

# **RECOVER Schema: the Reg. 2018/1805 in 10 Member States**

Final Conference of the RECOVER Project (GA  
101091375)

*07/11/2024 – Catania*

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# RECOVER: context and aims

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- › Crime, especially **transnational crime**, exploits **legal barriers between MS** to extend its reach and thrive. To counter this, the **harmonization of MS' legal systems is crucial**.
- › Scholars distinguish between **positive** and **negative harmonization** (Schroder, 2020):
  - **Positive harmonization** involves **approximating MS legislations**.
  - **Negative harmonization** is based on the **mutual recognition (MR)** of acts issued by authorities of other MS.
- › The RECOVER project addresses **both aspects**. On the one hand, it assesses the **harmonization of MS legal systems** on confiscation. On the other, it **evaluates** the implementation and **the effectiveness of mutual recognition among MS**.

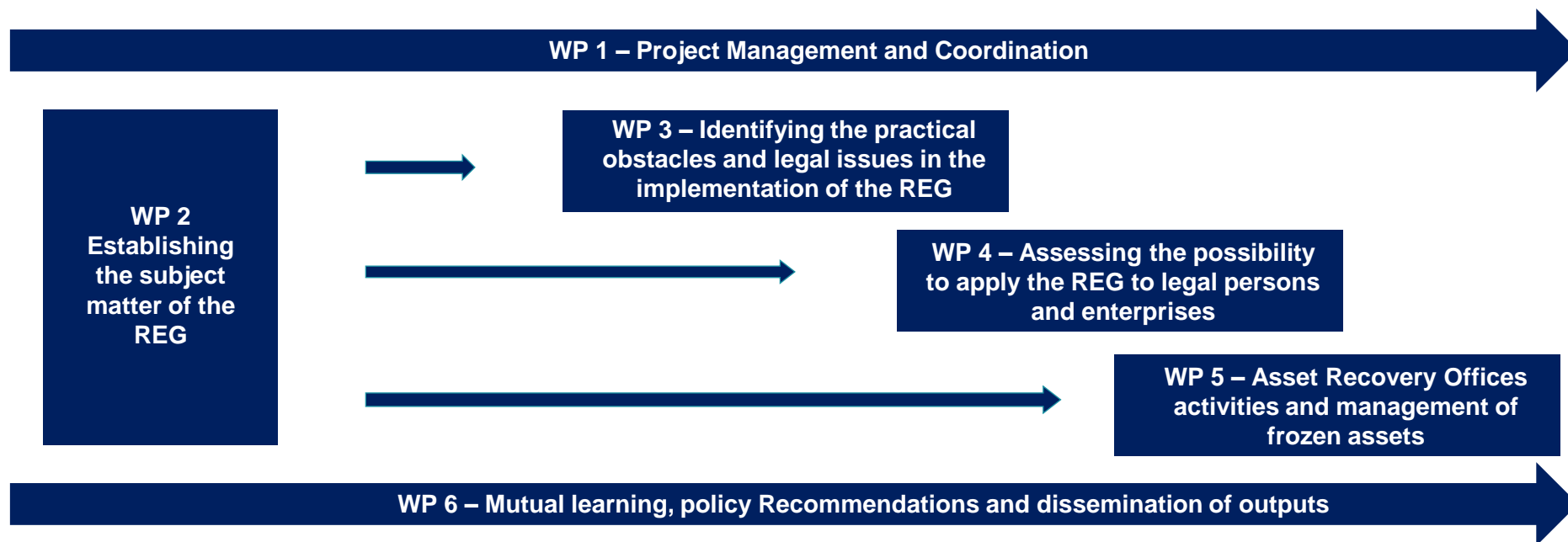
# RECOVER: context and aims/2

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- › Furthermore, an effective European MR mechanism provides for **many additional benefits**:
  - **Efficiency of the judicial process:** MR **simplifies** the judicial process, avoiding duplications and expediting the return of illegally obtained assets, particularly in cases where the judicial process involves multiple jurisdictions.
  - **Prevention of capital flight:** MR contributes to preventing the flight of capital from one country to another to evade confiscation or freezing measures. This helps ensure that illegally obtained assets can be recovered and returned to victims.
  - **Protection of victims:** MR helps protecting the rights of victims of financial crimes. It ensures that they have a better chance of obtaining compensation, and confiscated assets are used to compensate for the damages suffered.
  - **Strengthening mutual trust:** MR contributes to strengthening trust between the legal systems of the involved countries. This is essential for promoting broader cooperation in justice and security among the European Union member states.

