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a bunurilor confiscate

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REUTILIZAREA ÎN SCOPURI SOCIALE A BUNURILOR CONFISCATE DIN INFRACTIUNI

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Reuse of confiscated criminal assets for social purposes

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1. Introduction

The topic regarding the reuse of confiscated criminal assets for social purposes has deservedly been on the public policy agenda of the European Union in the last years. Social reuse is an innovative form of disposal of confiscated criminal assets that adds to the other well-known forms of reuse: sale of assets, transfer of assets to state-owned institutions (institutional reuse), destruction or restitution. The form of reuse of assets confiscated as a result of criminal proceedings is an important element for the criminal policy (it is an indicator of efficacy for the criminal policy), as well as for the budgetary policy (it is an indicator of efficiency for the collection of public revenue from the disposal of assets that become private property of the state). Therefore, the reuse for social purposes does not fall exclusively within the responsibilities of the Ministry of Justice or the Ministry of Public Finances, but it is an aspect that needs cooperation between institutions. Social reuse also implies that the tension between the principles of efficacy (reach of educational goals of the criminal policy) and efficiency (collection of public revenues) is overcome.

Social reuse is applicable to proceeds of crime confiscated on the basis of final court decisions (special confiscation and extended confiscation, Article 112 and the following ones of the New Criminal Code). The administrative/civil confiscation regulated by Law no. 115/1996 on statement and control of assets of high officials, magistrates, persons holding leadership and control positions and civil servants, as further amended and supplemented, represents a special situation outside criminal proceedings and therefore the principles of social reuse are not directly applicable.

An analysis conducted by the *Center for the Study of Democracy*¹ shows that one of the options for public policies of the justice systems in the Member States (MS) is the sale of confiscated criminal assets. Some MS have also opted to *transfer such assets free of charge to public institutions and nongovernmental organizations* (e.g. Italy, Belgium, Bulgaria) or to use the sums resulted from the disposal of confiscated assets by establishing special funds (France, Spain, Luxembourg and Scotland). The conclusions of RECAST² project show that all Member States have regulated the management of confiscated assets in order to optimize their value and to reduce their deterioration.

The efforts of the experts from national justice systems led to a proposal for a directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime,³ because "the existent EU legislation includes no provisions regarding the disposal of assets". Their efforts led to the adoption of Directive 2014/42/EU on the freezing and confiscation of instrumentalities and assets of crime in the European Union. This was the first Directive to introduce provisions regarding the disposal of seized and confiscated assets and it invited Member States "to consider taking measures allowing confiscated property to be used for public interest or social purposes". It also states that such measures could, inter alia, comprise earmarking such assets for law enforcement and crime prevention projects, as well as for other projects of public interest and social utility.

¹ <http://www.csd.bg/artShow.php?id=17137>.

² RECAST – REuse of Confiscated Assets for social purposes: towards common EU Standards project.

³ The European Commission, working document of the Commission's Services, accompanying document of the proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union, impact assessment, COM(2012) 85 final, Brussels.

This analysis aims to identify how the policy on social reuse can be adopted in Romania, according to the recommendations of Directive 2014/42/EU and the European good practices. This analysis comprises the options and recommendations developed by the Centre for Legal Resources and the coalition "*Initiative for reuse*", a group of 35 nongovernmental organizations in Romania that are active in the social and civic field⁴.

When this analysis was published, there were ongoing advocacy actions of the *Initiative for reuse*, therefore the conclusions and proposals were provisional, and the social reuse was not regulated by any law.

Chapter 2 offers the definition of social reuse, Chapter 3 describes the European legal framework concerning social reuse, Chapters 4-8 present legal arrangements for social reuse in Italy, Spain, France, other EU Member States and Romania, Chapter 9 summarizes the results of monitoring the process of criminal asset recovery in Romania, Chapter 10 elaborates on a forecast regarding the confiscation rate, while Chapter 11 talks about public policy options to regulate social reuse in Romania, and Chapter 12 offers an advocacy plan. The last chapter is dedicated to conclusions and recommendations.

2. Reuse for social purposes

To reuse confiscated property means to transfer confiscated property or sums from crimes to be used free of charge for public interest or social purposes by public institutions (local public authorities) or nongovernmental organizations.

Social reuse is the only form of disposal that guarantees citizens the visibility of confiscated assets because what comes from crime clearly returns to the society. For example, a confiscated building that was purchased with money from a serious criminal offence (bribery) has a market value as well as a symbolic value. That building that becomes private property of the state due to a final court decision shows that justice has defeated injustice, offenders are not intangible, they are not role models and crime is not an option for achieving social success. Turning that building into a centre for the assistance of vulnerable groups or crime victims maintains this symbol and creates social trust. Social justice is done through the confiscated asset.

Social reuse is the last step in asset recovery. The steps of this process are⁵:

- reporting corruption, money laundering, tax evasion or organized crime (Pre-investigation) – asset disclosure, whistleblowers' reports etc;
- investigation of corruption, organized crime etc. *investigarea infracțiunilor de corupție, criminalitate organizată etc.* (Investigation);
- the hearing of cases of serious criminal offences;
- enforcement of court decisions on confiscation or awarding damages in civil proceedings; Prison sentencing is ineffective if the offenders are allowed to hide their illegal profits;
- Repatriation/ Asset sharing / Reuse of confiscated assets for social purposes. How do we use what was confiscated?

Taking into consideration the transnational nature of organized crime and corruption, international cooperation is an important part in the recovery of criminal assets. The proceeds of criminal activity from a state can be quickly transferred to another country and

⁴ The members of the coalition are listed in Annex 1

⁵ Adapted after Basel Institute on Governance, International Centre for Asset Recovery, Capacity building in asset recovery, 2011

their recovery is a long-lasting process: „In the case of Ferdinand Marcos of the Philippines, 684 million USD were returned by Switzerland in 2003 after ongoing legal proceedings which lasted for 17 years. In the case of Sani Abacha, former Nigerian Dictator, 700 million USD were returned by Switzerland after six years of court proceedings”⁶.

3. The European legal framework regarding the reuse for social purposes

Although there is Community legislation on the confiscation and disposal of assets derived from criminal offences, in general, social reuse as specific form of disposal of confiscated criminal assets has long been neglected at the European Union's level and this is reflected by the lack of legal provisions requiring Member States to integrate social reuse in their legal systems.

However, in the last years there has been an increasing interest in social reuse as a form of disposal of confiscated assets, culminating in the adoption of 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 (hereinafter referred to as "Directive"), which is the first binding document of the European Union regarding the social reuse of confiscated assets.

The Directive contains two references to the reuse for social purposes: Article 10(3) and paragraph 35 of the Preamble. Article 10(3) states that "Member States shall consider taking measures allowing confiscated property to be used for public interest or social purposes." The Preamble contains additional details and, although it does not define social reuse, it offers examples of possible measures, namely earmarking property for law enforcement and crime prevention projects, as well as for other projects of public interest and social utility.

Although this Directive does not require Member States to introduce social reuse in their law systems, its provisions referring to reuse impose a procedural obligation on Member States, as the preamble states. The Directive does not require a specific manner of fulfilling this procedural obligation, but offers examples such as conducting a legal analysis or discussing the advantages and disadvantages of introducing such measures. Therefore, although the Directive does not require Member States to adopt the social reuse of confiscated assets, its provisions referring to reuse are effective and establish obligations for Member States that actually have to analyze the opportunity of introducing social reuse in their legislation.

Social reuse of confiscated assets is also referred to in other non-binding documents adopted by the European Union, as follows:

1. Communication from the Commission to the European Parliament and the Council - Proceeds of organized crime: ensuring that "crime does not pay" (COM/2008/0766 final).

The Communication admits that there are differences between Member States regarding the use of confiscated and recovered assets and recommends the adoption of certain practices that have proved efficient at national level, expressly referring to the models of social reuse in the United Kingdom (where assets are shared between the authorities that contributed to their recovery) and Italy (where assets are often entrusted to NGOs for social use).

2. The Stockholm program, a multiannual document whereby the European Council require Member States and the Commission "to identify as efficiently as possible offenders'

⁶ Basel Institute on Governance, 2011, p. 5

assets and to confiscate them and, whenever possible, to consider their reuse wherever they are found in the Union”.

3. Communication from the Commission to the European Parliament and the Council - The EU Internal Security Strategy in Action: Five steps towards a more secure Europe (COM/2010/0673 final).

The EU Internal Security Strategy expressly refers to the management of confiscated assets from crime and states that "Member States must do all they can to seize, freeze, manage and confiscate criminal assets and ensure that they do not return to criminal hands."

The Strategy also requires Member States to take, by 2014, all necessary institutional measures (e.g. by establishing Asset Recovery Offices) in order to ensure that frozen assets do not lose their value before they are eventually confiscated.

4. European Parliament Resolution of 25 October 2011 on Organized Crime in the European Union [2010/2309(INI)].

In this Resolution, the European Parliament directly confirms the utility and necessity of social reuse of confiscated assets, emphasizing that "the reuse of confiscated assets for social purposes fosters a positive attitude to strategies aimed at tackling organized crime, since confiscating an asset is no longer regarded solely as a means of depriving a criminal organization of resources but is doubly constructive in that it both helps to prevent organized crime and has the effect of boosting economic and social development." For this purpose, The Parliament invites the Commission to recognize and support the adoption of European rules on the reuse for social purposes.

5. European Parliament Resolution of 23 October 2013 on organized crime, corruption and money laundering: recommendations on actions and initiatives to be taken (final report) (2013/2107(INI)). In paragraph 33, the European Parliament „encourages the Member States to promote the reuse of seized criminal assets for social purposes such as redirecting these proceeds to victims and communities which have been devastated by drugs and organized crime, and to use them to fund crime-fighting locally as well as cross-border actions by law enforcement agencies, and suggests that funds be released to finance measures to keep those assets intact."

Although as shown above at this moment the European legal framework contains minimum provisions on the social reuse of confiscated assets, in theory there have been recommendations regarding the needs it should cover in the future.

A study conducted within the RECAST project suggested that the European Union should establish minimum requirements regarding social reuse, observing the principle of subsidiarity, since, consequently, such requirements would offer, inter alia, predictability in international cooperation on the disposal of criminal assets and would also hamper mutual recognition in certain situation. The concrete proposals that the above-mentioned study formulates are the following:

- minimum requirements for victim compensation;
- social reuse of confiscated assets to be treated as a disposal option of greater applicability;
- a monitoring system to ensure that assets are not reacquired by organized crime/offenders;
- the establishment of specialized national authorities for the disposal of assets;
- mutual recognition of non conviction-based asset confiscation decisions.

The quoted report also recommends Member States to take measures at the level of their own legislations in order to increase applicability and efficiency of the reuse of confiscated assets such as:

- value confiscation as a subsidiary option;
- statistically accurate data management systems on confiscated assets;
- specialized training;
- the inclusion of civil society in the phase of disposal of confiscated criminal assets;
- interagency communication and cooperation.

4. Cadrul legal din Italia

Of all Member States, Italy has one of the most developed systems for confiscation and management of confiscated assets (for examples of legal practice see Annex 2). Italian laws allow both asset confiscation and seizure. However, not all confiscated or seized assets are subject to the same disposal regime, so that more than one legal act can apply, depending on the types of assets and the applied procedure:

- for seized assets and confiscated assets under Article 12 of Law no. 356/1992 on the confiscation of unaccountable values (certain crimes only) Law no. 575/1965 applies, now incorporated into the Antimafia Code, which allows the use of confiscated assets for social purposes and specifies disposal options for different types of assets;
- for the remaining confiscated assets, Article 88 of the Code of Criminal Procedure is applied.

For the assets from the first category, the legislation provides for several disposal measures that are within the area of social reuse, such as:

- transfer of money, confiscated or derived from the disposal of other confiscated assets, to the Single Justice Fund (Fondo unico giustizia) and the use of sums in this fund for supporting the priority objectives in the functioning of justice;
- confiscated companies are offered to worker cooperatives, owned by employees of the companies, to be managed by them;
- transfer to state authorities in order to use the assets for justice/public order purposes or for cultural/educational purposes;
- transfer free of charge;
- transfer to local authorities for social reuse – assets are assigned to the municipality in which they are located, and local authorities can manage the assets themselves or can assign them for free to social communities or associations;
- compensation of mafia victims.

The main public authority involved in the disposal of confiscated or seized assets is Agenzia Nazionale per l'amministrazione e la destinazione dei Beni Sequestrati e Confiscati alla criminalità organizzata (ANBSC) (hereinafter referred to as "Agency"). The Agency's role is to mediate the relation between the judicial authority that decides the seizure or confiscation and the beneficiaries of disposal/reuse, to help the judicial authority and to support the appointed administrator with the management of seized assets. The Agency also decides the destination of assets for which the courts have ordered confiscation, thus holding a central position in the procedure for disposal of seized or confiscated assets.

According to the Italian legislation, the beneficiaries of social reuse can be:

- local authorities;

- based on suggestions from local authorities: associations, therapeutic communities, rehabilitation centers and clinics for drug addicts, NGOs operating in the field of environmental protection;

- worker cooperatives owned by the employees of a confiscated company.

The beneficiaries that most often receive assets are local authorities (approximately 80%), although they rarely have the necessary resources to manage the assets. However, local authorities are not eligible to be assigned an asset by the Agency unless it does matches the authority's needs that were declared before submitting the application for assignment. Moreover, in their application for the assignment of an asset, the local authority must present a feasible project regarding the use of that asset, either direct or by assigning it to another entity (e.g. NGOs).

As regards the companies and their assets, the legislation gives priority to their transfer to the employees of the confiscated company organized in cooperatives.

The Agency ensures that the potential beneficiaries are informed by posting on its website a list of assets that are available for social reuse.

As for impediments to the operation of the Italian model of social reuse, the practice has identified factors such as: unclear legislation regarding the Agency's authority, confiscation orders sometimes notified with delay to the Agency, lack of cooperation between the Agency and other local or central authorities, assets in a difficult legal situation (e.g. assets with mortgages or assets that are subject to simultaneous legal proceedings).

5. Legal framework in Spain

Spain uses a system of indirect social reuse of confiscated assets deriving from drug offences. Such assets are sold and the relative profits go to a special state-owned fund. Confiscated assets deriving from other types of crimes are not the object of social reuse, but are sold to the general public (more practice examples are given in Annex 3).

The money transferred to this fund are then reused for social purposes by funding drug prevention programs, assistance and social reintegration of drug addicts, intensification and improvement of drug prevention, investigation and punishment for drug trafficking offences and international cooperation in the field. The beneficiaries of the money devoted to social reuse for the above-mentioned purposes can be: law enforcement agencies and prosecutors' offices with counter-narcotics responsibilities; NGOs and other non-profit organizations conducting activities related to drug consumption; regional and local authorities; Government Delegation for the National Plan on Drugs; international organizations. Funds are distributed between eligible beneficiaries on the basis of a competitive procedure. Unlike the indirect social reuse in France, in Spain there are no legal provisions to establish the percentages of the sums collected in the special fund that are assigned for each purpose. Their distribution is decided on a case by case basis by the Coordinating Bureau for Allocation under the Government Delegation for the National Plan on Drugs.

As for the actual management of confiscated assets, in Spain there is no dedicated public authority because the system is decentralized. The responsibilities regarding the identification, management and disposal of confiscated assets are shared between courts, police and, in case of confiscated assets from drug offences, the Government Delegation for the National Plan on Drugs.

The practice has shown that courts often cannot deal with the entire amount of information in exercising their duties and that the lack of a dedicated agency for the management and administration of confiscated assets affects the efficiency of the disposal process.

6. Legal framework in France

In France, the form of disposal of confiscated assets depends on several factors such as the type of asset and the type of offence that led to their confiscation.

Starting from 2011, the French legislation includes provisions for the management of seized assets. The seized personal property can be entrusted by a competent judge to a specialized agency, the Agency for the Recovery and Management of Seized and Confiscated Assets (Agence de gestion et de recouvrement des avoir saisis et confisqué – AGRASC) that can sell the assets if they no longer need to be kept in order to establish the truth and if the maintenance of the attachment is likely to reduce their value. If the seized assets are not sold or they are real property, they must be managed by their owner/holder. If these persons fail to fulfill these obligations, the assets can be transferred to AGRASC. In addition, AGRASC can be entrusted with managing complex assets, such as companies.

As for the actual disposal of assets, the French legislation provides for more options such as:

- sale;
- assignment for free (for certain types of assets only) either to the state/public authorities (for real property) or to the police/gendarmerie (for movable assets);
- restitution to victims;
- destruction;
- incentivisation schemes (for example, a part of the AGRASC's budget consists of the proceeds derived from the disposal of confiscated assets);
- **social and institutional reuse**, in case of assets confiscated in connection with drug offences; the sums resulted from their disposal are collected in a special fund managed by a specialized authority.

The disposal and management of confiscated or seized assets is a complex process and it involves a big number of authorities that differ from one type of asset to another. Assets confiscated in connection with drug offences (the main category of assets that make the object of real, although indirect, social and institutional reuse) go through three steps until they are reused:

Step 1 (court) – the judge of the case rules through a confiscation decision (in case of assets related to drug offences) that the assets are assigned to AGRASC for sale and the sums obtained by AGRASC are allocated to the Inter-ministerial Mission for Combating Drugs and Addictive Behaviours (*Mission Interministérielle de lutte contre la drogue et la toxicomanie*. - MILDТ).

Step 2 (AGRASC) – AGRASC manages and sells at public auction movable assets and real property confiscated in connection with drug offences. The management and disposal of assets confiscated in connection with drug offences and assigned to AGRASC must be

separate from other categories of assets managed by the agency. AGRASC transfers the proceeds of auctions to MILDT.

Step 3 (MILDT) – After the money is transferred to MILDT's bank account, MILDT wait until the end of the calendar year to present their budget. Meanwhile, the public institutions eligible for using funds from MILDT send their project proposals to obtain finance. The projects must be relevant to combating drug offences and abuse either through increased capacity of combating offences (e.g. purchase of equipment by the gendarmerie or other law enforcement forces) or through campaigns that draw attention to the consequences of drug offences or drug abuse. The projects are financed for a year and therefore they should be finalized within this period of time.

The available sums are distributed according to the following percentages and MILDT selects the projects to be financed:

- 60% for the Ministry of the Interior (35% for the National Police and 25% for the National Gendarmerie);
- 20% for the Ministry of Justice;
- 10% for the Ministry of Economy and Finance (for customs offices).

10% are kept by MILDT in order to be distributed between more ministries (Education, Agriculture etc.), according to their needs and submitted projects. This part of the funds plays the most obvious social role because it is mainly used to combat drug, tobacco or alcohol abuse rather than to combat the actual offences.

