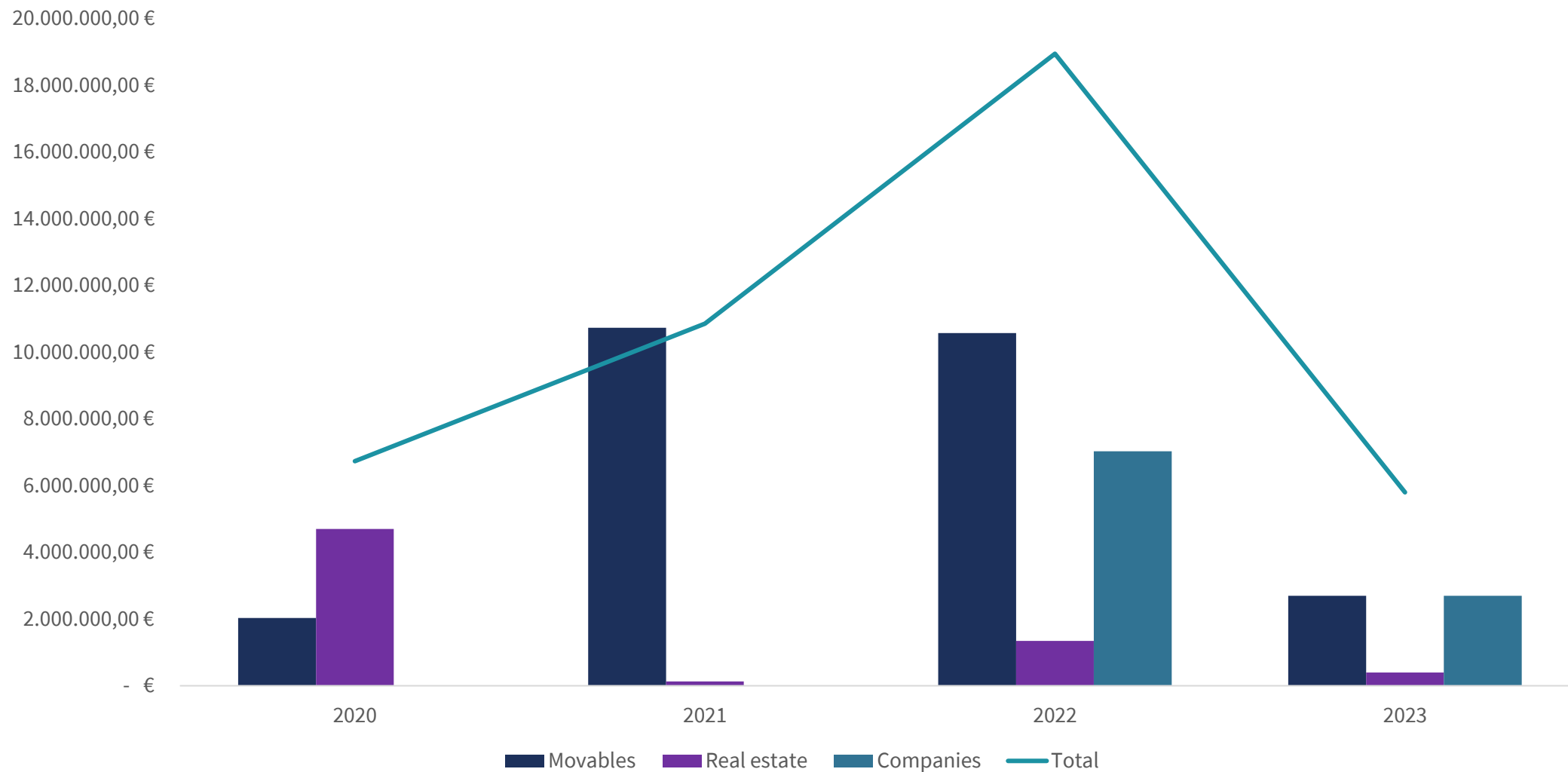
Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

Asset Confiscated Abroad by Italy by Country (2020-2023)



Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

Asset Confiscated Abroad by Italy by Typology (2020-2023)



Source: Transcrime analysis based on data provided by the Criminal Analysis Service of the Department of Public Security of the Italian Ministry of the Interior

Policy recommendations on ARO's activities and the Management of Frozen and Confiscated Assets