# RECOVER: the structure

- › The aims of RECOVER, corresponding to its working packages, are:
  - **Establishing the subject matter of the Reg. (EU) 2018/1805** (the REG) *(December 2022 – May 2023)*.
  - **Identifying the practical obstacles and legal issues arising in the implementation of the REG** *(June 2023 – November 2023)*.
  - **Assessing the possibility to apply the REG to legal persons and enterprises** *(December 2023 – May 2024)*.
  - **Inquiring Asset Recovery Office’s activities and the management of frozen and confiscated assets** *(June 2024 – November 2024)*.



# RECOVER: the Consortium

- › The Consortium of RECOVER is composed by **12 participating organizations (PO)**, representing **10 MS**:
  - Academia (3 PO).
  - High Government Authorities (4 PO).
  - Law-enforcement Agencies (5 PO).



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# WP2 – Establishing the subject matter of REG (*December 2022 – May 2023*)

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## › **Fundamental steps:**

- Establishing the concept of “proceedings in criminal matters” (art. 1 REG).
- Identifying the national forms of freezing and confiscation orders covered by the REG.
- Establishing the safeguards required by the REG to MS proceedings in criminal matter.
- Elaborating Guidelines in the interpretation of the subject matter of REG.
- Elaborating proposals for harmonizing MSs’ legislation and amending Directive 2014/42/EU.

## › **Research Tools:**

- Analysis of the REG and of the related documents.
- Questionnaire establishing the subject matter of the regulation: national confiscation models covered by the regulation no. 1805/2018. types, features and safeguards.
- Workshops on the subject matter of REG and on national confiscation models.

## › **Outputs:**

- National Reports on national confiscation models covered by the REG.
- Guidelines on the interpretation of the REG subject matter.
- Proposals of harmonization of MS legislation & reform of EU legislation.
- Workshops on the subject matter of REG and on national confiscation models.
- Set up of the RECOVER database, available at <https://recover.lex.unict.it/documents/recover-database/>

# WP3 – Identifying the practical obstacles and legal issues arising in the implementation of REG (*June – November 2023*)

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## › **Fundamental steps:**

- Reports by MS on practical obstacles and legal issues.
- Workshops on the practical implementation of the REG and on hard cases.
- Guidelines on the REG practical implementation & reform proposals.

## › **Research tools:**

- Questionnaire on the practical obstacles and legal issues arising in the implementation of REG
- Interview of national experts non partners MS.
- Questionnaire for national experts of MS not bound by the Regulation no. 1805/2018.
- Questionnaire on the application of the REG. (EU) 2018/1805 for Italian judicial authorities.
- Request to EC under art. 6 of the REGULATION (EC) No 1049/2001 to access statistical data.

## › **Outputs:**

- Reports on practical obstacles and legal issues.
- Guidelines, reform proposals, and policy recommendations on the REG practical implementation.
- Workshop on practical implementation of REG; Workshop on hard cases.
- Update of the RECOVER database, available at <https://recover.lex.unict.it/documents/recover-database/>

# WP4 – Assessing the possibility to apply the REG to legal persons and enterprises (December 2023 – March 2024)

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## › **Fundamental steps:**

- Evaluating the different approaches and legislations in the MS about the possibility to seize and confiscate companies and enterprises
- Identifying the practical obstacles and legal issues in the application of the REG to legal persons and enterprises
- Elaborating Guidelines on the application of the REG to legal persons and, possibly, reform proposal.

## › **Research tools:**

- Questionnaire to partners on the application of the REG to legal persons and enterprises.
- Interview of national experts from non-partners MS.