7. Legal framework in other Member States of the European Union

According to a report issued within the RECAST⁷, project, approximately 2/3 of the EU Member States have adopted various forms of reuse of confiscated assets or of money from selling the assets through assignment to public institutions (institutional reuse) or to NGOs (direct social reuse).

The report also highlights the differences between how Member States understood to apply the reuse. For example, some Member States allow social reuse only for mobile assets (in Greece only cars and in Hungary only certain assets such as food, toys, clothing, appliances), while in other countries it also applies to real property.

On the other hand, in some states the reuse is possible only in relation to the proceeds from certain offences, typically drug offences (e.g. Spain and France).

Member States have also chosen differently between direct reuse, i.e. direct transfer of the asset to beneficiaries, and indirect reuse, i.e. through special funds, consisting of confiscated sums or proceeds from the disposal of confiscated assets, that are used for crime prevention or for incentive schemes for entities involved in fighting crime. This last model is applied in France, Spain, Luxembourg and Scotland.

As regards the particularities of different Member States, the following are most notable:

In Belgium, social reuse for real property is applied in the Dutch/Flemish Region only. In Hungary, starting from 2000, certain confiscated (mainly counterfeited) assets may be offered for charity purposes. In Luxembourg, the confiscated money or the proceeds from the disposal of confiscated assets from drug offences, money laundering and other serious

⁷ Social Reuse Of Confiscated Assets In The EU: Current Experiences And Potential For Their Adoption By Other MS, Draft Septembrie 2014

crimes are transferred to a special fund (Fonds de lutte contre certaines formes de criminalité) and can be distributed to international organizations, national authorities and NGOs to be used in programs for fighting such criminal offences. In Scotland, confiscated assets are used through the "CashBack for Communities" program that uses community programs, facilities and activities to prevent young people from committing criminal offences.

8. Legal framework in Romania

8.1. Introduction

The Romanian legislation contains extensive provisions regulating the confiscation of criminal assets (Articles 112 and 1121 of the Criminal Code, the latter being introduced for the application of Article 3 of Council Framework Decision 2005/212/JHA on Confiscation of Crime-Related Proceeds, Instrumentalities and Property), but it does not provide for an efficient system for their social reuse.

Although Romania has no dedicated legal framework for social reuse of assets confiscated in criminal proceedings, elements of social reuse can be found in the general legal framework regarding the disposal of assets that become private property of the state, with two main legal acts:

- Government Ordinance no. 14/2007 regulating the form and conditions for the disposal of assets that, pursuant to law, become private property of the state, republished, as further amended and supplemented (hereinafter referred to as "G.O. no. 14/2007");
- The implementation procedures for G.O. no. 14/2007, approved by Government Decision no. 731/2007, republished.

As their titles suggest, the above-mentioned legal acts do not strictly concern the reuse of confiscated assets for social purposes, but the disposal, in general, of assets that become private property of the state. They refer not only to confiscated assets (that become private property of the state under Article 3(1) of G.O. no. 14/2007), but also to other categories of assets such as vacant successions or abandoned assets.

The above-mentioned legal acts provide for five forms of disposal for assets that become private property of the state: sale, assignment for free to public authorities, assignment for free to other beneficiaries (churches, NGOs, hospitals, providers of social services, kindergartens, schools, placement centers, homes etc.), destruction and restitution. Only one of these five forms of disposal (assignment for free) can be considered social reuse, but this concept is not defined as such by the legislation.

On the other hand, although the above-mentioned legal acts do not expressly refer to the reuse of confiscated criminal assets for social purposes, some of their provisions can be applied for this purpose. However, assets assigned for free represent only a small percentage of the disposed assets. For example, in the first quarter of 2013 only 3.45% of the assets that became private property of the state were assigned for free.

8.2. Beneficiaries

The beneficiaries eligible to be assigned for free assets that become private property of the state differ according to the types of the assets, but G.O. no. 14/2007 and its implementation procedures refer to the following categories:

- Ministries, central and local authorities, within the limits set for their equipment, in compliance with the procedures for declaration and assessment, churches, Red Cross National Society of Romania, as well as and nongovernmental organizations that are accredited by the Ministry of Labor, Family, Social Protection and Elderly as providers of social services/soup kitchens and that are actually engaged in such activities – cars, equipped ambulances, craft and detachable motors that can be distributed by the inter-ministerial commission operating within the General Secretariat of the Government;
- Nurseries, kindergartens, placement centres and reception centres for children, nursing homes, soup kitchens, homes, hospitals, schools, libraries, churches, disabled persons, Red Cross National Society of Romania and nongovernmental organizations that are accredited by the Ministry of Labor, Family, Social Protection and Elderly as providers of social services/soup kitchens and that are actually engaged in such activities, as well as individuals that affected by natural calamities – any type of assets, except for real property and assets that are subject to a special regime (e.g. drugs, precious metals), which can be assigned by the local and regional units of the National Agency for Fiscal Administration if the value of the assets is below 2200 euro (10,000 lei) or by the Ministry of Public Finance if the value of the assets exceeds 2200 euro;
- Ministries, central and local public authorities – communication equipment, IT and office equipment, office items, durable goods, household inventory, maintenance and repair materials, in compliance with the procedures for declaration and assessment, by order of the Minister of Public Finance or by decision of the head of the disposal body, as the case may be (the same thresholds as above);
- The Ministry of Foreign Affairs – movable and immovable assets from abroad, by Government Decision;
- Legal entities that manage memorial houses, by Government Decision;
- Ministries, central and local authorities – real property that, pursuant to law, become private property of the state and that derive from vacant successions, except for state-owned undivided shares, by Government Decision initiated by the Ministry of Public Finances, to be used for staff accommodation.

8.3. Assets

As a rule, any asset that becomes private property of the state can be the object of assignment for free, according to G.O. no. 14/2007. However, the applicable legal acts state that there are certain categories of assets which cannot be used for this purpose:

- immovable assets; laws provide that they can be disposed of only at public auction, with one exception: immovable assets that, pursuant to law, become private property of the state and derive from vacant successions, consisting of homes, including the land they are placed on, and are not disposed of within 180 days from their assessment, following the procedure of disposal at public auction, can be assigned to ministries, other central authorities and their deconcentrated bodies, as well as to local public administration institutions, by Government Decision initiated by the Ministry of Public Finance, on the basis of a proposal from the disposal bodies accompanied by an application from the interested institutions or directly upon

application from interested institutions (Article 22 of the Implementation Procedures);

- assets that fail to meet the legal conditions for marketing, except for those that can become suitable for marketing upon processing (Article 1(3) of G.O. no. 14/2007 and Article 2(2) of the Implementation Procedures);
- drugs, precursors, medicines, medical consumables, materials like medical stock items and medical equipment, toxic substances and radioactive materials (Article 1(4) of G.O. no. 14/2007);
- assets that infringe copyright (Article 1(5) of G.O. no. 14/2007);
- assets, documents or valuables that are susceptible of belonging to the national cultural heritage or prove to be of value as documents or science, art or museum items (Article 46(1) of the Implementation Procedures);
- books, publications and other cultural assets of this kind (Article 46(2) of the Implementation Procedures);
- archive documents (Article 47(1) of the Implementation Procedures);
- payment instruments in non-convertible currencies (Article 48 of the Implementation Procedures);
- weapons, ammunition, explosives and military items (Article 49(1) of the Implementation Procedures);
- wood (Article 50(9) of the Implementation Procedures).

8.4. Procedure

The procedure for assignment free of charge depends on the type of the requested assets, as follows:

A. Cars, equipped ambulances, craft and detachable motors

The County General Directorates of Public Finance, the General Directorate of Public Finance of Bucharest and the district fiscal units within the General Directorate of Public Finance of Bucharest, must submit to the Ministry of Public Finance a monthly report identifying cars, equipped ambulances, craft and detachable motors that, pursuant to law, became private property of the state, no later than the 5th of the next month.

The monthly report sent to the Ministry of Public Finance should include only cars, equipped ambulances, craft and detachable motors that have a clear legal status, i.e. they definitively became private property of the state. The monthly reports include functional cars that are technically suitable for use on public roads, according to the legislation in force. The monthly reports also include cars that do not comply with the provisions on polluting emissions, but meet the other requirements provided for by the laws for use on public roads.

The technical assessment report shall expressly state whether the car is technically suitable for use on public roads and whether it complies with the legal provisions on pollutant emissions and it shall also mention its amount of wear.

The applications for free-of-charge assignment of cars, equipped ambulances, craft and detachable motors shall be submitted to the General Secretariat of the Government.

The inter-ministerial commission analyze the applications for free-of-charge assignment of cars, equipped ambulances, craft and detachable motors and distributes such assets between the eligible beneficiaries.

The General Secretariat of the Government sends the Ministry of Public Finance, following each meeting of the inter-ministerial commission, the report regarding cars, equipped ambulances, craft and detachable motors assigned free of charge, as well as the report regarding those not assigned free of charge.

The disposal body delivers the cars to the institutions they were assigned to and disposes of those not assigned on the basis of an express communication from the Ministry of Public Finance.

The Ministry of Public Finance shall send communications to the beneficiaries, as well as to the disposal bodies, within 15 days from receiving the communication from the General Secretariat of the Government.

The beneficiaries shall send their acceptance or refusal within 15 working days from receiving the communication, otherwise the assets are considered to be refused.

B. Procedure for assets of any kind distributed to nurseries, kindergartens, placement centers and reception centers for children, nursing homes, soup kitchens, homes, hospitals, schools, libraries, churches, disabled persons, Red Cross National Society of Romania and nongovernmental organizations that are accredited by the Ministry of Labor, Family, Social Protection and Elderly as providers of social services/soup kitchens and that are actually engaged in such activities , as well as individuals affected by natural calamities

The County General Directorates of Public Finance, the General Directorate of Public Finance of Bucharest and the district fiscal units within the General Directorate of Public Finance of Bucharest, can attribute for free assets worth up to 10,000 lei / beneficiary.

For free assignment of assets worth over 10,000 lei / beneficiary, the County General Directorates of Public Finance, the General Directorate of Public Finance of Bucharest and the district fiscal units within the General Directorate of Public Finance of Bucharest submit to the Ministry of Public Finance concrete and grounded proposals that shall include the beneficiaries of the assets and a list of assets, including their quantities and value. In order to be assigned free of charge, the assets shall no longer be available for disposal.

Assignment for free of assets worth over 10,000 lei / beneficiary is possible based on an application submitted directly to the Ministry of Public Finance. In such cases, the Ministry of Public Finance shall solicit the lists of assets, including their quantities and value, from the County General Directorates of Public Finance, the General Directorate of Public Finance of Bucharest and the district fiscal units within the General Directorate of Public Finance of Bucharest.

C. Procedure on the assignment of communication equipment, IT and office equipment, office items, durable goods, household inventory, maintenance and repair materials

The assignment free of charge to territorial and administrative divisions is based on an application submitted directly to the County General Directorates of Public Finance or the General Directorate of Public Finance of Bucharest or the district fiscal units within the General Directorate of Public Finance of Bucharest if the value of the assets is below 10,000 lei / beneficiary, and, if the value of the assets exceeds 10,000 lei / beneficiary, the application shall be submitted to the Ministry of Public Finance.

The assignment free of charge to ministries and other central authorities, as well as to their deconcentrated bodies, is based on an application submitted to the Ministry of Public Finance.

D. Procedure for assets assigned to the National Anti-drug Agency

According to Law no. 381/2004 on financial measures for the prevention and fight against illicit drug trafficking and use, the National Anti-drug Agency can solicit both the inter-ministerial commission and the Ministry of Public Finance to be assigned free of charge assets confiscated in connection with offences related to drugs and precursors.

Assets that are not solicited by the National Anti-drug Agency are disposed of according to G.O. no. 14/2007, and the proceeds are recorded in a separate account of the state budget.

8.5. Deficiencies of the existing legal framework

Although the existent legal framework in Romania allows in theory the social reuse of confiscated assets, in practice the number of assets that are assigned free of charge is very small. For example, according to the Report on the capitalization of confiscated assets, in the first quarter of 2013, only 3.45% of all assets that became private property of the state were assigned free of charge, while the preferred form of disposal was direct sale. Moreover, the assignment free of charge does not necessarily mean social reuse (not any asset assigned free of charge is used for social purposes), so that the number of confiscated assets that were actually used for a social purpose is probably even smaller.

The small number of assets assigned free of charge and the competent bodies' reluctance to use this form of disposal can be explained by the gaps in the existent legislation. The applicable legislation seems to consider the assignment free of charge as an exception and it is not identified with the concept of social reuse. For example, there are no specific provisions regarding the use of confiscated assets (but only of assets that become private property of the state, in general) and no details regarding the purpose of assigning assets free of charge and the subsequent use of such assets, therefore there are no reasons to believe that all assets assigned for free are reused for social purposes.

Another important gap in legislation is the lack of a monitoring mechanism for the use of assets by beneficiaries, which mostly affects the chances for their transfer to private beneficiaries (NGOs), because the disposal bodies can fear that due to the lack of such a mechanism, the assets may be assigned to entities that fail to use them for the declared purpose, while they lack the means to efficiently punish abuses. The laws neither require, for example, annual reports regarding the use of the assigned asset or assessment visits paid by the authorities at the location of the asset, nor establish a procedure whereby the assets can be taken back from beneficiaries that fail to satisfy the conditions agreed when the asset was assigned.

The lack of criteria for objective assessment and selection of applicants can also favor arbitrary assignment and can lead authorities to avoid assignment to NGOs, in order to avoid being accused of favoritism. There is no application form, no assessment criteria and no transparent procedure for selection and assessment. The laws do not provide for minimum requirements that a beneficiary should meet in order to be assigned assets free of charge (e.g. x years minimum experience in the field, similar projects of a certain value,

proven expertise), which can lead authorities to avoid assignment of assets to NGOs whose capacities are unknown.

The legislation also has deficiencies as regards the beneficiaries eligible for assignment free of charge. Although some of the beneficiaries mentioned by G.O. no. 14/2007 belong to the social sector (e.g. placement centers, the Red Cross, providers of social services, soup kitchens etc.), the legal provisions skip other categories of beneficiaries that operate in the social field (e.g. community cultural centers, organizations of ethnic minorities) without offering a reason for this differentiation.

The procedure established by the laws differs unreasonably according to the category or value of the assets (e.g. the General Secretariat of the Government is in charge of cars, the county general directorates of public finance are in charge of assets worth less than 10,000 RON and the Ministry of Public Finance of assets worth over 10,000 RON), which can create confusion and arbitrary obstacles for the beneficiaries and prevent the adoption of unitary standards and procedures for assignment, as well as the centralized collection of relevant data in the field. The lack of a centralized inventory of available assets (as, for example, is the case of Italy) prevents potential beneficiaries from knowing in advance what assets they can obtain and details about them.

As regards the reuse of confiscated assets from criminal offences related to drugs and precursors, although the National Anti-drug Agency can apply to be assigned such assets free of charge, they cannot use the confiscated sums because, although they are transferred to a separate account of the state budget, the laws forbid special funds and finance outside the budget.

9. Monitoring the recovery of criminal assets

9.1. Context

The recovery of criminal assets is very important because it represents the de facto ending of court proceedings. Through the recovery of criminal assets, either proceeds or damage, the motive of the criminal offence is removed and the crime networks are dissolved. The examples offered by Italy regarding the social reuse of property derived from criminal offences have led to an improvement in the fight against Mafia and even increased social support for it. This is an illustrative example of a certain public policy option regarding the transfer of assets to be used in social and youth programs. Other alternative policies refer to selling all assets and funding programs of national importance: fight against drugs, support for youth projects in Scotland, programs of local administration etc.

In Romania, the situation regarding the recovery of criminal assets is not very good. The Commission's 2014 Report for the European Parliament and the Council regarding Romania's progress in the Cooperation and Verification Mechanism (CVM) shows that the recovery rate reached by the National Agency for Fiscal Administration (ANAF) in enforcing final court decisions is estimated at only 5-15% of the assets mentioned in a court decision. Therefore, the applied sanctions are less dissuasive and the victim (very often the state, in cases of corruption) fails to recover their loss, which shows that court decisions are not enforced.

The disposal of confiscated assets follows the same procedure applied to all the assets that become private property of the state. The disposal is carried out at a decentralized level, by the regional directorates of public finance, which constitute the deconcentrated apparatus of the National Agency for Fiscal Administration.

The National Office for Crime Prevention and Cooperation for Asset Recovery is a structure within the Ministry of Justice and is currently a national contact point regarding the issue of confiscated assets, especially in the context of international judicial cooperation. However, this institution has no legal authority and administrative capacity to monitor and coordinate the disposal of seized or confiscated criminal assets especially because the value of the damage and of the economic advantages obtained by persons sued for corruption, fiscal evasion, fraud with European funds or other serious economic offences have significantly increased in the last years. In this context, the Ministry of Justice initiated in March 2015 a draft law for the establishment, organization and operation of the National Agency for the Administration of Seized Assets and for amending and supplementing other legal acts. When this study was being conducted, the draft law was in the plenum of the Senate expecting the final vote. In its initial version, subject to public debate, the draft law provided for social and institutional reuse of confiscated real property from criminal offences:

„Article 30(1) Public institutions of central and local administration can request the Agency to identify buildings that can be used for one of the following:

- a) Health or education units;*
- b) Offices of the central or local administration;*
- c) Storing space for seized or confiscated assets.”.*

În timpul alocat de Ministerul Justiției consultării publice asupra proiectului de lege, During the period of time allowed by the Ministry of Justice for public consultations on the draft law, the Government initiated and adopted an Emergency Ordinance that limited the reuse of real property to institutional purposes – offices for public institutions (G.O. no. 7/2015 on the use of confiscated real property). Therefore, in the final draft law, the Ministry of Justice dropped the articles regarding social and institutional reuse. This approach of the Government was considered acceptable under the rule of law; therefore the Centre for Legal Resources (CLR) and the coalition Initiative for reuse challenged G.O. no. 7/2015 at the Ombudsman asking to refer the matter to the Constitutional Court on grounds that the initiation of the Government Ordinance was unconstitutional. The notice regarding the unconstitutionality shows the following:

„1. Infringement of article 115(4) of the Constitution

a. The requirements of Article 115(4)

According to Article 115(4) of the Constitution, the Government can only adopt emergency ordinances in exceptional cases, the regulation of which cannot be postponed, and have the obligation to give the reasons for the emergency status within their contents.