A. Enhancing Capacities and Resources of AROs and AMOs

- 1. Increase ARO Staffing (Germany):** *Enhance the capacity of AROs to meet the new deadlines set by Directive 2024/1260, ensuring timely processing of inquiries and effective utilization of expanded powers and responsibilities.*
- 2. Resource Enhancement for New Functions (Lithuania):** *Acknowledge the need for increased resources in response to new roles and responsibilities such as freezing powers and urgency measures, ensuring readiness to meet the demands of stricter deadlines and an enhanced operational scope.*
- 3. Ensuring Adequate Selection of Competent Personnel (Romania):** *Maintain rigorous selection processes for personnel involved in asset tracking and management, focusing on candidates with legal or economic backgrounds, and including those assimilated to judges and prosecutors. This approach ensures that the staff are well-equipped to handle the complexities of asset recovery.*
- 4. Provide Documentation and Instructions for AROs (Netherlands):** *Every ARO should draft documents and instructions to benefit the application of the regulation and international cooperation. A manual and instructions for completing the accompanying certificate are available to enhance compliance and operational guidance.*

A. Enhancing Capacities and Resources of AROs and AMOs/2

5. **Introduce Specialized Competencies for Asset Management (Romania):** *Develop specialized skills and capabilities to manage a diverse range of assets, such as vehicles, virtual assets, art, and jewelry, which pose significant logistical and administrative challenges.*
6. **Capacity Building and Training (Romania):** *Ensure Continuous training programs and workshops, which significantly enhance the professional capabilities of AMO staff.*
7. **Use of External Experts (Romania):** *The engagement of third-party experts, such as certified appraisers for high-value assets, ensured accurate valuations and optimal auction outcomes, proving to be a successful practice.*
8. **Specific Resources for Police Training on Seized Assets (Netherlands):** *Separate specific training on the management of seized assets from general law enforcement training, introducing dedicated training modules and resources to improve proficiency in tracking and managing seized assets.*

B. Improving Information Exchange and Communication

- 1. Enhance Information Exchange (Spain):** *Strengthen the exchange of information using established channels and specialized platforms such as the SIENA Platform at the EU level, CARIN Network mainly for interactions with non-European countries, and RRAG Platform for connections with Latin American countries.*
- 2. Dissemination of Best Practices through the ARO Network (Netherlands):** *Utilize the Judicial ARO network to share best practices among member states, thus enhancing the collective capability to handle requests for information and manage emergency cases such as freezing orders effectively.*
- 3. Constant Communication on Procedure Outcomes (Netherlands):** *Improve the registration and communication processes related to the outcomes of frozen assets, ensuring timely updates on the execution and results of freezing orders to help mitigate delays and uncertainties in cross-border cooperation.*
- 4. Specificity in Requests to AROs (Romania):** *Encourage authorities to provide detailed and precise information when making requests to AROs, especially concerning the state in which the assets are located. This will avoid placing undue expectations on the operational capabilities of AROs.*

B. Improving Information Exchange and Communication/2

5. **Regional Cooperation Networks (Bulgaria):** *Promote international cooperation through the AMO network and through regional bodies such as the Balkan Informal Interagency Asset Management Network (BAMIN), which facilitates the exchange of experiences and good practices in asset management and fosters cooperation.*
6. **Ensure Coordination between Legal Instruments (Spain):** *Ensure coordination between the EIO and subsequent freezing and confiscation certificates during the execution phase. The current domestic legal framework does not clearly provide for this, necessitating legal clarification or the development of clear guidelines, potentially through a Handbook or other soft-law documents. These should aim to harmonize the practical application of transposing the domestic implementation of the new Directive 2024/1260.*
7. **Enhance Cooperation with EPPO (Romania):** *Strengthen the legal framework for all AROs to cooperate effectively with the European Public Prosecutor's Office (EPPO), facilitating better coordination and asset tracing.*

B. Improving Information Exchange and Communication/3

8. **Central Contact Point for ARO and AMO (Spain):** *Set up a combined contact point for Asset Recovery Offices (ARO) and Asset Management Offices (AMO) to enhance international cooperation in asset freezing and confiscation.*
9. **Unrestricted Information Sharing Among AROs (Bulgaria):** *Allow AROs in all Member States to share relevant information without requiring authorization from other national authorities, ensuring that such information has probative value in judicial processes.*
10. **Public Reporting and Transparency (Romania):** *Foster the practice of publishing regular annual reports and maintaining accessible statistics on the AMO's website, which enhances public trust and transparency.*