## › **Outputs:**

- National Reports on the application of the REG to legal persons and enterprises.
- Guidelines, Reform Proposals, and Policy Recommendations for the application of the REG to legal persons and enterprises.
- Workshop on The practical obstacles and legal issues in the REG application to enterprises.
- Update of the RECOVER database, available at <https://recover.lex.unict.it/documents/recover-database/>



# WP5 – Asset Recovery Office’s activities and management of frozen and confiscated assets (April – August 2024)

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## › **Fundamental steps:**

- Analysis of legal issues and practical obstacles in the Asset Recovery Office’s activities; in the management of frozen assets, in the protection of victims' rights to restitution/compensation in cross-border cases and social reuse of confiscated assets.
- Promoting the efficient management and efficient disposal of frozen and confiscated property;

## › **Research tools:**

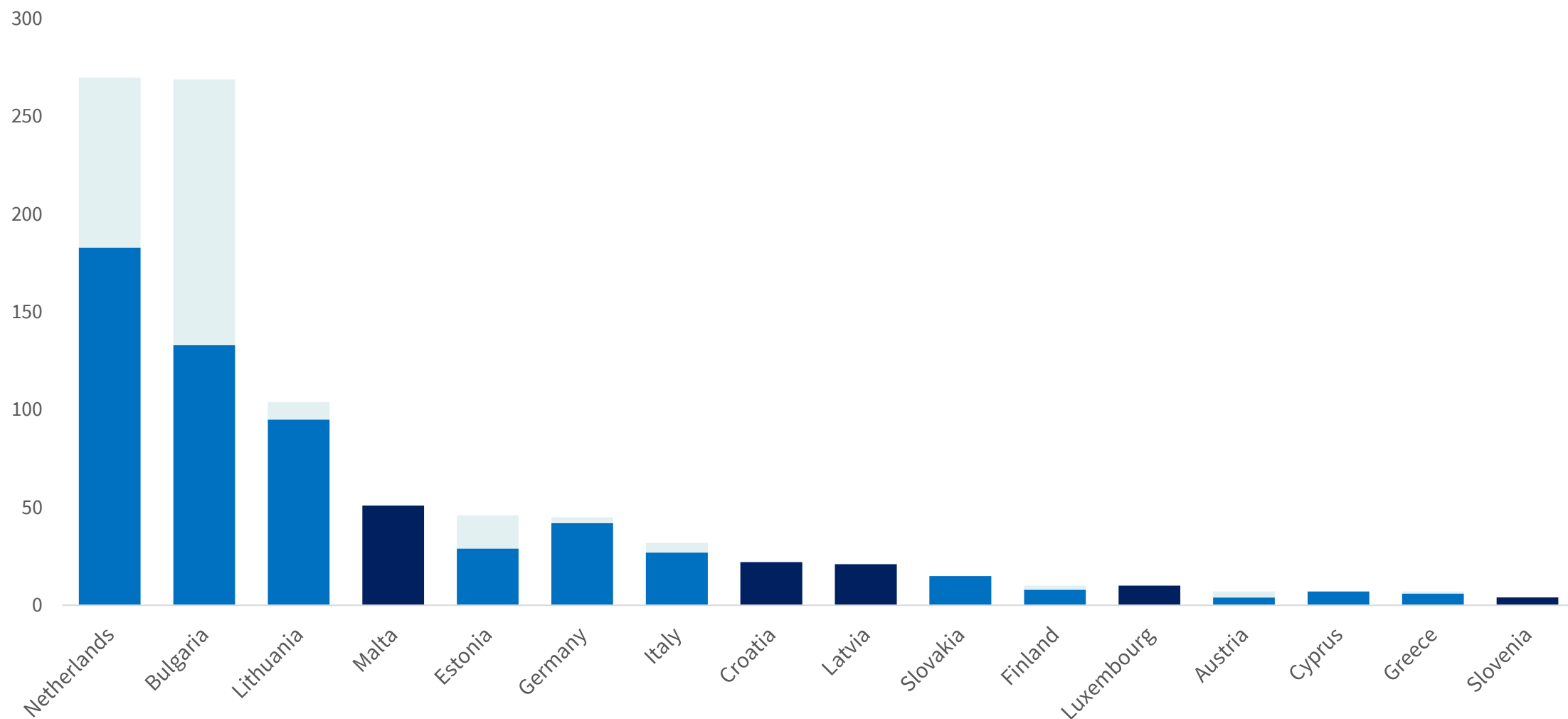
- Questionnaire on asset recovery office’s activities and management of frozen and confiscated assets.
- Interviews with ARO’s officers in Europe.
- Interviews of national experts from non-partners MS.
- Request to EC under art. 6 of the REGULATION (EC) No 1049/2001 to access statistical data.