Therefore, as mentioned by the Constitutional Court, the Government can adopt emergency ordinances only if the following three conditions are simultaneously satisfied:

- there is an exceptional case;*
- its regulation cannot be postponed;*
- the reason for the emergency status is given within the contents of the ordinance.*

As shown below, the Government satisfied none of these three conditions.

b. The existence of an exceptional case

As regards the existence of an exceptional case, the Government argues that it results from the need to provide the public institutions with adequate offices, while some of their offices are inadequate or the buildings have been transferred back, and the public institutions have to rent spaces to carry out their activities, which involves expenses from the state budget. On the other hand, the Government refer (in their substantiation report) to the lack of specialized personnel for the management and preservation of certain "complex immovable assets", as well as to the costs needed for the management and preservation of such assets until they are disposed of.

Even if the above-mentioned obstacles were real, the mere fact that they exist does not constitute an exceptional case. The meaning of the word "exceptional" is, according to the DEX, "which is very special, which stands out; unusual, outstanding, formidable, extraordinary". But the need to improve public institutions' offices and to cut expenses with rents or management of assets is not something unusual, outstanding, formidable or extraordinary. This does not mean that a regulation in this field is not opportune, but the fact that it is opportune or necessary does not make it an exceptional situation. Ideally, any adopted regulation should be opportune, but not any situation that should be regulated is exceptional.

The mere fact that there is a situation which needs to be addressed, no matter how important it is, does not make it exceptional. The problem of public institutions regarding their offices is not new or exceptional and does not need a solution promoted by an emergency ordinance as long as we talk about "improper conditions" and not about, for example, a major deficiency that seriously jeopardizes the proper operation of certain public institutions and that needs to be immediately addressed. Similarly, costs incurred with rents or confiscated asset management are not exceptional or unforeseeable and are not a situation that needs to be regulated without delay. Reducing administrative and bureaucratic costs is, in general, an opportune measure, but does not stand out from other measures for the optimization of public expenses that are adopted following the usual procedures and it is by no means unusual or outstanding. A legal measure that is only opportune but does not meet the requirements under Article 115(4) of the Constitution is adopted by the Parliament, in a law, not by the Government, in an Emergency Ordinance.

Moreover, the reason regarding "the exponential increase in the amount of confiscated assets whose disposal is carried out by the apparatus of the disposal bodies within the National Agency for Fiscal Administration" is not at all an exceptional case, but the result of the last three years' trend anticipated by the annual activity reports (2011, 2012, 2013 and 2104) of the Public Ministry and by the National Anticorruption Strategy (NAS) 2012-2015 adopted through Government Decision 215/2012 on the approval of the National Anticorruption Strategy for 2012-2015, of the Inventory of anticorruption preventive measures and assessment indicators and the National Action Plan for the implementation of the National Anticorruption Strategy 2012-2015. Chapter 4, paragraph 4.3 Combating corruption through administrative and anti-crime measures of NAS 2012-2015 sets the specific objective 5 "To increase the amount of recovered crime proceeds applying the best practices from other EU Member States and to strengthen legal practice" and establishes measures such as "the adoption of legislative and institutional measures supporting better management of seized and confiscated assets, as well as their reuse in social and crime prevention programs" (Measure 3.5.7 of the Action Plan). This measure should also have been implemented, according to the Action Plan accompanying the Strategy, by the National Agency for Fiscal Administration (ANAF), and the deadline was the second semester of 2012

for the completion of the system analysis and the second semester of 2013 for the establishment of a structure for the management of criminal assets. ANAF's failure to fulfill their obligations within the given time limit, although they had more than 3 years, is not a reason for and does not result in an exceptional case.

Moreover, the statement "we are witnessing an exponential increase in the amount of confiscated assets" is not supported with objective, statistical data. On the contrary, according to ANAF's press release no. A_RPC_450/08.04.2015, there is an insufficient amount of assets for disposal. ANAF's 2014 report given below shows that the number of court decisions including significant assets that can be disposed of is very small, i.e. only one (the ICA case):

[The inventory, analysis and centralization of all information regarding the enforcement orders received by ANAF from courts from 01.01.2014 to 31.12.2014, for court sentences whereby damage recovery / special confiscation was ordered (according to specific provisions of the Criminal Code) have shown the following: during the analyzed period of time a total number of 2,140 court sentences / decisions in criminal cases were received for enforcement. The total value of the damage amounted to 1,985.07 million lei. Out of the total of 2,140 court sentences / decisions communicated in 2014, 31 decisions with a value of the damage exceeding 549.2 million lei (approximately 130 million euro) are related to criminal cases handled by the National Anticorruption Directorate (especially the ICA case 701/26.09.2013, Bucharest Tribunal/ Criminal Case 888/a/08.08.2014 whose damage was set at 60,482,615 euro, i.e. 266.2 million lei, half of the total amount of damage). In order to accurately and objectively assess the real possibility of recovering the damage referred to in sentences / decisions issued by courts, it is necessary to mention the following:

- for 63 court sentences / decisions setting the value of the damage at 596.49 million lei (30% of the total value), there are ongoing legal formalities for division of property / termination of joint property, because the disposal measure concerns a part of the assets jointly owned by legal persons or belonging to individuals sentenced under the criminal law;
- 693 court sentences / decisions setting the value of damage at 433.1 million lei (21.8% of the total value), were pronounced for individuals who own no traceable assets or incomes or who were declared insolvent;
- 12 court sentences / decisions setting the value of damage at 33.03 million lei were pronounced for legal entities that fall under the provisions laid down in the Insolvency Law no. 85/2006, as amended and supplemented in 2014.

Although the local fiscal units went through all legal formalities required by the legislation in force regarding the enforcement of judgment, damage recovery for the above-mentioned situations is extremely difficult and decisively influences the low level of recovery. Therefore, the sums that can be recovered through enforcement of judgment (excluding the value of the damage in cases of insolvency, insolvability, lack of traceable assets or incomes, ongoing legal formalities for division of property / termination of joint property) drop from 1,985.07 million lei to 922.45 million lei, i.e. 46.4% of all communicated damage to be recovered. The difference of 53.6% represents, in fact, unrecoverable damage, the same as unrecoverable arrears.]

c. The emergency status of the regulation

The second requirement for the adoption of an emergency ordinance is that the regulation of the case in question cannot be postponed. Even if there is an exceptional case, this does not mean its regulation is urgent. Therefore, an exceptional case can be rapidly

regulated without an emergency procedure, but following normal procedures; the two requirements are distinct. This is also the opinion of the Constitutional Court when saying that "The urgency of a regulation does not imply the existence of an exceptional case, and an operative regulation can be introduced following the usual procedure".

In this case there is no reason to consider that the proposed regulation cannot be postponed and needs to be adopted through an emergency ordinance. Again, even if the regulation is opportune, this cannot justify its urgent nature. The mere fact that a regulation is opportune, useful or necessary does not imply that it should be approved as soon as possible, because in a democratic society lawmaking should follow, as a rule, a certain procedure in order to ensure the quality and transparency of the lawmaking process in its entirety, not only for a particular legal act.

The Government's argument that the regulation in question concerns an exceptional case that cannot be postponed is challenged even by the provisions of the Ordinance. Thus, the Ordinance provides for no immediately applicable measure that would address an exceptional situation. On the contrary, the legal act sets a framework that allows public institutions to obtain certain assets following an established procedure. Even if the problems the Government refer to were real and urgent, the Ordinance covers a much larger scope, since it is not limited to those institutions in need of offices or to those assets that ANAF would find too difficult to manage. The Ordinance regulates in fact a much larger field than that the Government refers to in the preamble.

On the other hand, the general nature of the Ordinance makes it unsuitable for addressing the problems identified by the Government. Nothing in the general provisions of the Ordinance guarantees that public institutions in need of offices will find among the confiscated buildings those suitable for their activities (in respect of place, structure, surface, age etc.). Similarly, nothing in the Ordinance guarantees that the buildings ANAF finds difficult to manage will be used by public institutions or that once they are taken by public institutions it will be easier to preserve or to manage them. Also, it is possible that those "complex" buildings referred to in the substantiation note of the Ordinance are more suitable for other disposal forms than for assignment to public institutions, which is a measure whereby costs are not cut, but only transferred.

All the Ordinance does is to create a general framework that can solve some problems (which, as shown above, are not at all exceptional), but not at all immediately. If it really had been an exceptional case that had to be urgently regulated, the measures should have been specific and able to solve expeditiously only the identified problem and not to create new long-term general procedures that are not certain to contribute to the improvement of the situation. In reality, the Government use a pretext to adopt some general measures that cover much more than the alleged problems they refer to. The lack of connection between the identified problem and the proposed solution is not only a matter of opportunity, but also of constitutionality, because it is obvious that the Constitution requires, logically, a connection between the "exceptional case" and the measures proposed for its reparation. In the absence of such a connection, the Ordinance was adopted without reasons and in breach of the Constitution.

Similarly, the manner in which the Government grounded the emergency status contradicts the procedure provided for in the Ordinance. In order to have a confiscated asset transferred to them, the beneficiary should first submit an application to the Ministry of Finance. Then, the Ministry of Finance initiate a draft decision on assignment to be approved by the Government. The asset is actually transferred within 90 days after the decision has

entered into force. It is therefore a long-lasting procedure which contradicts the alleged urgency of the situation.

d. Reasons for the emergency status

The last requirement of the Constitution as regards the adoption of emergency ordinances is to provide reasons for the emergency status within their contents. In order to satisfy this requirement, the reasons should be real, i.e. they should demonstrate the objective necessity for the urgent adoption of the regulation, not only proclaim this necessity. The reasons do not support only the proposed measures in their substance, but especially their urgency, therefore, they should not refer only to the necessity of their adoption, but also to the necessity of them being adopted through an emergency ordinance.

The Ordinance satisfies none of these two conditions. After describing the situation to be regulated (without demonstrating its exceptional nature), the preamble of the Ordinance specifies that if the proposed measures are not urgently adopted, "the Government cannot ensure the management of public and private property of the state in compliance with the principles of economy, efficiency and efficacy in using public funds and in managing assets. The Government only proclaim the emergency status without proving it. The so-called reasons provided by the Government can at the very most explain the necessity of adopting certain measures, in general, not the necessity of adopting them through an emergency ordinance.

Moreover, the reasons themselves are extremely general and include no concrete data to support the adoption of the proposed measures, least of all their adoption through an emergency ordinance. There is no mention about any identified public institution that has problems with its offices, there are no statistic data, the "complex" assets that ANAF allegedly cannot manage are not described. Although the claimed objective of the Ordinance is to manage public funds and public assets more efficiently, the substantiation note of the Ordinance does not refer to its impact on the budget, the relevant sections are left blank. The only "reason" for urgency given in the contents of the Ordinance is the compliance with the principles of economy, efficiency and efficacy in using public funds and managing assets. But the reasons fail to make clear why these principles cannot be complied with if the regulation is adopted by the Parliament upon the Government's proposal (even following an emergency procedure).

2. Breach of articles 31 of the Constitution and 7(4) of law no. 52/2003

The fact that the Ordinance was not presented for public debate breaches both Article 31 of the Constitution of Romania which establishes citizens' right to access information of public interest and Article 7(4) of Law no. 52/2003 on transparency in decision-making in public administration.

The Draft Ordinance was published on 15.04.2015 on the website of the Ministry of Finance, under "Transparency in decision-making". According to the description at the beginning of this section, citizens can "submit proposals, suggestions or opinions regarding the draft legal act that is open to public debate to the address publicinfo@mfinante.ro within 10 days from its publishing", according to Article 7(4) of Law no. 52/2003. However, in this case, the Government adopted the Ordinance on the same day it was published on the website of the Ministry of Finance, without allowing the 10 days required by the law. It is true that the legislation allows exceptions on public debate, but it refers to exceptional cases: "If there is a need to regulate a situation which, due to its exceptional circumstances,

requires the adoption of an immediate solution in order to avoid serious prejudice to public interest, draft legal acts are adopted following an emergency procedure according to the laws in force". Regulations adopted through emergency ordinance are not automatically covered by this article, since emergency ordinances are not automatically exempt from public debate. Such an approach would be extremely dangerous for the democratic process and for the transparency of decision-making, especially taking into account the big number of emergency ordinances adopted in Romania. Therefore, if the Government wished to apply the provisions laid down in Article 7(4) of Law no. 52/2003, they should have explain why this was necessary, i.e. how seriously the public interest was affected in case the legislative act was proposed for debate. As shown above, there is no emergency in this situation, so there are no grounds for the avoidance of public debate.

Secondly, the Government ignored the fact that there actually is a draft law open to public debate and it includes similar provisions. It is the draft law on the establishment, organization and operation of the National Agency for the Management of Seized Assets that amends other legal acts and that was submitted for public debate on 31.03.2015. Article 30 of the draft law provides for a similar mechanism for the transfer of confiscated assets to the public property and for using them as offices for public institutions. It is impossible to identify what is the exceptional emergency that led the Government to ignore the draft law and to adopt separately provisions with similar contents. Also, the inter-ministerial cooperation within the Government is at least bizarre, since the Ministry of Finance initiate draft legal acts that double provisions from other drafts initiated by the Ministry of Justice, and the Government adopts one of them, while the other one is under public debate."

The Ombudsman appropriated CLR's arguments and notified the Constitutional Court regarding the unconstitutionality of G.O. no. 7/2015. When this study was in progress, the notification was being analyzed by the Constitutional Court.

CLR and the Initiative for reuse took their advocacy actions further to the Romanian Senate where, due to the support of the senators in the Juridical Commission, several amendments regarding the social reuse were made to the draft law of the Ministry of Justice on the establishment, organization and operation of the National Agency for the Management of Seized Assets. Thus, the Juridical Commission, in the report submitted to the Senate, made the following amendments regarding the social reuse of confiscated assets:

"Article 33. – In order to carry out their duties and to implement programs within their area of authority, the Agency can receive buildings to manage, in compliance with the laws.

After Article 33 three new articles shall be introduced:

Article 33¹. Immovable assets that, after confiscation, become private property of the state can be transferred for free to the private property of the territorial and administrative units to be used for social purposes, at the request of the County Council or the General Council of the Municipality of Bucharest or the local council, as the case may be, through Government Decision, initiated by the Ministry of Public Finance.

Article 33². Immovable assets that, after confiscation, become private property of the state can be used free of charge for social purposes by associations or foundations that are known to serve public purposes, through Government Decision initiated by the Ministry of Public Finance.

Art. 33³ The regulation regarding the social reuse of buildings that, after confiscation, become private property of the state is approved through Government Decision within 180 days from the date this law enters into force."

The actions taken to regulate the social reuse are still at the beginning because the principles and the concept of social reuse have recently been submitted to public debate in Romania. In order to be able to analyze the existent statistical data, it is necessary to make some distinctions between concepts.

9.2. Institutional framework

A distinction should be made between the disposal of confiscated criminal assets (special confiscation and extended confiscation), the enforcement of judgment whereby the claimant is awarded as compensation for material or moral damage caused by the commitment of a criminal offence, as well as the disposal of any kind of assets that, pursuant to law, become private property of the state (including, for example, confiscation for contraventions). The administrative/civil confiscation provided for by Law no. 115/1996 on statement and auditing of property of dignitaries, magistrates, persons with leading positions and civil servants, as further amended and supplemented should also be separately considered.

For a better understanding, we should clarify that assets of any kind that, pursuant to law, become private property of the state, are disposed of according to the provisions of G.O. no. 14/2007 regulating the form and conditions for the disposal of assets that, pursuant to law, become private property of the state, as amended and supplemented, approved by Law no. 28/2012, corroborated with the provisions of Government Decision no. 731/2007 approving the Implementation Procedures.

Assets that, pursuant to law, became private property of the state are disposed of by the disposal bodies (regional directorates of public finance, fiscal units of counties and districts 1-6, as well as other structures within the Ministry of Public Finance, established by order of the Minister of Public Finance) through their own stores, directly from the storage point or from their location, at public auction, through consignment or at commodity exchanges, as the case may be. The head of the fiscal body selects the disposal form.

The disposal of confiscated criminal assets (special confiscation and extended confiscation) involves more institutional actors, such as the Police, the Prosecutors' Offices, the Courts and the Ministry of Finance represented by ANAF. These institutions act by virtue of existent institutional resources: legislation in force, organizational resources, institutional practices.

According to Article 249 of the new Code of Criminal Procedure, the precautionary measures refer to attachment on the movable and immovable assets of the suspect or the defendant, of other persons who own or possess the assets to be confiscated or of the person who is the person liable under the civil law. The purpose of the precautionary measures determines the assets covered by each measure:

- precautionary measures to guarantee that the penalty in the form of a fine will be enforced –the suspect's or the defendant's assets;
- precautionary measures with a view to enforcing special confiscation or extended confiscation –the assets of the suspect or the defendant or of other persons who own or possess the assets to be confiscated;
- precautionary measures with a view to compensating for the damage caused by the criminal offence and to guarantee the payment of court charges –the assets of the suspect or the defendant or of the person liable under the civil law.

Article 249 establishes the general conditions for taking precautionary measures as well as the persons who can take such measures: the prosecutor, during criminal prosecution, the preliminary chamber judge, during the preliminary chamber procedure, the court, during criminal proceedings. Precautionary measures can be ordered automatically or at the prosecutor's request.

According to Article 251, the bodies that enforce the precautionary measures are the criminal investigation bodies. According to the procedure for attachment (Article 252) the seized assets should be assessed either directly, by the body enforcing the attachment, or by assessors or experts. This procedure establishes the assets that need to be seized and what happens with them: the types of assets that can be sealed or seized, as well as the types of assets that are turned over to specialized institutions to be stored, are transferred to competent authorities or are deposited at banking institutions.

Article 253 provides for the form of the reports and documents regarding the seized assets and their value, as well as assets that, as provided by law, are exempt from investigation, but also objections of the defendant, the person liable under the civil law or other stakeholders.

Garnishment refers to "sums that a third party or the injured person owes in any form to the suspect, the defendant or the person liable under the civil law" (Article 254) that are garnished with such persons. Such sums shall be deposited by debtors at the disposal of the judicial body or of the enforcement body.

If the preliminary chamber judge or the court ascertain that the assets seized from a suspect or defendant or from any other person who received such assets for safekeeping are owned by the victim or by any other person or have been abusively taken, they shall order the return of such assets under certain conditions laid down in the same article.

- measures concerning the confiscation for contraventions (Article 5(3) and (24) of G.O. no. 2/2001)

The complementary sanctions for contraventions are: confiscation of assets intended or used for or resulted from committing contraventions; the authority entitled to determine a contravention shall describe in the report the confiscated assets and shall take measures for their preservation or disposal as required by the legislation, recording them in the report. The authority entitled to determine a contravention must establish who the owner of the confiscated assets is and, if they belong to a person other than the offender, the report shall include, if possible, the owner's identification data or reasons why the identification was not possible.