C. Enhancing Asset Tracing and Management Processes

1. **Provide for Clear and Updated Beneficial Ownership Information (Spain):** *Provide for regular and updated EU-wide beneficial ownership register to ensure transparency and ease of access to essential ownership information, facilitating smoother investigative processes.*
2. **Verification of Links with Strawmen or Shell Companies (France):** *Intensify efforts to trace assets and uncover potential links between suspects and strawmen or shell companies using extensive database resources. This aims to dismantle complex financial networks and facilitate more effective asset recovery.*
3. **Completeness and Updating of National Databases (Romania):** *Ensure the completeness and up-to-date maintenance of national databases, especially concerning real estate, to facilitate efficient asset tracing activities.*
4. **Regular Asset Evaluations (Romania):** *Conduct periodic evaluations of assets managed by AMO, approximately every year, using certified external and independent evaluators. This helps prepare assets for public auction by ensuring their value is accurately assessed and documented.*

C. Enhancing Asset Tracing and Management Processes/2

5. **Consider the Establishment of Online Auction Portal (Romania):** *Consider the establishment of an Online Auction Portal. The AMO established an online auction portal during the COVID-19 pandemic in 2020, which facilitated continuous and transparent selling of seized assets. This portal attracted over 300,000 unique visitors, ensuring that public access to auctions was maintained even during challenging times.*
6. **Ensure External Independent Audits (Romania):** *Ensure regular independent audits of the AMO's operations, which help promoting transparency and accountability, identifying areas for improvement and affirming the agency's effective management practices.*

D. Harmonization of Legal Frameworks and Standardization Across Member States

1. **Harmonization of EU Legislation (Portugal):** *Harmonize EU legislation concerning the differences between restitution and compensation, the rights of bona fide third parties, the priority of confiscation, and the interaction between confiscation and bankruptcy procedures to ensure consistency across all Member States.*
2. **Comprehensive Legal Framework for Victims' Compensation (Romania):** *Establish a standardized legal framework across all EU Member States to ensure uniform treatment and procedures for victims' compensation and restitution. This framework would define clear and consistent eligibility criteria for victims.*
3. **Regular Legislative Review and Monitoring:** *Set up mechanisms at the EU level for regular review and updates of harmonized legislation to adapt to emerging challenges and ensure the protection of rights.*

E. Promoting Social Reuse of Confiscated Assets and Victim Support

1. **Allocation of Proceeds (Spain):** *Allocate specific portions of the proceeds from the sale of confiscated assets to crime prevention and victim assistance programs, ensuring that assets are used to provide substantial support to community safety and victim recovery efforts.*
2. **Public and Social Reuse Initiatives (Romania):** *Ensure that, when appropriate, confiscated properties are transferred to local municipalities for public and social uses, such as community centers for the elderly.*
3. **Simplified Procedures for the Social Reuse of Confiscated Assets (Romania):** *Implement streamlined procedures that allow for the social reuse of immovable assets confiscated and transferred to the state, which can be utilized for social purposes or provided for free use to recognized organizations and institutions.*
4. **Improvement of Victim Compensation Processes (Romania):** *Pursuant to Art. 18 of the New Directive on Asset Recovery and Confiscation, enhance the efficiency and accessibility of compensation processes for victims at the national level, including streamlining administrative procedures and providing comprehensive support through dedicated victim support units within law enforcement and prosecution offices. At the international level, ensure greater harmonization of European laws on victim compensation.*

E. Promoting Social Reuse of Confiscated Assets and Victim Support/2

1. **Address Jurisdictional Issues in Compensation or Restitution Cases (Romania):** *Tackle the jurisdictional complexities that arise in cross-border compensation or restitution cases, simplifying processes and reducing bureaucratic delays for victims.*
2. **Improve Victim Support Services:** *Encourage all Member States to enhance victim support services, making them accessible to all victims, and include legal, psychological, and financial assistance.*
3. **Public Awareness Campaigns and Digital Platforms:** *Launch public awareness campaigns and develop a digital platform for managing compensation claims, providing multilingual support and ensuring EU-wide accessibility.*