## › **Outputs:**

- National reports on asset recovery office’s activities and management of frozen and confiscated assets.
- Guidelines, reform proposals, and policy recommendations on asset recovery office’s activities and management of frozen and confiscated assets.
- Workshops on AROs’ activities and on the management of frozen and confiscated assets.
- Update of the RECOVER database, available at <https://recover.lex.unict.it/documents/recover-database/>

# Data on the Application of the REG

# Seizure and confiscation orders under Reg. (EU) 2018/1805 received by Member States in 2021 and 2022

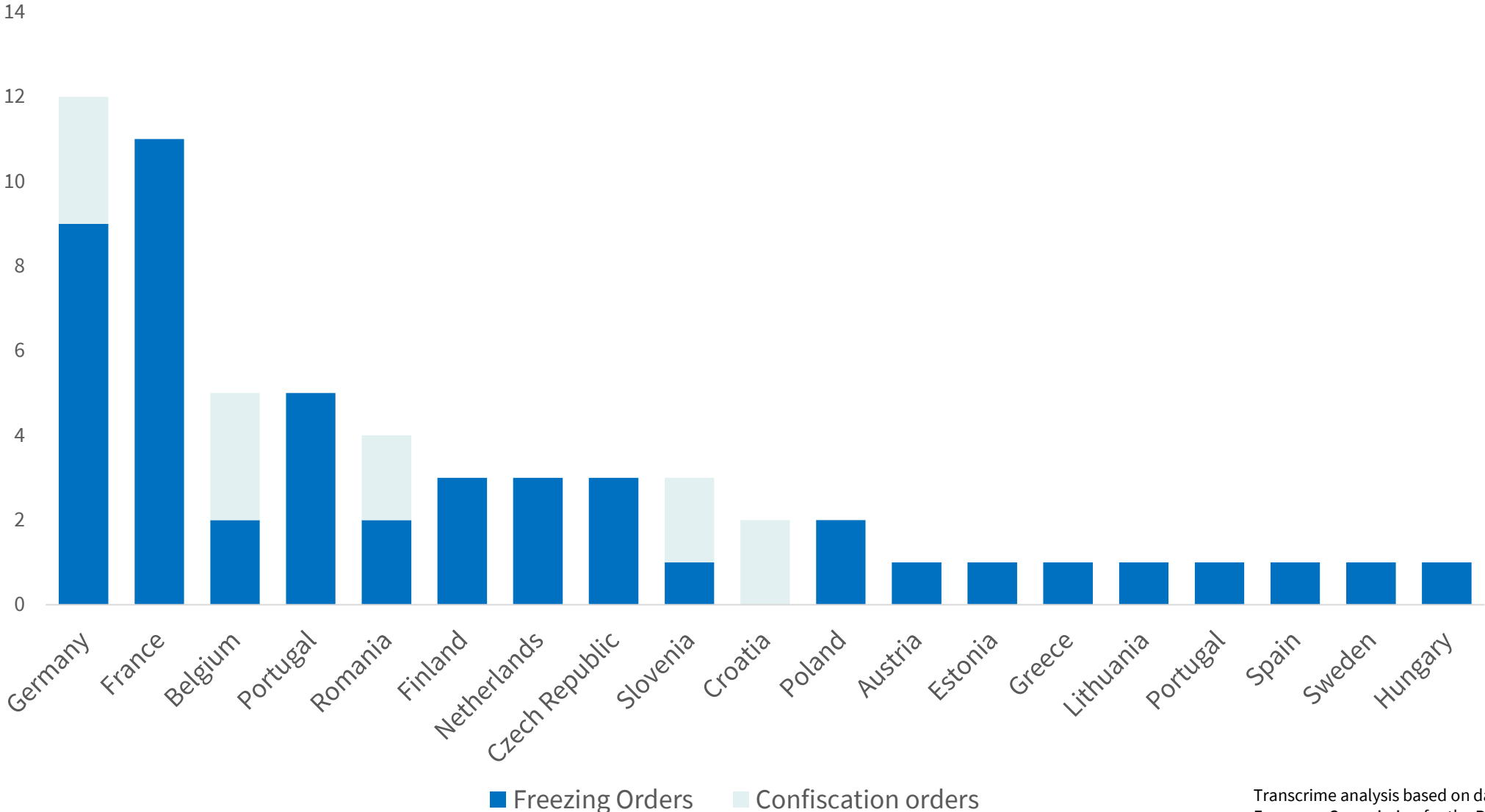


■ Freezing orders ■ Confiscation Orders ■ Total



Transcrime analysis based on data from the European Commission for the RECOVER project (GA 101091375)

# Seizure and confiscation orders under Reg. (EU) 2018/1805 received by Italy in 2021 and 2022



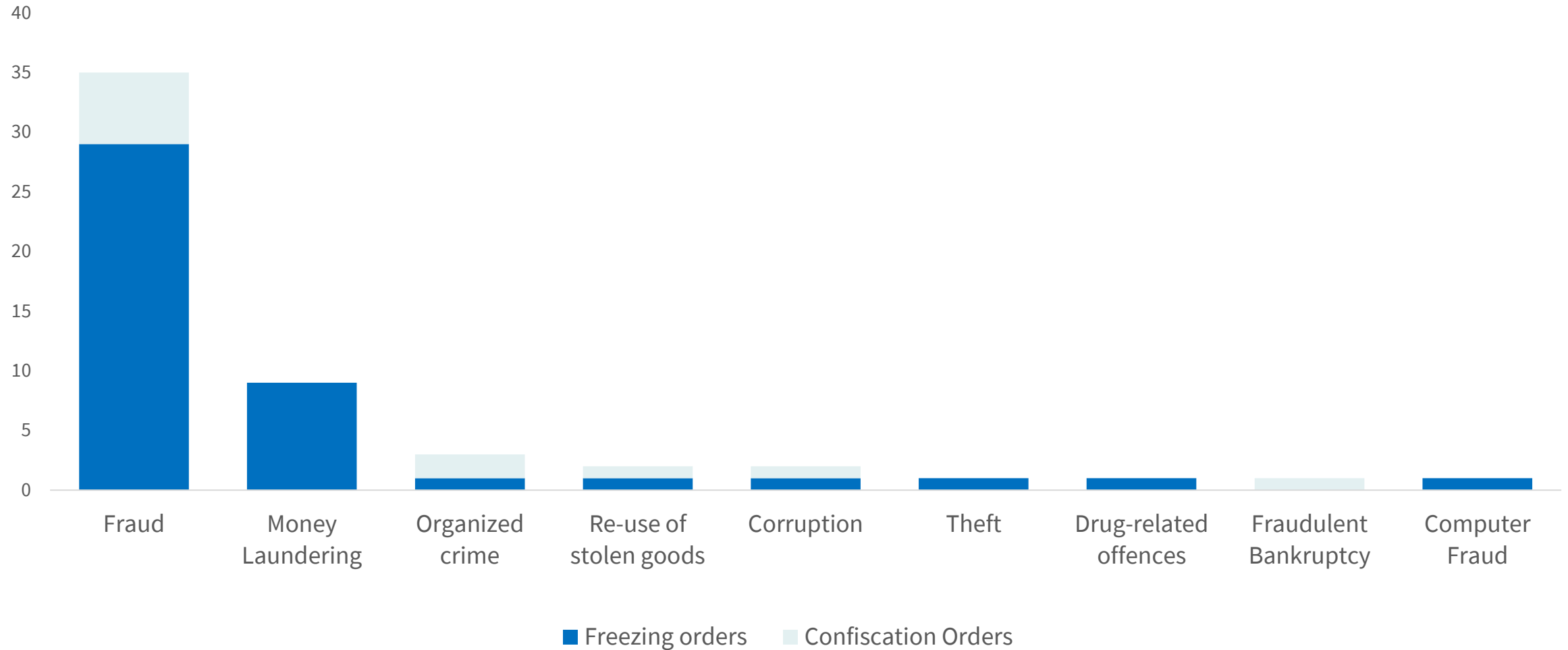
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■ Freezing Orders   ■ Confiscation orders