9.3. Trends regarding confiscated criminal assets⁸

A. Methodology

In order to substantiate social reuse in Romania, it was deemed necessary to monitor the assets that can be reused for social purposes. The role of the monitoring activity was to offer an overview of the recovery of criminal assets, from the criminal investigation to the disposal of confiscated assets because the process is extremely fragmented and there are no certitudes regarding the impact of social reuse on the budget. The public policy options for social reuse were substantiated on the basis of this monitoring activity.

⁸ 2012, 2013 and 2014 DNA reports and the responses sent by authorities at CLR's requests

During the monitoring activity we gathered data by sending requests for information of public interest to the following institutions: the National Anticorruption Directorate (DNA), the Directorate for Investigating Organized Crime and Terrorism (DIICOT), the Public Ministry (PICCJ), enforcement courts (Tribunals and Courts of Appeal), the Ministry of Justice, the Ministry of Public Finance, the National Agency for Fiscal Administration, the Regional General Directorates of Public Finance, the State Inspectorate for Constructions. In order to clarify certain aspects, there were semi-structured interviews with contact persons from DNA, DIICOT, PICCJ, the Ministry of Justice, the Ministry of Public Finance. In addition, open-source data were used: annual activity reports, literature, mass-media monitoring etc.

B. Criminal prosecution

The investigation is very important from the perspective of social reuse because, during this stage, the criminal proceeds (assets) are identified, the precautionary attachment is instituted and the courts of judgment open the way to their confiscation (e.g. evidence is collected). If the assets are not urgently seized, they are rapidly sold or hidden and the courts end up ordering value based confiscation from persons who have no properties or sources of income. This problem was brought to the Ministry of Public Finance's attention in 2015: *„53,6% of the total value of the damage to be recovered represent, in fact, unrecoverable damage, the same as unrecoverable arrears (the value of the damage related to insolvency, insolvability, lack of traceable assets or incomes, ongoing legal formalities for division of property / termination of joint property)."* Thus, since there are no assets, there is nothing that can be reused for social purposes.

The first part provides data from prosecutors' offices regarding the recovery of damage and proceeds of crimes: DNA, DIICOT and PICCJ.

a) The National Anticorruption Agency

In most of the indictments between 2012 and 2014 (234 in 2012, 270 in 2013 and 294 in 2014), there were proceeds of crime resulted from damage caused or economic advantages gained by the persons sued for crimes related to corruption, tax evasion, fraud with European funds or other economic crimes (199 indictments in 2012, 211 in 2013 and 245 in 2014).

The damage in all these indictments had an upward trend from 2012 until 2014, with a slight decrease in 2013 as compared to 2012.

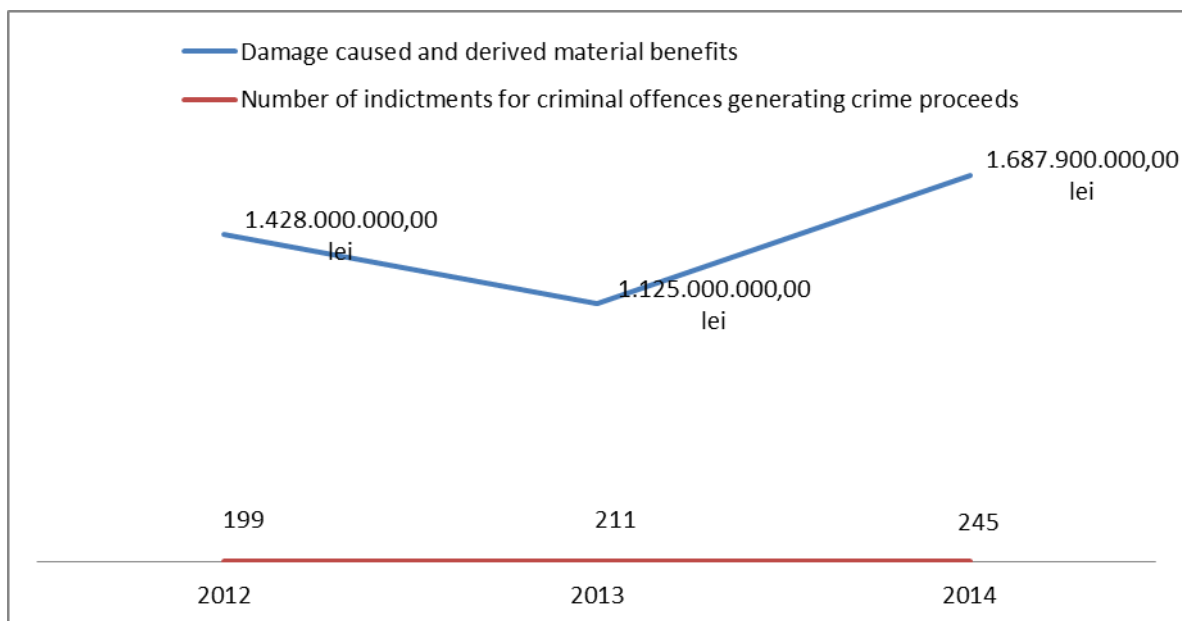


Fig. 1. DNA indictments – crime proceeds / damage caused

These indictments show that the value of money or assets resulted from corruption crimes (proceeds of crime) had the same upwards trend between 2012 and 2014.

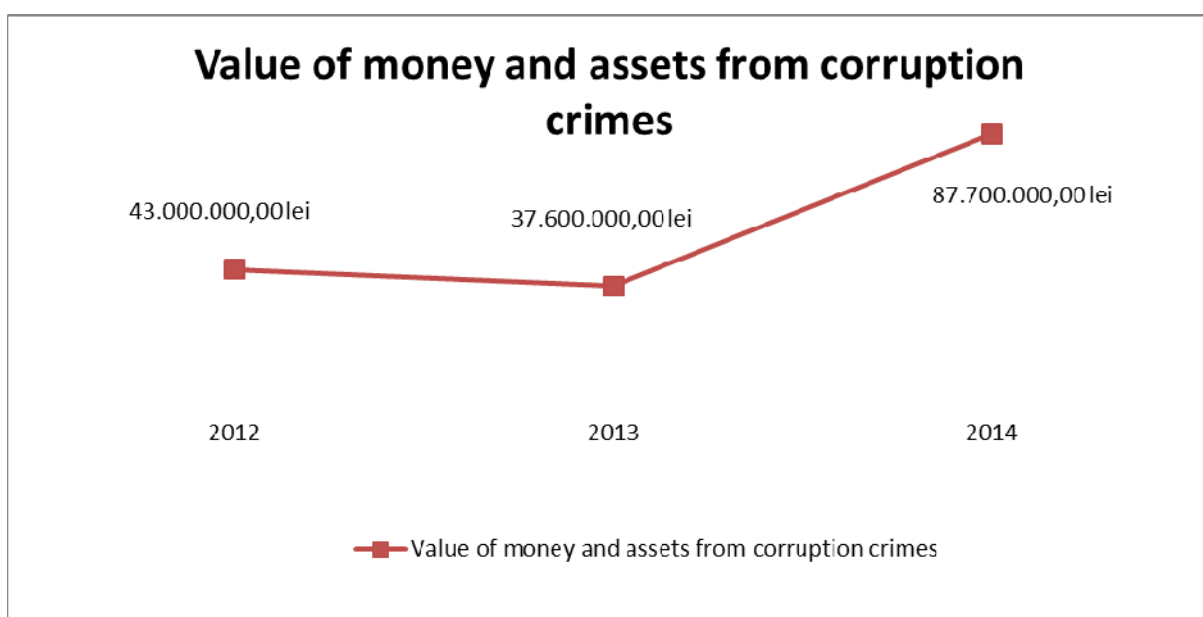


Fig. 2. Value of money and assets from corruption crimes

In all the indictments for crimes that generated proceeds of crime (damage + proceeds), the value of the assets that were actually seized increased by approximately 162.52%.

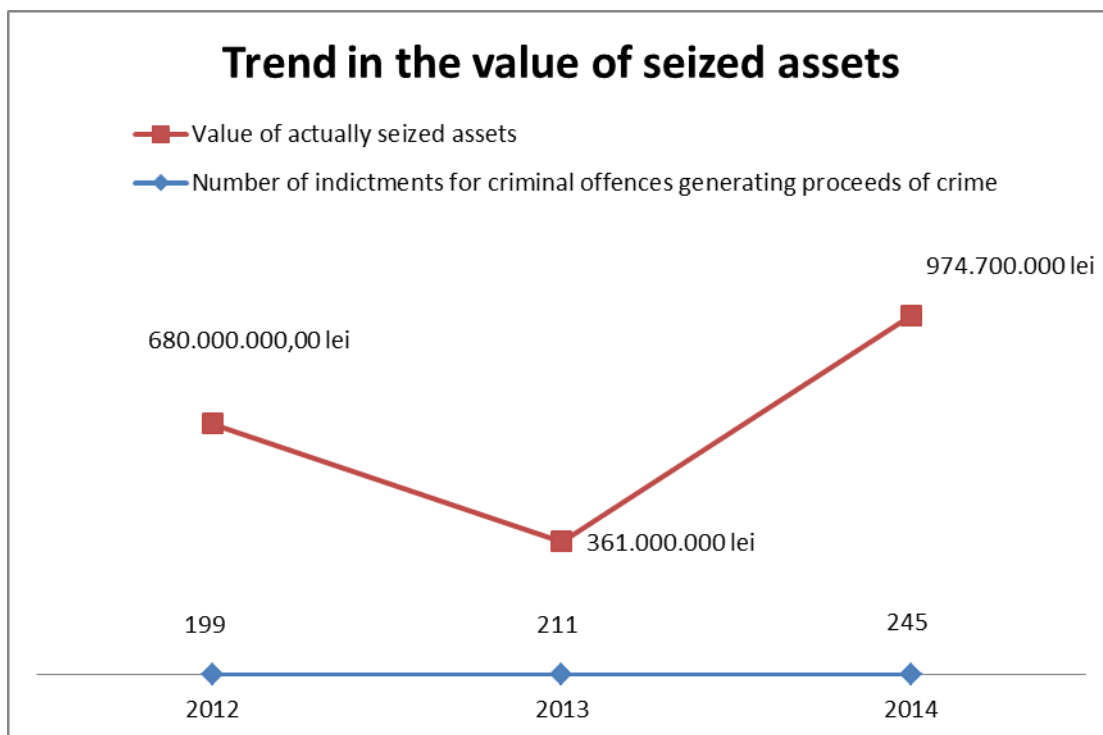


Fig. 3. Trend in the value of seized assets – indictments 2012-2014

As regards the courts' activity in connection with causes handled by DNA, in 2014 there was a significant increase in final court solutions/decisions establishing civil compensation (awarded especially to public authorities and institutions or state-owned economic entities - 91.11% of compensations) and special confiscation.

As a result of DNA indictments, the number of final decisions in the reference years was 214, 163 and 210 respectively, and the confiscated sums increased by over 300% (here, confiscated sums refer to civil compensation paid and special/extended confiscation).

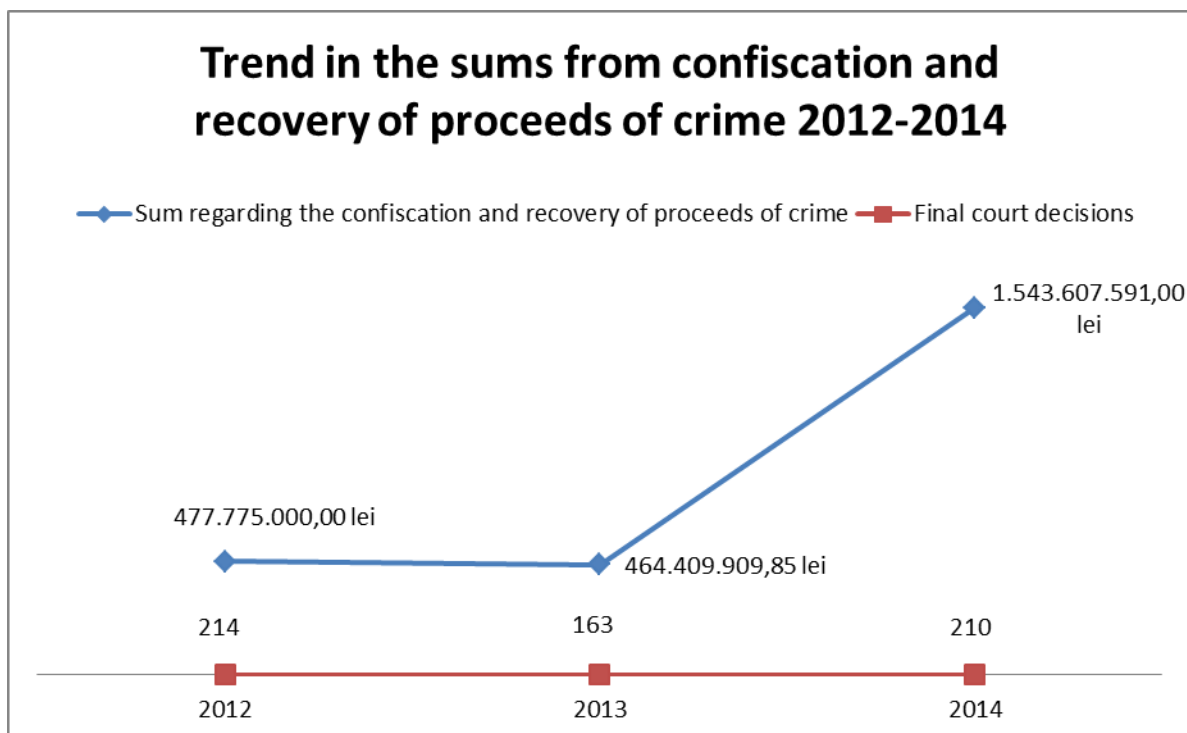


Fig. 4. Trend in the sums from confiscation and recovery of proceeds of crime 2012-2014 ordered by courts on the basis of DNA indictments (civil compensation and special/extended confiscation)

A positive dynamic, but with much smaller growth, for sums that were actually recovered during the criminal proceedings.

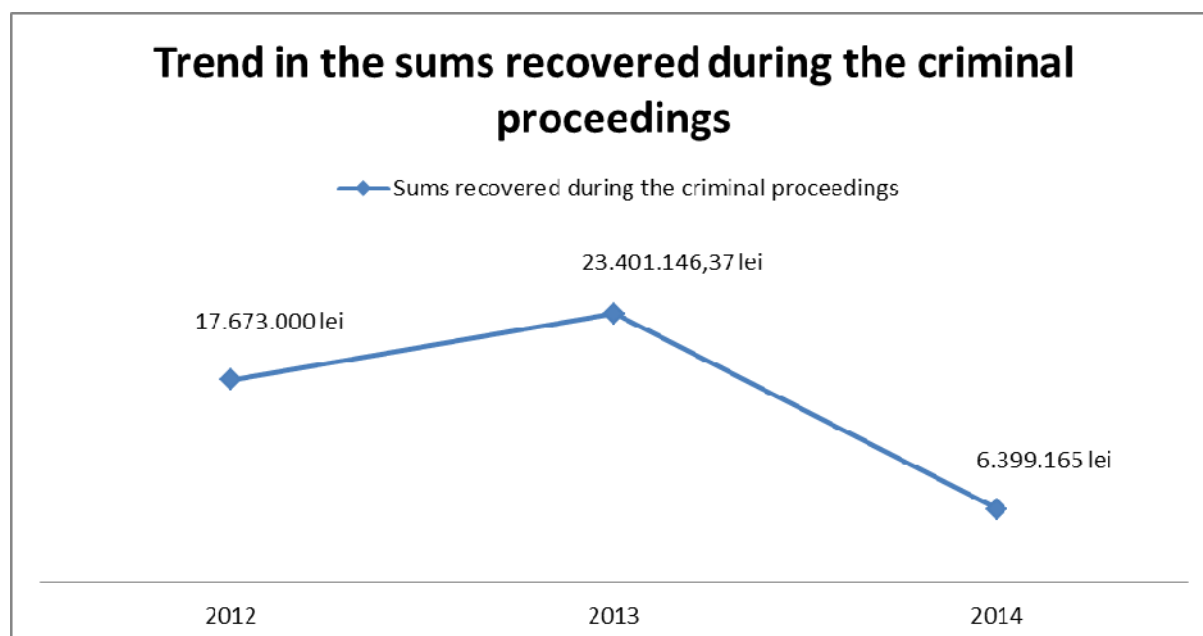


Fig. 5. Trend in the sums recovered during the criminal proceedings 2012-2014 (DNA)

The courts ordered special confiscation of money and assets which in the reference interval increased by over 8 times, from 17,197,000 lei in 2012 to 140,549,769.98 lei in 2014. Such assets resulted from special confiscations can be reused for social purposes. Thus, in theory, at the end of 2014, an amount of 31.6 million euro, resulted only from final court decisions based on DNA indictments, could have made the object of social reuse if there had been a proper legal framework.

The real property that was subject to special confiscation ordered through final court decisions in 2014 in DNA cases (that can also be the object of social reuse) is as follows:

- 29,220.03 square meters of land in Bucharest, including buildings;
- 4457 square meters of land in Bucharest;
- 3000 square meters of land in Bucharest, including buildings, the building in Bucuresti-Ploiesti Street and 3140 square meters of construction.