Comments and recommendations related to the new Directive on “Asset Recovery and Confiscation” (Directive (EU) 2024/1260)

A. Enhancing Efficiency and Cooperation Among Asset Recovery Offices

- 1. Enhanced Efficiency and Cooperation (Germany):** *The judicial ARO views the new directive as a significant enhancer of time efficiency and inter-ARO cooperation by expanding and clearly regulating their powers and access. This is expected to streamline procedures and improve the efficacy of asset recovery operations.*
- 2. Increased Role and Visibility in Domestic Proceedings (Spain):** *ORGA expects the new directive to elevate its role and visibility, facilitating improved collaboration with private and public entities and enhancing the speed and quality of information acquisition. Challenges include stricter response times and mandatory financial investigations for profitable offenses. The directive could allow for immediate actions before a judicial freezing order when there's a risk of asset disappearance.*
- 3. Expanding ARO Capabilities and Rapid Implementation (Netherlands):** *The directive clearly delineates ARO responsibilities, presenting a significant expansion of their capabilities. Rapid transposition of the directive into national laws is essential for fully utilizing new operational options, such as querying bank data. Introducing a judicial component within AROs would enhance their ability to swiftly coordinate with other authorities for information exchange and order execution.*

A. Enhancing Efficiency and Cooperation Among Asset Recovery Offices/2

4. **Expansion of ARO Mandate and Access to Information (Netherlands):** *Articles 5 and 6 of the Directive enhance the effectiveness of AROs by expanding their mandate and access to crucial information sources, including bank balances, transactions, and crypto assets. This increased access is expected to improve the tracing of criminal money flows and prevent unnecessary freezing of bank accounts.*
5. **Utilization of ARO-Provided Information as Evidence (Netherlands):** *Article 9 of the Directive encourages member states to allow information gathered by AROs on assets and transactions to be used directly as evidence, potentially saving significant time in financial investigations compared to the slower processes currently required by EIOs.*

B. Challenges and Limitations in Implementing the Directive

- 1. Facilitating Effective Urgent Seizures (France):** *The directive aims to provide AROs with greater information access and simplify data exchange within Europe, including provisions for urgent seizures. However, implementing a national strategy and central register may face logistical delays. The requirement for rapid response to asset tracing requests within as little as 8 hours could necessitate significant staffing increases, especially during weekends.*
- 2. Challenges with Short Time Limits for Information Access (Netherlands):** *Article 10 imposes very short deadlines for AROs to access additional information sources, presenting a challenge, especially when dependent on responses from other institutions. The directive lacks specific rules on ARO composition and resources, making it difficult to ensure that member states comply with these obligations.*
- 3. Immediate Action and Freezing Order Limitations (Netherlands):** *Article 11 grants AROs the power for immediate action to secure assets but limits this power to 7 working days. The practical challenge of transferring and executing a formal freezing order within this timeframe is exacerbated by some member states not accepting freezing orders in English.*

B. Challenges and Limitations in Implementing the Directive/2

4. **Resource Challenges for Directive Implementation (Portugal):** *The primary challenge for implementing the Directive in Portugal is the lack of human and material resources necessary for the effective legal management of assets, alongside the political empowerment required for efficient execution.*
5. **Adequate Staffing for Expanded ARO Capabilities (Romania):** *In response to the increased powers granted by the new directive, there is a critical need to expand the staffing levels of the ARO to meet these enhanced responsibilities. Currently, the limited staffing is insufficient to fulfill the directive's requirements.*

C. Improving Asset Management and Social Reuse

1. **Management of Frozen and Confiscated Assets (Netherlands):** *While it is still early in the implementation phase, the directive's provisions for interlocutory sales and the requirement for all member states to establish at least one AMO are expected to positively impact the management of frozen assets in cross-border cases, reducing management costs and increasing revenue from these assets. The directive's flexibility regarding social reuse policies is also viewed positively, allowing member states to tailor approaches to their specific needs.*
2. **Improving Asset Management and Social Reuse (Portugal):** *The new Directive provides a significant opportunity for all member states to enhance asset management by defining new procedures to accelerate sales before conviction and implement social reuse of confiscated assets. This aligns well with existing tools and legislation in Portugal, which largely reflect the directive's requirements.*

THANK YOU

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