Transcrime analysis based on data from the European Commission for the RECOVER project (GA 101091375)

# Predicate offenses of seizure and confiscation orders under Reg. (EU) 2018/1805 received by Italy in 2021 and 2022



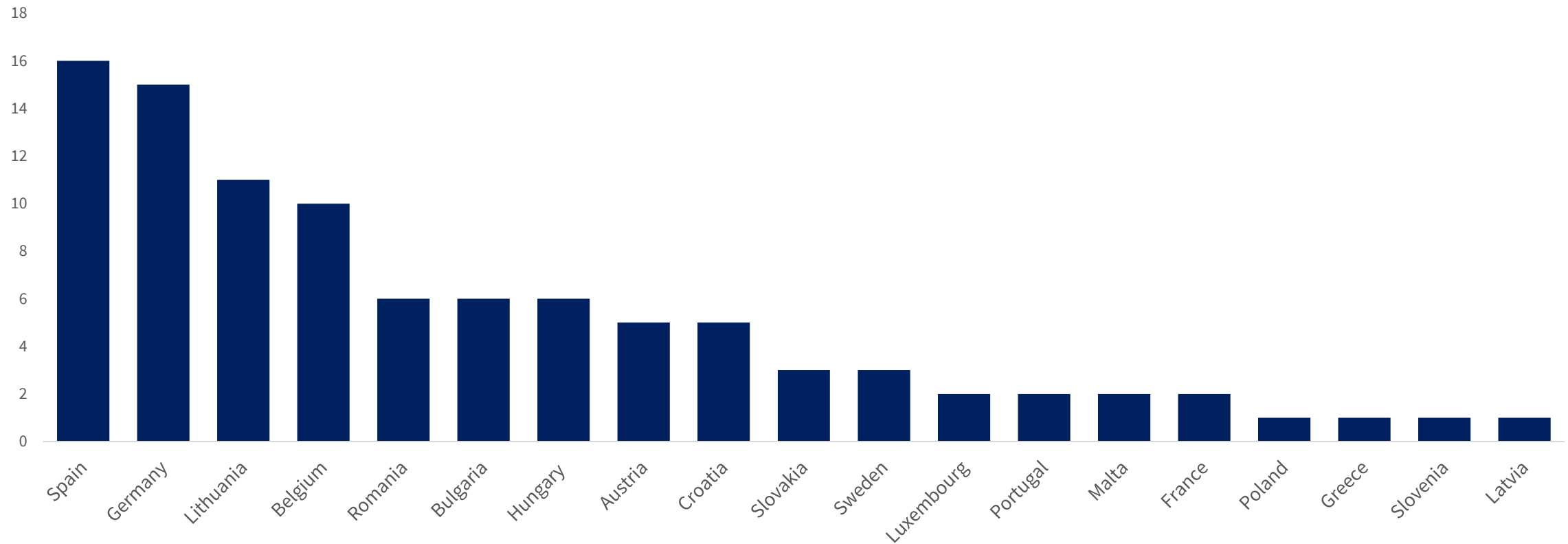
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# Seizure and confiscation orders under Reg. (EU) 2018/1805 sent by Italy to other Member States in 2021 and 2022



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European Commission for the RECOVER project  
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# RECOVER Schema: the Reg. 2018/1805 in 10 MS

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- › RECOVER's Comparative Scheme is divided into **2 parts**:
  - National models of Confiscation and MS' issuing and executing authorities.
  - Statistical data on the use of the REG; normative issues, practical issues, and best practices in its application.
- › Sources:
  - National reports, results of the workshops, external sources (legislation and reports).
- › Utility:
  - **Law-enforcement authorities**: immediate comparative overview of the national models of confiscation.
  - **Research**: valuable tool for studying the REG and its application.
  - **Policy**: the scheme helps understanding **gaps and loopholes** in the application of the REG, as well as best practices and needed solutions for specific issues.
- › Issues:
  - **Data**

# THANK YOU

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# References

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- › Schroeder, W. (2020) ‘Limits to European Harmonisation of Criminal Law’, *Eucrim*, 2, p. 144-148.