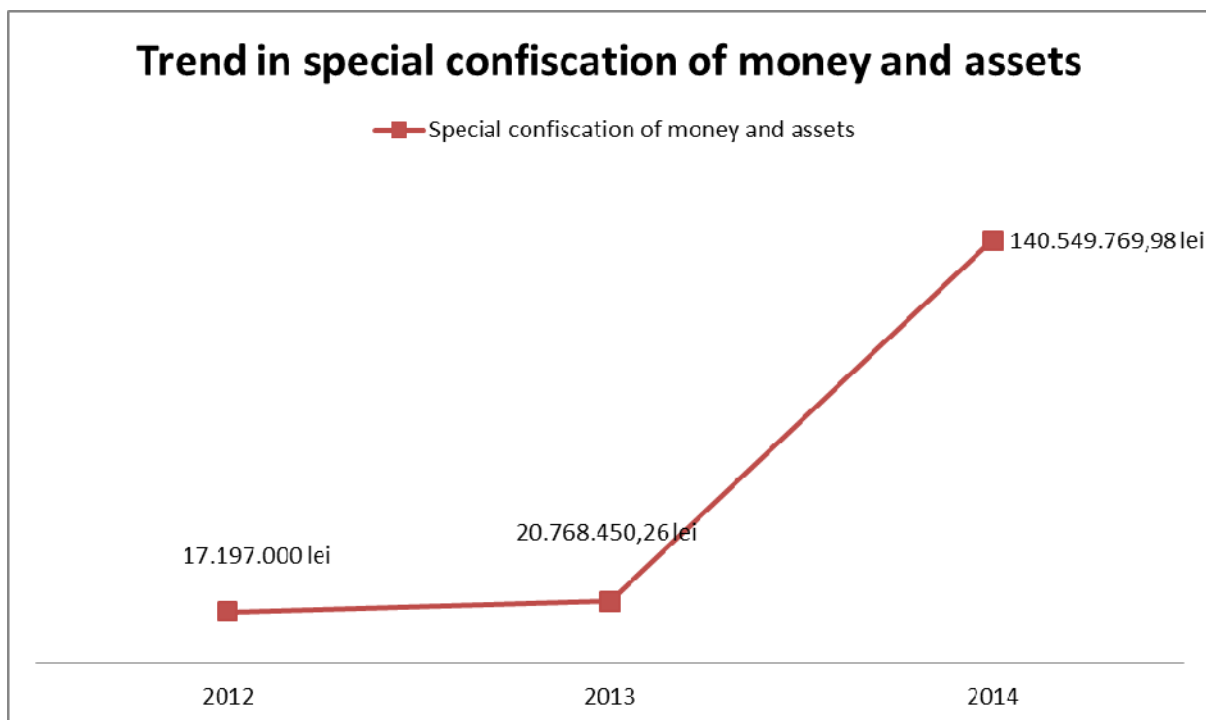


Fig. 6. Trend in the special confiscations of money and assets 2012-2014 (final court decisions based on DNA indictments)

During the reference interval there were cases in which the courts decided to return money to those who had given bribes or traded in influence, but there was a decrease in the returned amounts of money.

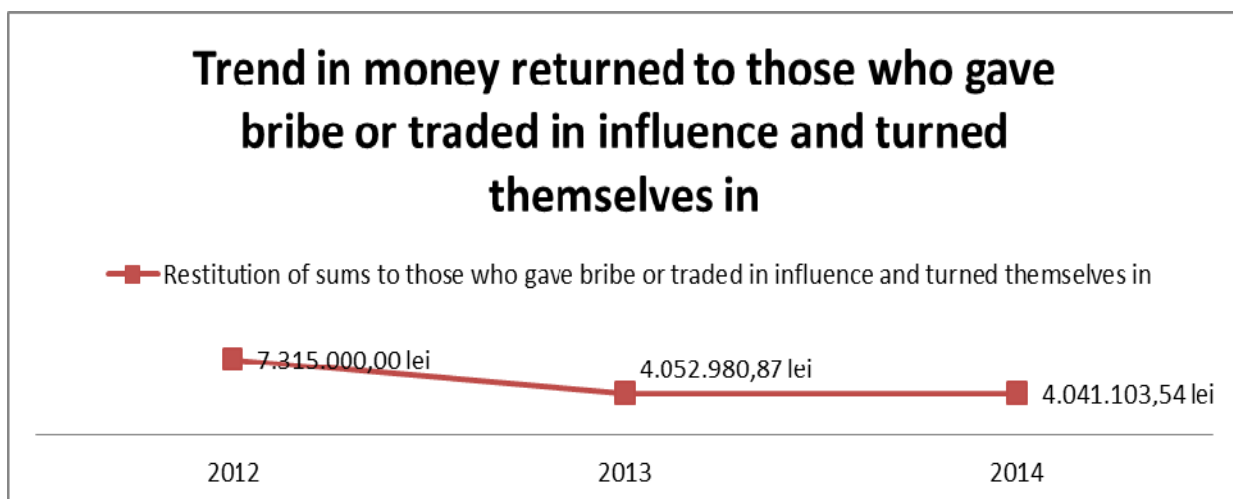


Fig. 7. Trend in money returned to those who gave bribes or traded in influence and turned themselves in 2012-2014

Comparison with attachment in 2012-2013, in DNA indictments

As regards the assets subject to precautionary attachment in cases that ended in DNA indictment, the most attachments were ordered in 2013 (560) and the assets were from the following categories: buildings (71.6%), cars and tractors (18.5%), other (7.7%) and

accounts (2.1%). In 2014, the 538 assets subject to precautionary attachment were divided as follows: buildings (77%), cars (17.3%), other (1.3%) and accounts (4.3%).

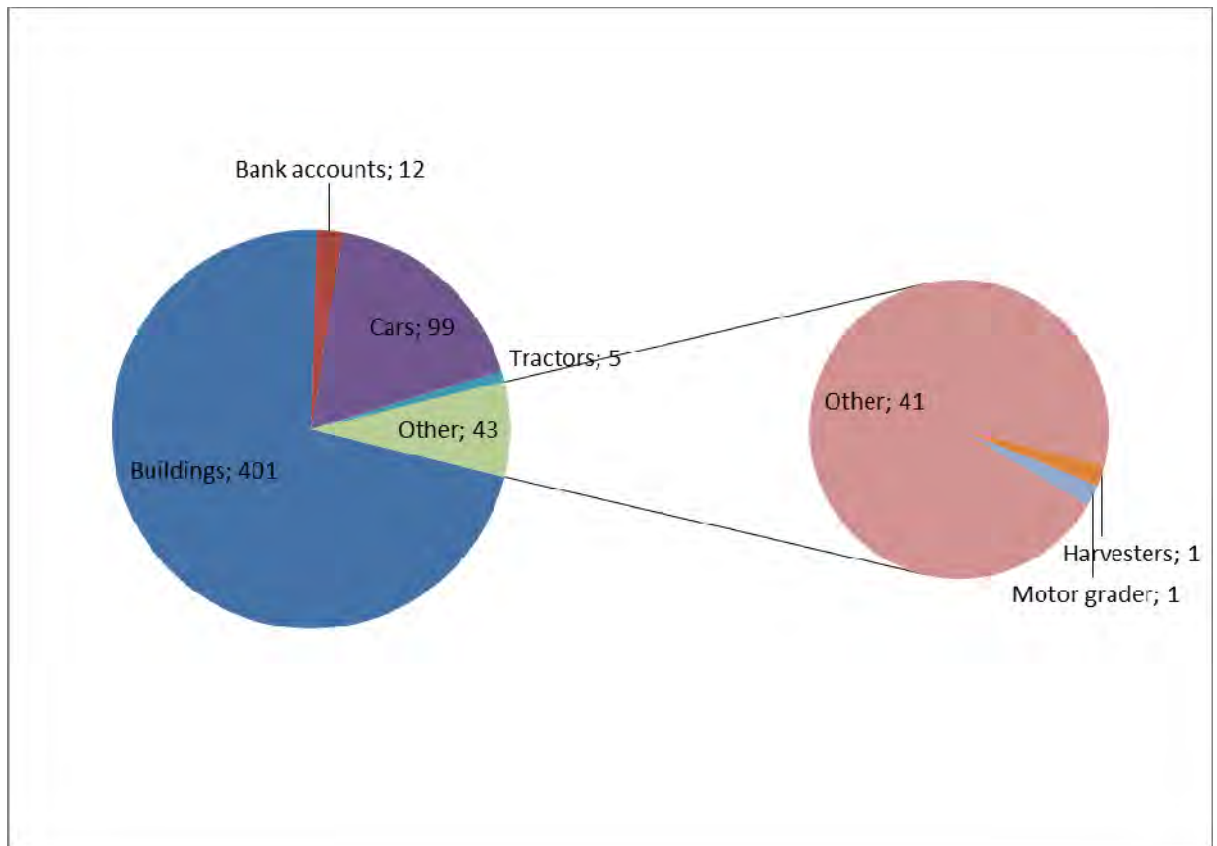


Fig. 8. Number of assets subject to precautionary attachment in 2013, DNA indictments

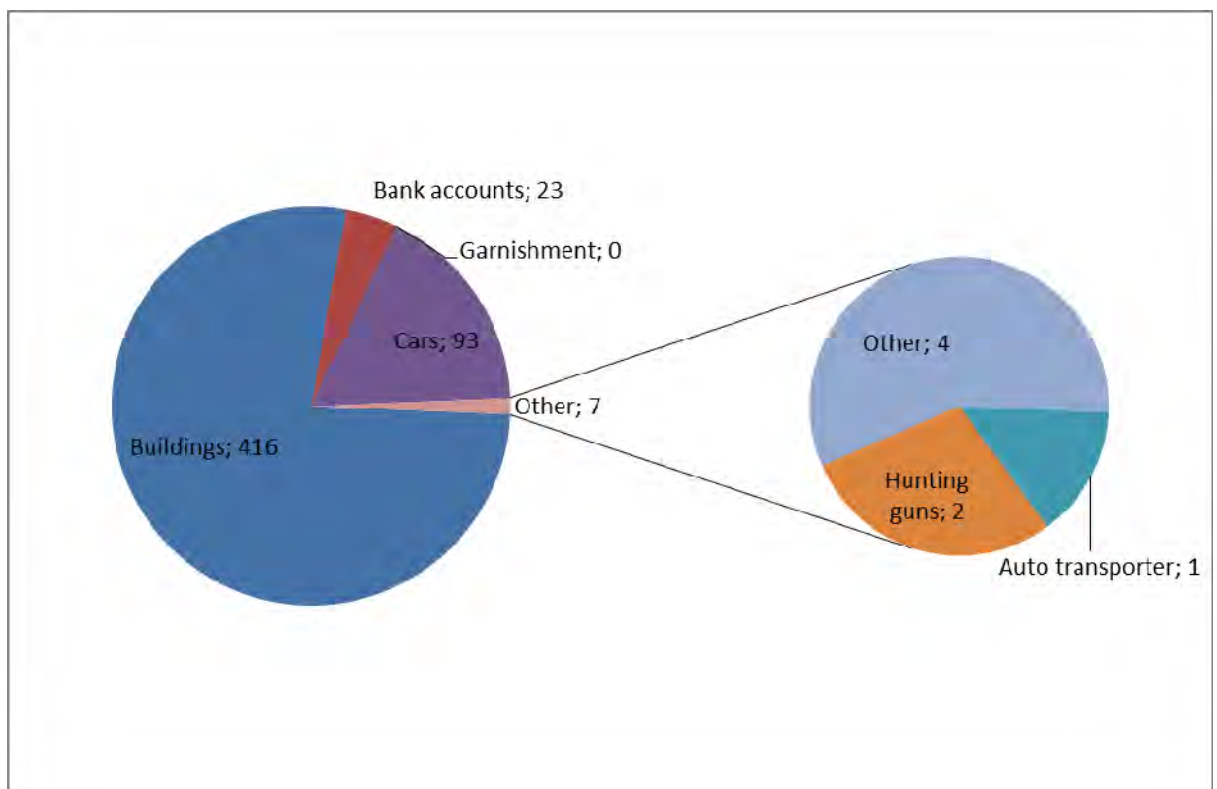


Fig. 9. Number of assets subject to precautionary attachment in 2014, DNA indictments
The value of such assets seized by DNA was estimated on the basis of assessments.

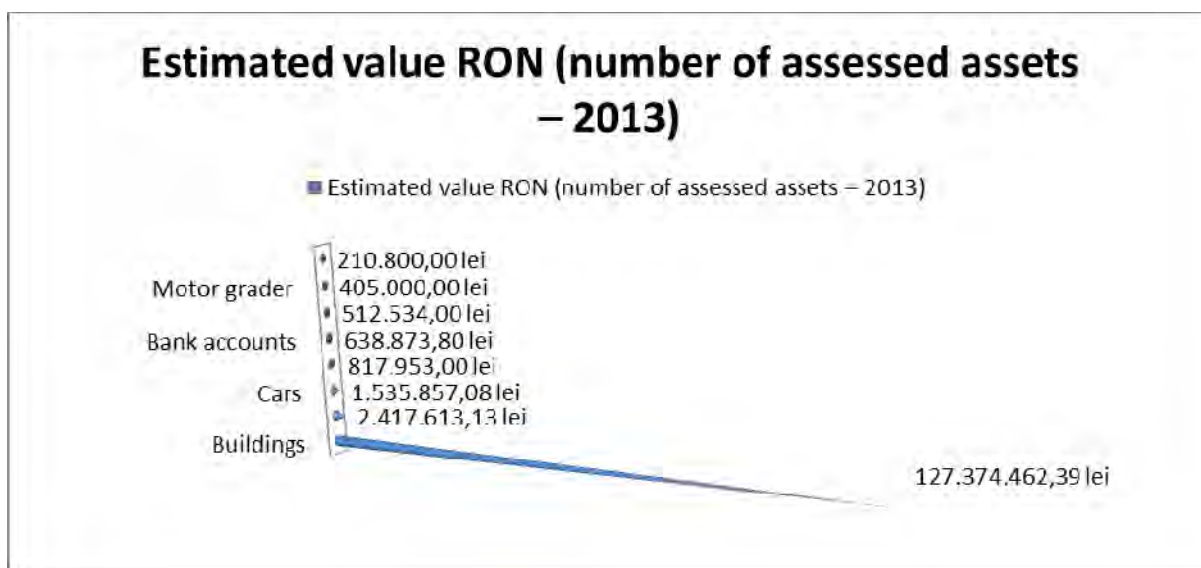


Fig. 10. Estimated value of assets assessed in 2013

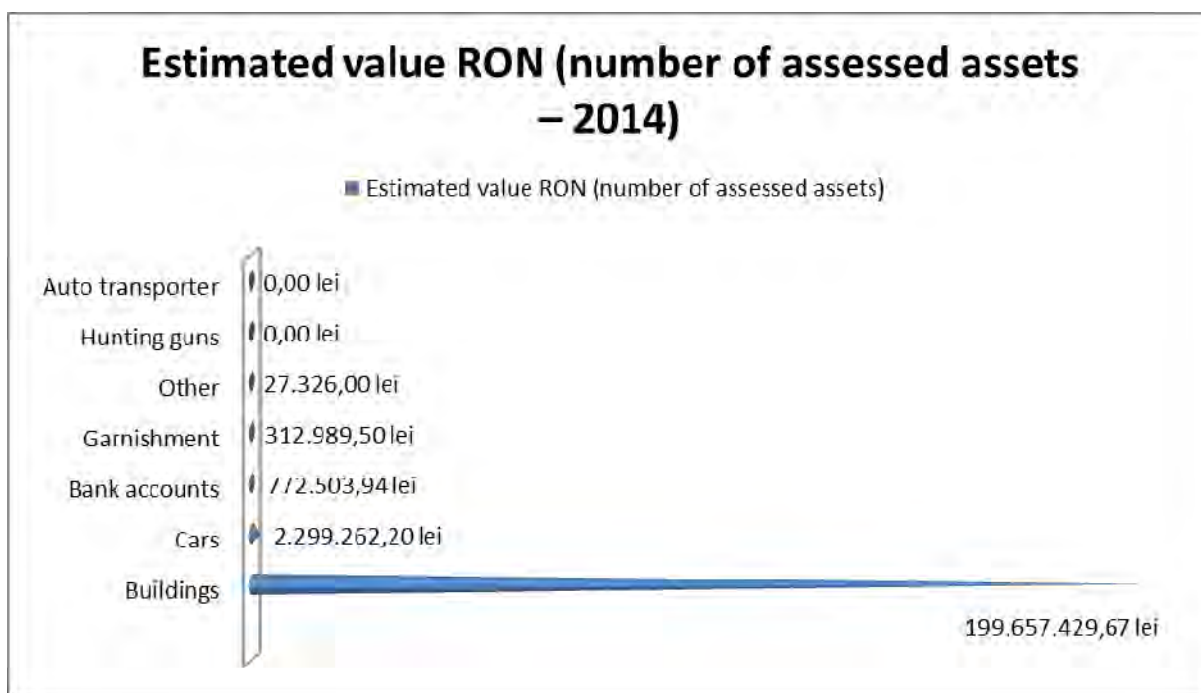


Fig. 11. Estimated value of assets assessed in 2014

Assets that must be seized according to Article 252 of the Code of Criminal Procedure, which establishes that:

„(1) The body proceeding to the enforcement of attachment is under an obligation to identify and assess the seized assets, being able to resort, if necessary, to evaluators or experts.

(2) Perishable goods, objects made of precious metals or stones, foreign payment instruments, domestic securities, art and museum works, valuable collections as well as money subject to attachment shall be seized.

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

(4) Metals or precious stones or items made of such and foreign payment instruments shall be deposited with banking institution.

(5) Domestic securities, art and museum works and valuable collections shall be delivered for safekeeping to specialized institutions.

(6) The objects referred to under paragraphs (4) and (5) shall be delivered within 48 hours from their collection. If such items are strictly necessary to the criminal investigation, the preliminary chamber procedure or the trial, their delivery shall be made subsequently, but no later than 48 hours from the return of a final court decision in the case in question.

(7) Seized assets shall be stored until attachment is lifted.

(8) The sums of money resulting from the disposal referred to in paragraph (3), as well as the sums of money collected pursuant to paragraph (2) shall be deposited, as applicable, in the name of the suspect or defendant or of the party liable under civil law, at the disposal of the judicial body having ordered the attachment, which shall be handed the receipt confirming the deposited amount, within 3 days from the seizure of money or from the disposal of assets.

(9) The other movable assets under attachment are sealed or seized, with the possibility to appoint a custodian."

The graph below shows the value distribution for assets seized according to Article 252 of the Code of Criminal Procedure in 2013, in DNA cases ended in indictments. Thus, most of the seized assets are company shares (95%), followed by sums of money (4.7%) and other assets (0.3%).

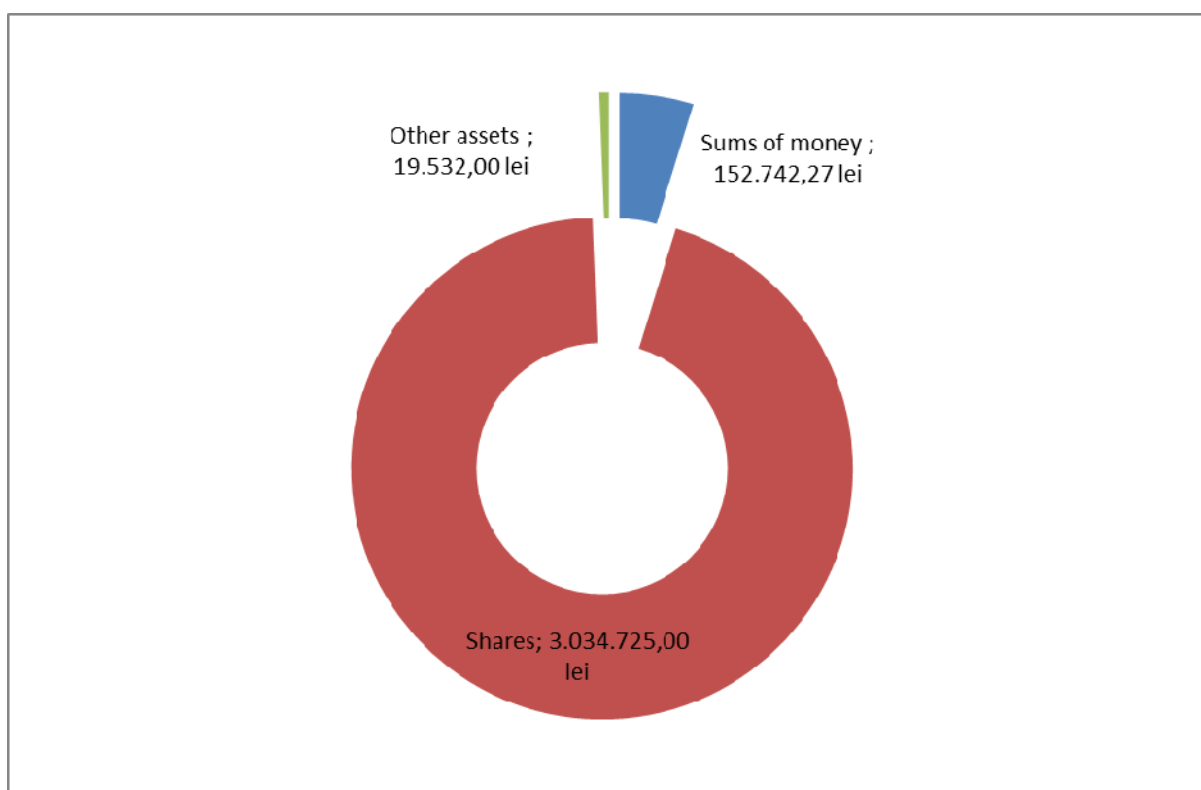


Fig. 12. Value distribution for assets that must be seized according to Article 252 of the Code of Criminal Procedure, DNA indictments, 2013

The graph below shows the value distribution for assets seized according to Article 252 of the Code of Criminal Procedure in 2014, in DNA cases ended in indictments. Thus, the first position is taken by seized money (43%) followed by other assets (26.1%) and equity interests (12.9%).

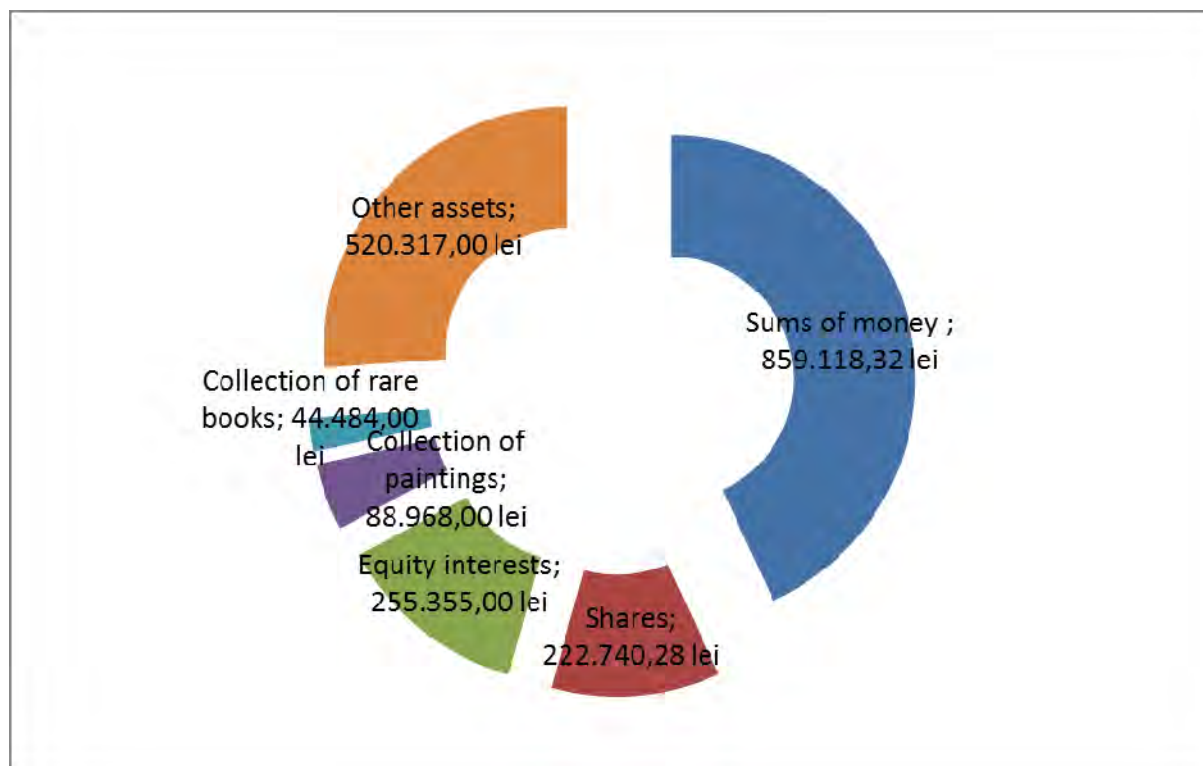


Fig. 13. Value distribution for assets that must be seized according to Article 252 of the Code of Criminal Procedure, DNA indictments, 2014

The analysis of DNA's activity shows that the key assets that can be reused for social purposes are real property and money subject to special/extended confiscation.

DNA seized in 2013 and 2014 817 *immovable assets* (buildings and land). Depending on the development of the legal framework, after confiscation some of these assets can be reused for social purposes.

b) Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism

DIICOT is another structure organized as a prosecutors' office, which is extremely important from the perspective of social reuse. DIICOT has the authority to investigate serious crimes having a significant impact at the social/community level, such as drug trafficking, human trafficking, tax evasion, organized crime. There are communities where criminals become social role models and take advantage from the communities they exploit: "the traffickers' incomes derived from criminal activity were invested in real property (land, houses, apartments etc.), movable assets (luxury cars, gold jewelry, luxury clothing, electronic devices etc.), start-ups"⁹. Such assets/sums of money, after being confiscated from criminals, can return to the communities affected by crime for educational programs, health, workplaces, if the principles of social reuse are adhered to, and can have a greater

⁹ 2014 annual DIICOT report, p. 24

impact than if they were transferred to the state budget. According to DIICOT data¹⁰, in 2014 precautionary measures worth 23,055,711 lei (over 5 million euro) were taken in connection with human trafficking.

As regards the economic and financial crimes, the total value of the precautionary measures taken in 2014 amounted to approximately 148,888,938 (over 33 million euro), including 262 buildings and 345 cars, goods, money and shares/equity interests.

In terms of DIICOT's overall activity, the total value of precautionary measures taken in 2014 amounted to 649,097,856 lei (over 145 million euro), significantly smaller than the value of precautionary measures taken by DNA during the same period of time (over 219 million euro). However, in comparison to 2013, the total value of precautionary measures increased by 4 times (from 145,914,161 lei – approximately 32 million euro).

Regarding the results obtained in courts, in 2014, in the form of final convictions, only in publicized cases, the value of precautionary measures amounted to approximately 457 million euro (13,222,127.876 euro, 1,967,722,123.81 lei, 148,934,438 USD – 2014 Annual report, p. 93-94).

c) The Prosecutors' Office attached to the High Court of Cassation and Justice

In cases solved by PICCJ in 2013, precautionary attachment was ordered for assets worth 60,934,757.94 lei (over 13 million euro), most of them represented by sums in bank accounts (8,850,000 euro).

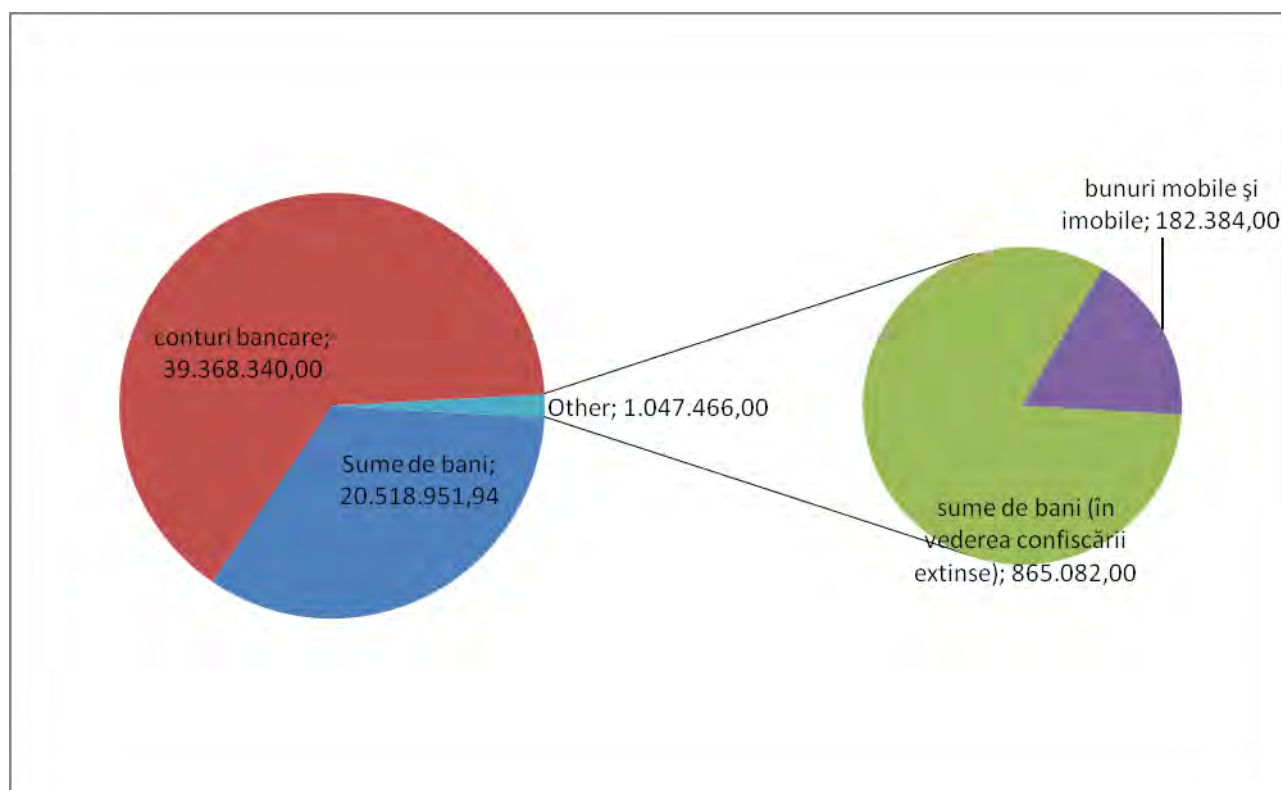


Fig. 14. Value of precautionary attachment / categories in 2013, PICCJ indictments

In cases solved by PÎCCJ in 2014, precautionary attachment was ordered for assets worth 5,050,034.98 lei (over 1 million euro), most of them represented by movable assets

¹⁰ Annual activity report, 2014, p. 25

and real property (buildings, land). 2,611,696 lei of this amount is represented by precautionary measures in cases of petty corruption¹¹.

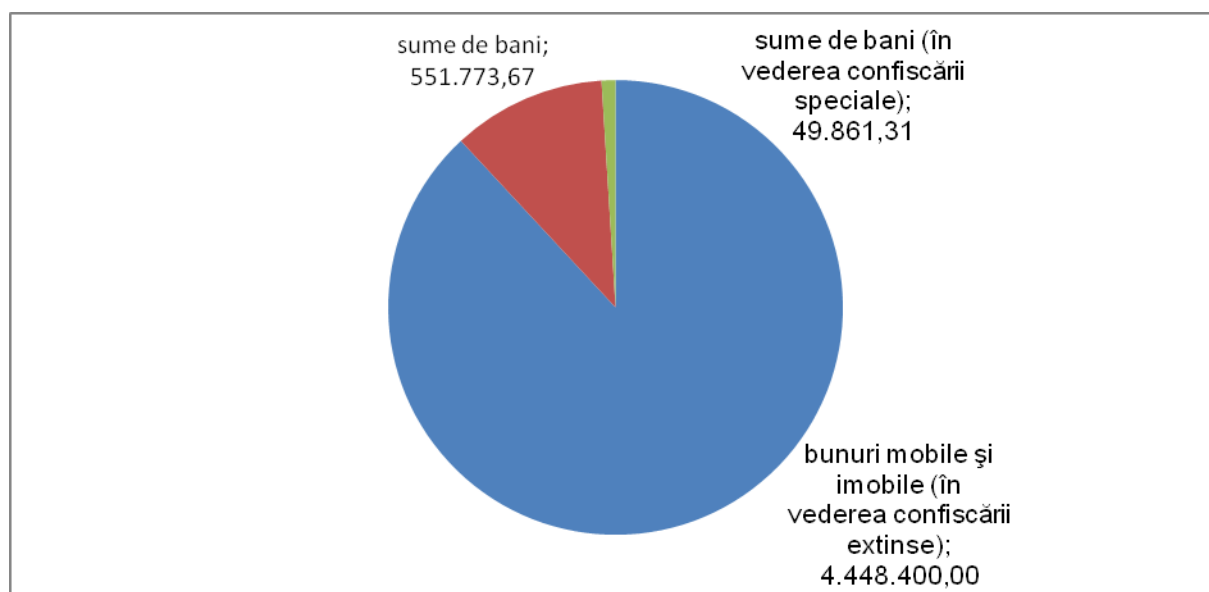


Fig. 15. Value of precautionary attachment / categories in 2014

In cases unsolved by PICCJ in 2013, the value of assets subject to precautionary attachment amounts to 28,455,199.60 lei.

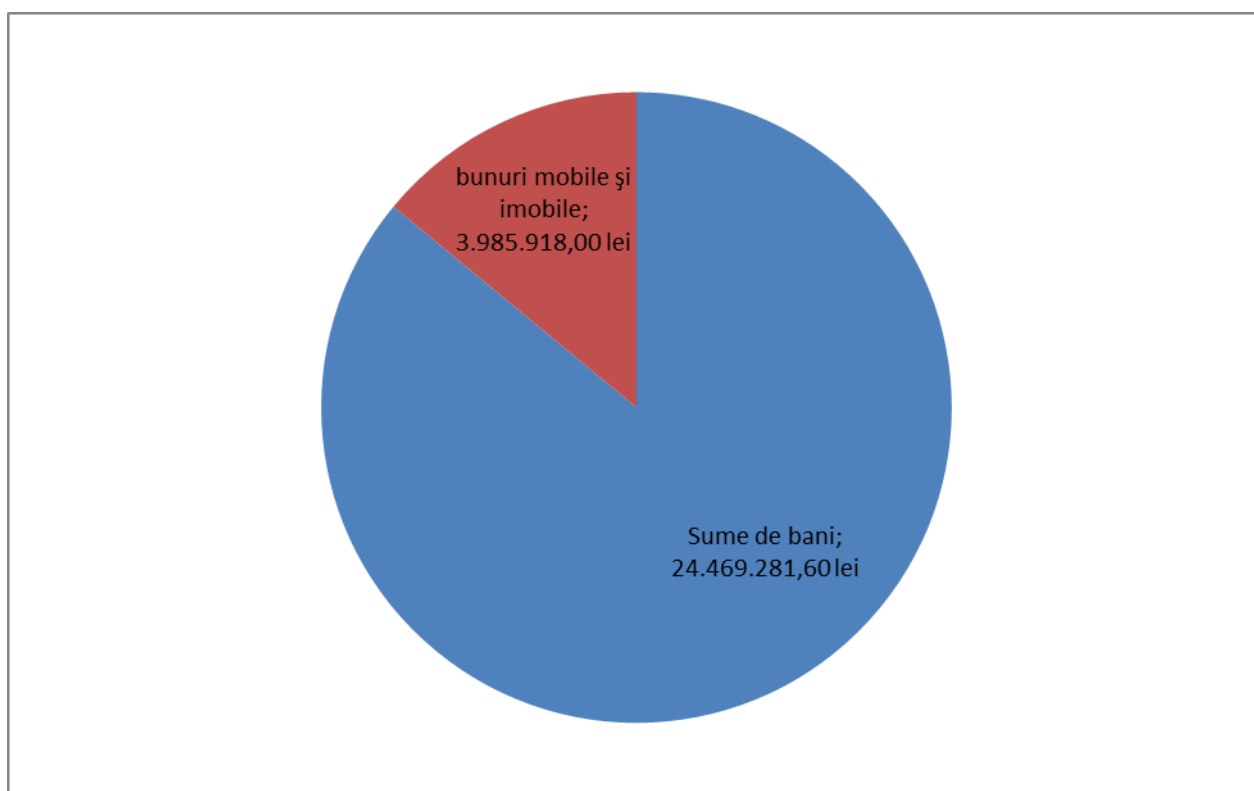


Fig. 16. Value of unsolved cases, 2013, PICCJ

¹¹ Raport privind activitatea desfășurată de Ministerul Public în anul 2014, p. 89.

Instead, in 2014, in unsolved cases, precautionary attachment was ordered for assets worth 26,249,048.33 lei, of which:

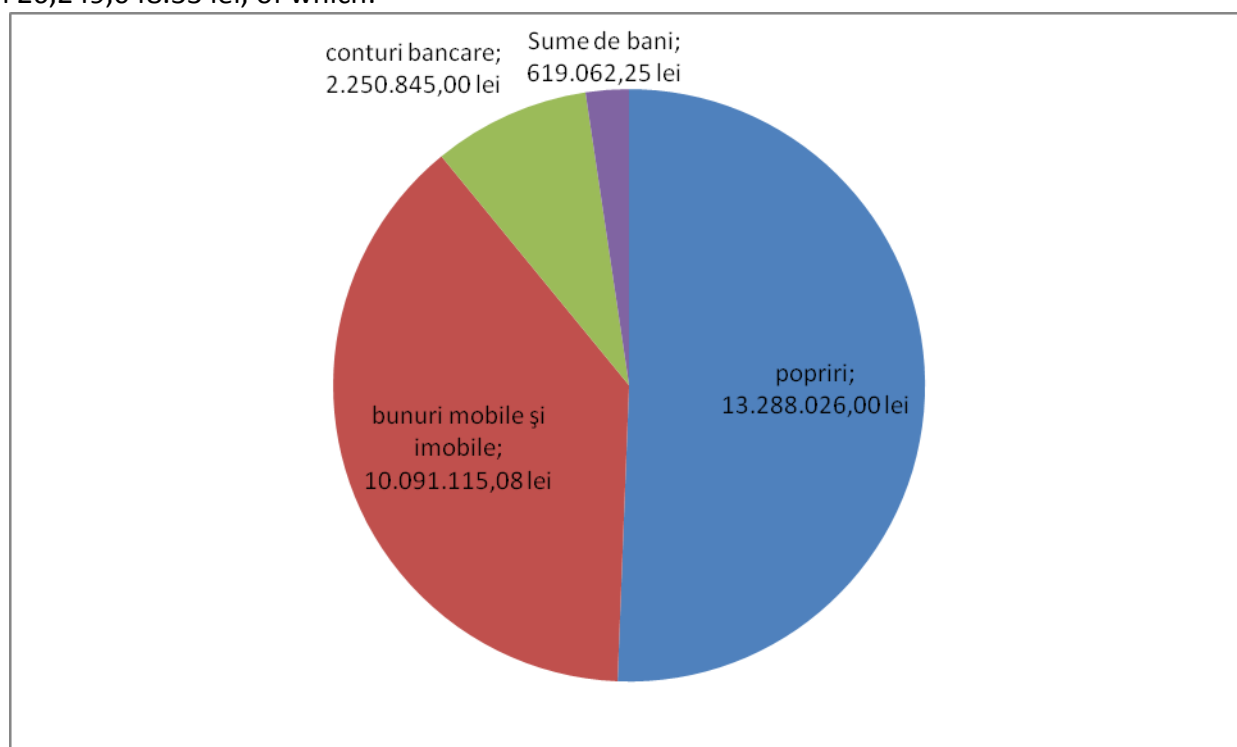


Fig. 17. Value of unsolved cases, 2014, PICCJ

Therefore, PICCJ's activity (local prosecutors' offices and the divisions of the Prosecutors' Office attached to the High Court of Cassation and Justice) has a smaller economic impact (in terms of precautionary measures ordered or confiscations obtained) than the activity of specialized prosecutors' offices (DNA, DIICOT) therefore, from the perspective of social reuse, there are less confiscated assets that could be the object of this form of disposal.

C. Case study on enforcement courts (tribunals)

a) Analysis regarding the recovery of criminal proceeds on the basis of final sentences delivered in Tribunals in 2014¹²

For this analysis data were gathered from courts, namely from tribunals (courts with legal personality, established at the level of each county and Bucharest, whose head offices are usually in the county capital). Within the monitoring activity we requested copies of notifications issued in 2014 (until November 2014 – the date the request was sent) regarding the enactment terms of the decisions sent by the judge in charge of the enforcement, under Article 574(b) and (c) of the Code of Criminal Procedure – CCP (enforcement of special confiscation and extended confiscation).

Following our requests for information, 35 courts sent their responses (7 courts did not respond to our requests¹³). Out of the 35 courts that responded to our requests, 3

¹² Information gathered pursuant to the law of free access to public information, from responses to CLR's requests and directly from the Court Registers for the Bucharest Tribunal.

¹³ Tribunals of Arad, Bihor, Botoșani, Constanța, Giurgiu, Iași and Vrancea.

courts¹⁴ had no cases for which the requested notifications were needed. As regards the Bucharest Tribunal, taking into consideration the court's busy schedule, a team of CLR volunteers went to the court's premises and consulted the registers of enforcements of judgment in criminal cases in 2014.

As a result of the monitoring process, 728 cases were identified for which, in 2014, there was a final decision on special confiscation and/or extended confiscation.

The results of the monitoring activity reflect an approximate image because the analyzed cases represent only a sample (approximately 34%) drawn from a population of cases of unknown size (the best approximation of the total number of cases in 2014 is that offered by ANAF, i.e. 2,140 cases¹⁵). Then, in the total number of identified cases (728), for only 425 cases the case number could be identified and the confiscated assets could be recorded in the database. Thus, the number of cases included in the sample of this analysis is $n = 425$.

Out of the total number of cases recorded in the database, only one case¹⁶ involved extended confiscation worth 22,392 lei. The other cases concerned only special confiscation.

The Criminal Code regulates these two types of confiscation establishing the categories of assets that can be subject to special confiscation and/or extended confiscation. For extended confiscation to apply, the person must have committed crimes under Article 112¹ of the Criminal Code and a number of conditions should be simultaneously satisfied:

a) a person's legal income is obviously below the value of the assets acquired by the convicted person within a period of time beginning 5 years prior to and, if necessary, after committing the crime, and ending with the date of the act referring a case to court.

b) the court is convinced that the assets derive from criminal activities under paragraph (1).

The distribution (in percentages) of identified cases for each type of crime places drug crimes on the first position, 47% of the total number of cases included in the sample ($E = 425$ cases). For a quite big number of notifications, due to incomplete data sent by tribunals¹⁷, the case number and the crimes could not be identified.

The number of identified cases of tax evasion was not so big as compared to the number of cases involving drug trafficking. It should be said that in most cases involving drug trafficking, the confiscation of drugs was ordered, mainly for light drugs such as cannabis.

¹⁴ Tribunals of Olt, Teleorman and Călărași.

¹⁵ Press Release No. A_RPC_450/8.04.2015

¹⁶ Case no. 25755/3/2013

¹⁷ The type of information included in the notification varies from court to court. Also, there are courts that did not communicate the requested information. E.g. Dâmbovița Tribunal considered that by sending the documents the right to protection of personal data was infringed.

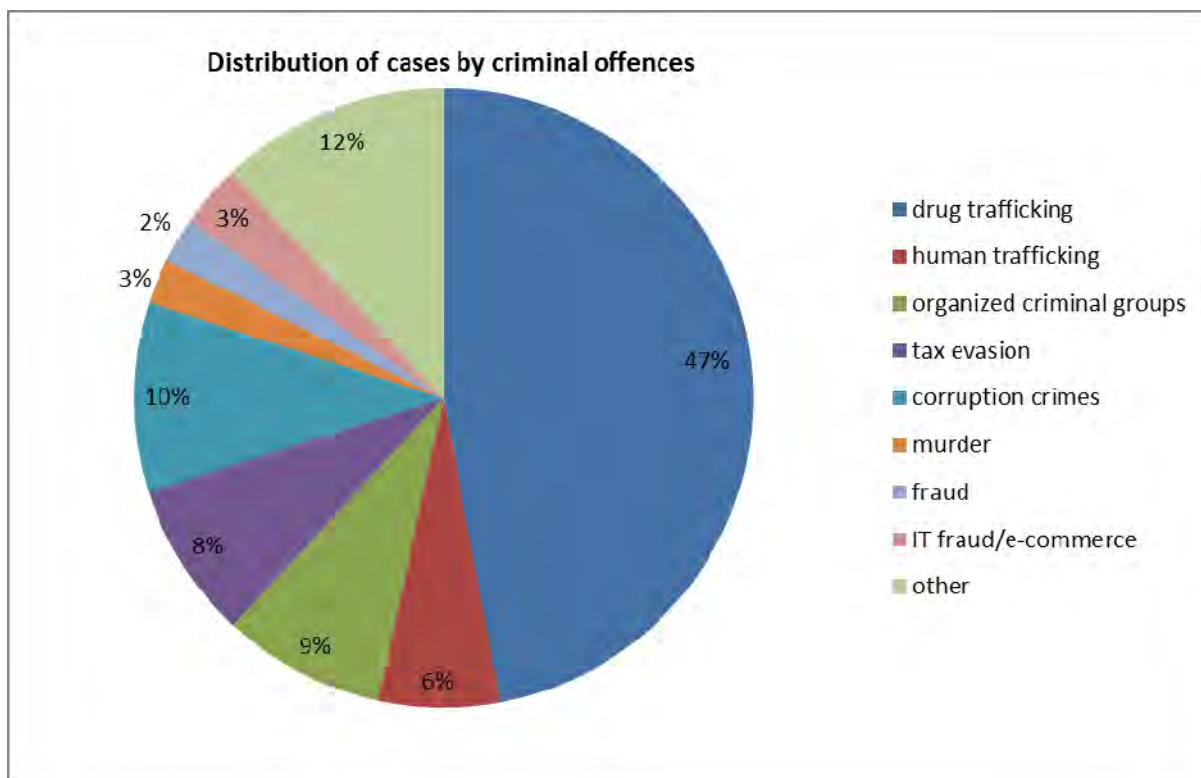


Fig. 18. Number of cases collected from tribunals

The order of crimes by the number of cases is not the same as the order by the value of criminal proceeds whose confiscation was ordered. Although the cases of drug trafficking are on the first place according to the number of cases (47%), as regards the ordered confiscations, drug crimes are on the 6th place (almost 250,000 euro¹⁸). Thus, the prosecutors need to intensify their efforts in order to identify the final beneficiaries of criminal proceeds, not only the middlemen, low level dealers or users.

Going further with the hierarchy of values of confiscations, tax evasion is on the first place with confiscations of over 2 million euro, followed by corruption offences with almost 2 million euro. Human/child trafficking is on the 3rd place, and ordered confiscations amounted to almost 1.2 million euro. Although organized crime groups are on the 3rd place according to the number of cases, ordered confiscations amounted to almost 800,000 euro (the 4th place in the hierarchy of confiscations¹⁹).

b) Ordered confiscations - Lei

¹⁸ The average exchange rate in 2014, 1 euro = 4.4446 lei

¹⁹ The hierarchy resulted from adding up all sums of money (irrespective of currency) confiscated in the analyzed cases. The currencies were converted into lei using NBR's average exchange rate in 2014: 1 USD - 3,3492 lei, 1GBP - 5,513 lei, 1DKK - 0,5962 lei, 100 HUF - 1,4398 lei.

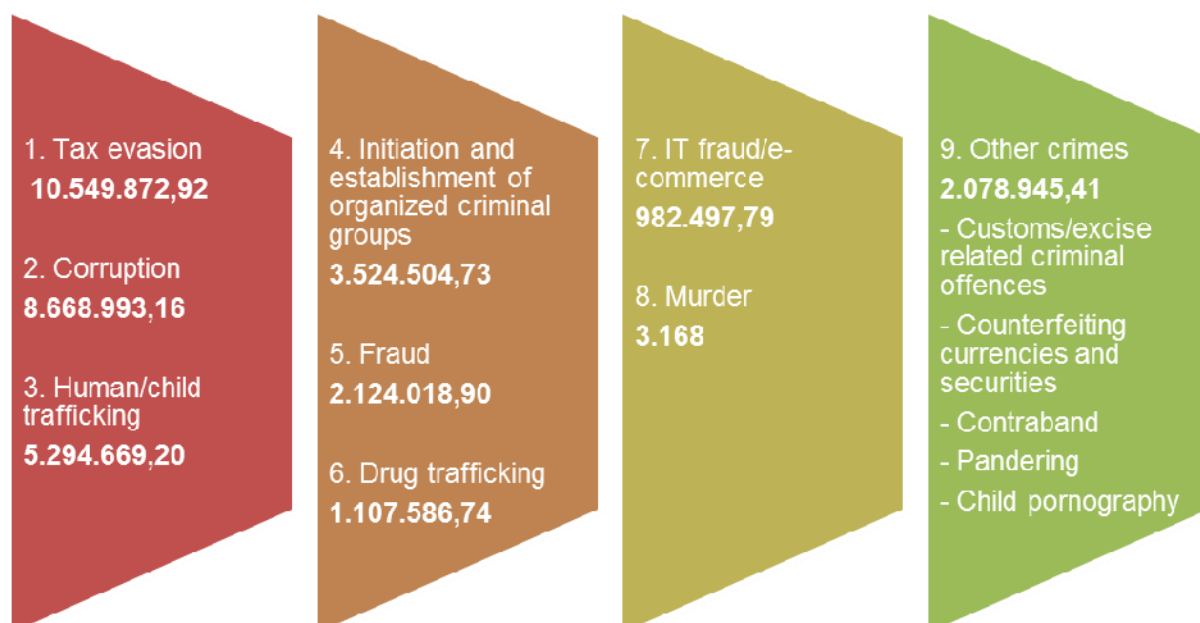


Fig. 19. The value of ordered confiscations for each type of crime

Most confiscations in tax evasion are from cases handled by the Bucharest²⁰ and Sălaj Tribunals.

The 2nd place is taken by corruption offences, such as influence peddling, bribe taken and given, with approximately half of the confiscations also ordered by the Bucharest Tribunal. Out of the total number of confiscations in corruption offences, most of them concern bribery, with 38% of the total number of cases.

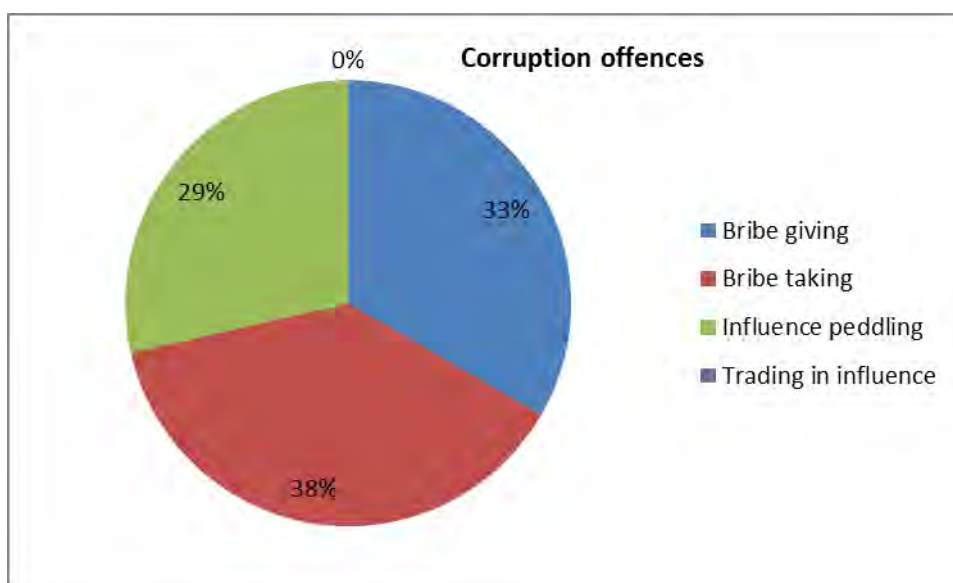


Fig. 20. Corruption offences (final decisions of tribunals)

Other types of confiscations ordered in identified cases can be categorized according to the type of offence as follows:

- Contraband: a building used as bar, packs of cigarettes, a car.

²⁰ At the level of Bucharest Tribunal only, ordered confiscations amounted to 10,216,616.00 RON.

- Corruption: a car, phones, cigarettes.
- Drug-related crimes: drugs, a pistol, cigarettes, phones, electric devices and equipment.
- Initiation and establishment of criminal groups: cigarettes, phones, drugs, weapons and ammunition, counterfeit cards.
- Child pornography: pornographic materials.
- Offences connected to customs: cigarettes.
- Child trafficking: cars.
- Human trafficking: television, laptop, audio system.

Out of the total number of identified cases, 18 cases were opened in 2011, 82 cases in 2012, 192 in 2013 and 109 in 2014, and 8 cases were opened in 2010. The sample also included cases recorded by courts in 2009 (9), 2008 (1), 2007 (3) and 2006 (3).

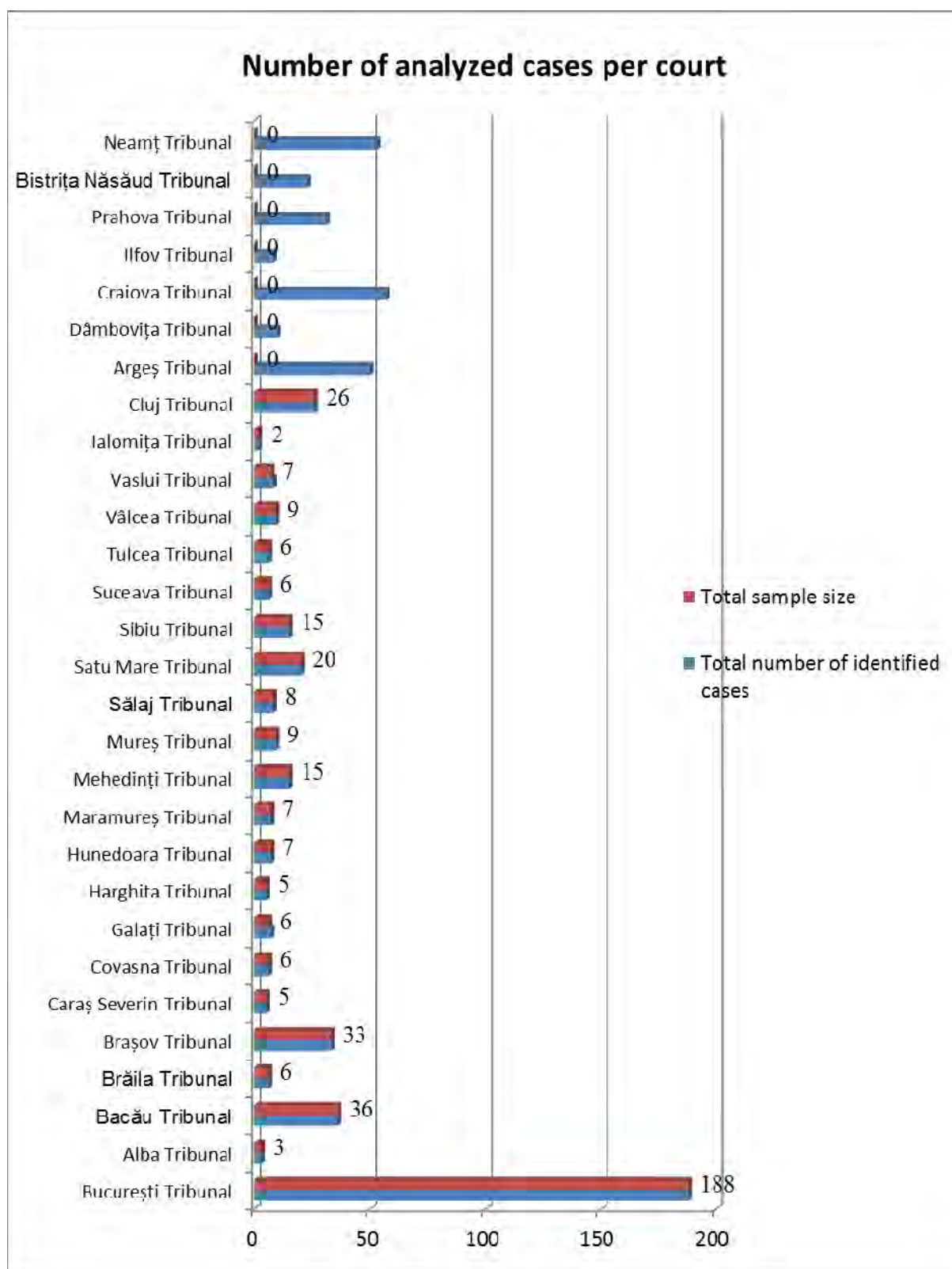


Fig. 21. Number of cases per court

Out of the total number of cases collected from courts, Bucharest Tribunal stands out with a number of 188 identified cases, followed by Craiova Tribunal (57 cases with special confiscations and extended confiscations), and the Buzău Tribunal on the 3rd place (also 54 measures ordered under Article 574). However, the cases from Craiova and Buzău

Tribunals were not included in the sample because their case number could not be identified on the websites of the courts.

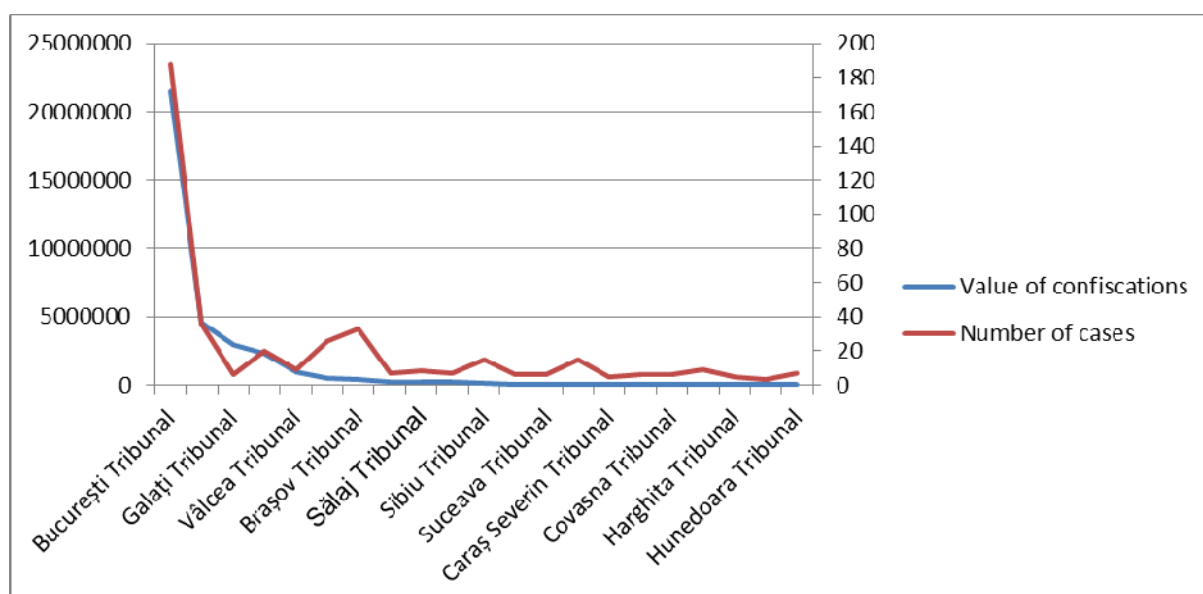


Fig. 22. Number of cases and value of confiscations per court

Most cases are from Bucharest Tribunal as are the most confiscations. Figure shows that there are other tribunals with a big number of cases, but the value of the confiscations was not so high.

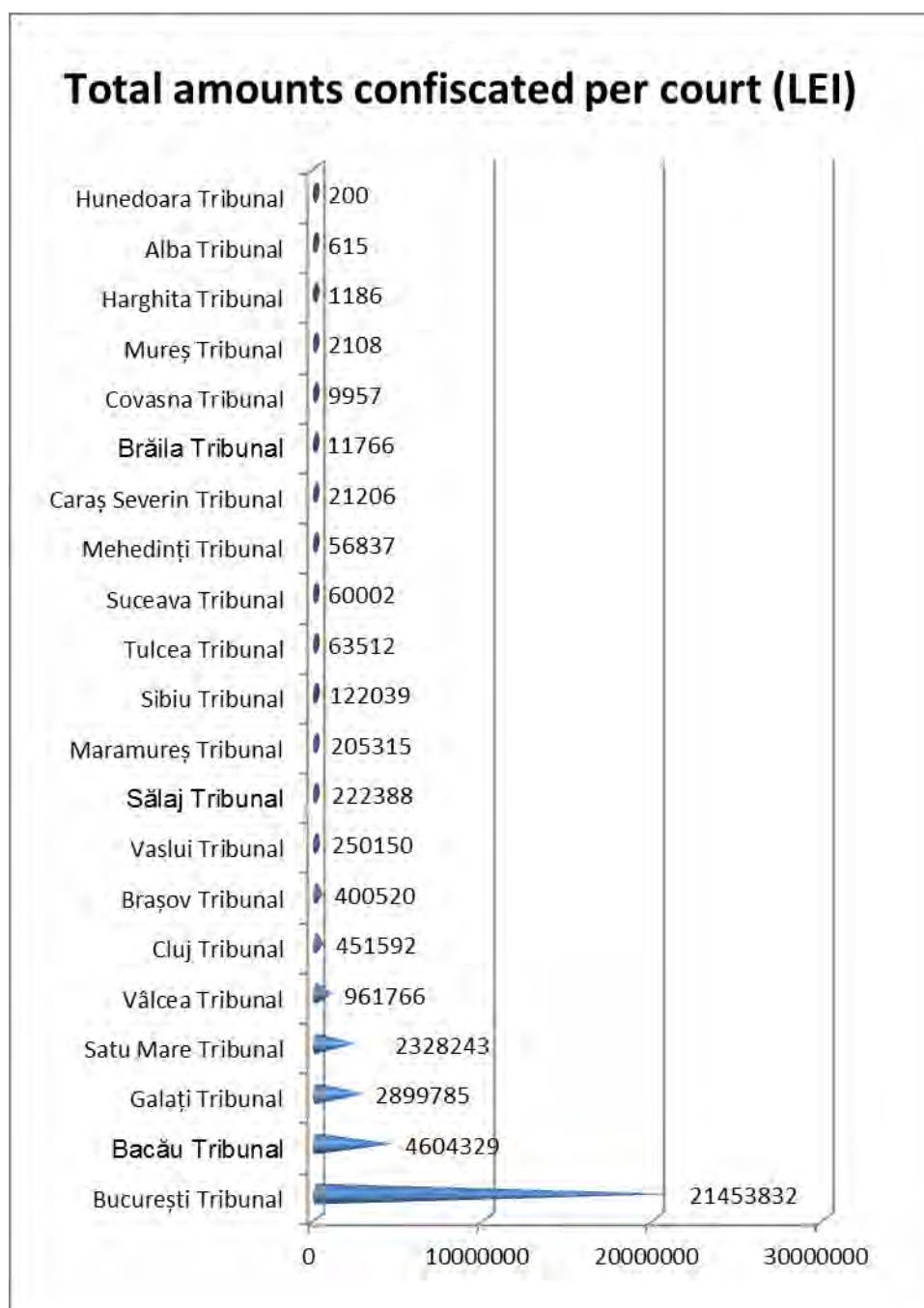


Fig. 23. Value of confiscations per tribunal (euro and USD converted into lei using the average exchange rate in 2014)

According to the official data, Bucharest Tribunal gave the final decisions involving the biggest confiscated sums of money. Depending on the type of crime, the distribution of crimes is as follows: drug trafficking, corruption, tax evasion, but also initiation and establishment of organized criminal groups.

At the level of Galați Tribunal, which is on the third place according to the amounts of confiscated money, the most confiscations came from child trafficking (600.000 euro), the other confiscations being related to drug trafficking, human trafficking and initiation and establishment of organized criminal groups. At the level of each analyzed court, there is one or more cases that stand out due to the value of confiscations, and a big number cases do

not involve confiscation of money (167 cases, almost 40% of the cases included in the sample).

The 2nd and the 4th places are taken by Bacău Tribunal with the biggest confiscations related to money laundering, child trafficking, offences connected to electronic payment instruments and human trafficking, and by Satu-Mare Tribunal respectively, with the biggest confiscations connected to initiation and establishment of organized criminal groups and corruption.














Out of the total number of confiscations, in 11 % (47 cases) the total value of money confiscations amounted to over 10,000 euro.

Court	Amount in EUR	Type/subject of criminal offence
Bucharest Tribunal	2,293,158	Tax evasion
Bucharest Tribunal	1,700,000	Corruption
Galați Tribunal	600,200	Child trafficking
Satu-Mare Tribunal	520,000	Initiation, establishment of organized criminal groups
Bacău Tribunal	347,790	Money laundering
Bacău Tribunal	330,288	Child trafficking
Vâlcea Tribunal	171,472	Corruption
Bacău Tribunal	170,778	IT fraud
Bucharest Tribunal	163,780	Deception
Bucharest Tribunal	163,780	Deception
Cluj Tribunal	76,745	Child trafficking
Bucharest Tribunal	76,000	Deception
Bucharest Tribunal	63,875	Child trafficking
Vaslui Tribunal	54,459	Drug trafficking
Maramureș Tribunal	40,499	Initiation, establishment of organized criminal groups
Cluj Tribunal	40,000	Human trafficking
Brașov Tribunal	37,636	Initiation, establishment of organized criminal groups
Brașov Tribunal	37,339	Initiation, establishment of organized criminal groups
Bucharest Tribunal	35,419	IT fraud
Sălaj Tribunal	34,199	Tax evasion
Bacău Tribunal	30,985	Human trafficking
Bucharest Tribunal	30,167	Deception
Bucharest Tribunal	29,000	Drugs
Bacău Tribunal	27,713	Deception
Vâlcea Tribunal	27,349	Corruption
Vâlcea Tribunal	27,190	Initiation, establishment of organized criminal groups
Bucharest Tribunal	26,324	Drug trafficking
Bucharest Tribunal	23,433	Breach of laws on nuclear materials or other radioactive materials

Galați Tribunal	23,299	Human trafficking
Bucharest Tribunal	23,070	Drug trafficking
Bacău Tribunal	22,499	Contraband
Bucharest Tribunal	22,320	Initiation, establishment of organized criminal groups
Bucharest Tribunal	20,834	Initiation, establishment of organized criminal groups
Bucharest Tribunal	20,114	Other criminal offences
Cluj Tribunal	17,687	Blackmail
Bacău Tribunal	16,600	Drug trafficking
Vâlcea Tribunal	16,286	Initiation, establishment of organized criminal groups
Bucharest Tribunal	15,457	Deception
Bucharest Tribunal	14,966	Corruption
Sibiu Tribunal	13,821	Tax evasion
Suceava Tribunal	13,500	Initiation, establishment of organized criminal groups
Bucharest Tribunal	13,299	Corruption
Bucharest Tribunal	12,520	Drug trafficking
Mehedinți Tribunal	12,259	Initiation, establishment of organized criminal groups
Bucharest Tribunal	11,925	Initiation, establishment of organized criminal groups
Bacău Tribunal	10,923	IT fraud
Sibiu Tribunal	10,185	Corruption
Court	Amount in EUR	Type/subject of criminal offence

Table 1. Ordered confiscations worth over 10,000.00 EUR

Out of a total confiscated amount of 7,724,937.42 euro (all cases, n = 425), the biggest confiscations (over 10,000 euro each) amounted to 6,705,166 EUR (almost 87%) and were ordered by the tribunals in:

-  Bacău
-  Brașov
-  București
-  Cluj
-  Galați
-  Maramureș
-  Satu-Mare
-  Sălaj
-  Sibiu
-  Suceava
-  Vâlcea
-  Vaslui
-  Mehedinți

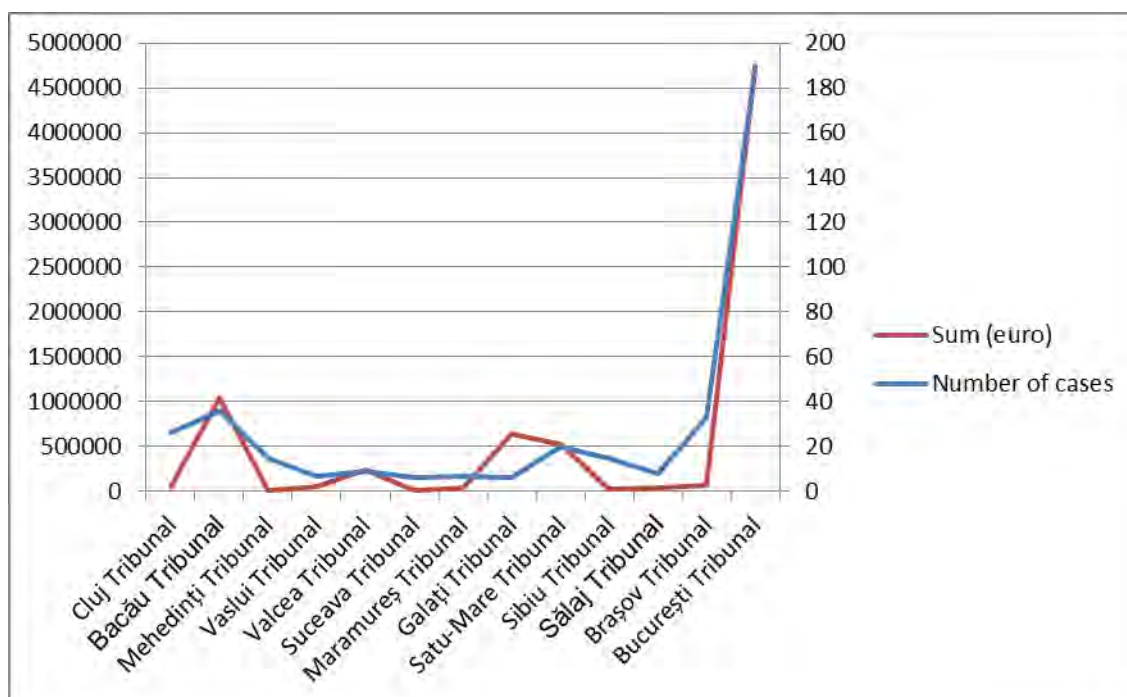


Fig. 24. Number of cases and confiscated sums

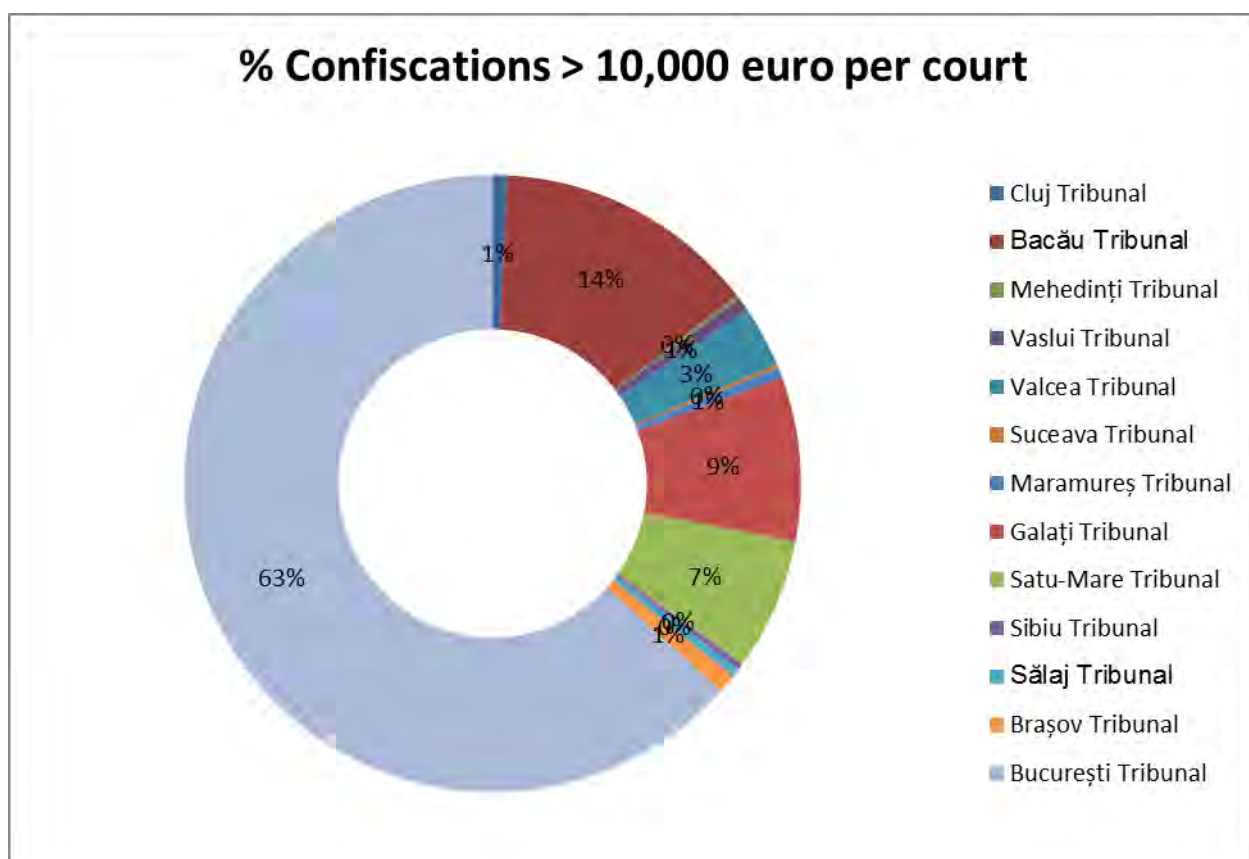


Fig. 25. Distribution of confiscations worth over 10,000 EUR

As the graph above shows, the most cases in which confiscations for amounts exceeding 10,000 euro were ordered belong to the Tribunals in Bucharest, Bacău, Galați and Satu-Mare.

Bucharest Tribunal also ordered the biggest confiscations, with 63% of the total number of confiscations exceeding 10,000 euro.

It turns out that the sums obtained from special confiscation and extended confiscation are big enough to demand their social reuse, but not important enough to have a negative impact on the state budget. As regards the confiscated assets, they cannot be valued, but some of them can be used for social purposes, e.g. real property.

9.4. Disposal of confiscated assets (resulted from sentences/decisions given by courts)

The last level of the analysis concerns the sums that were actually recovered as a result of final court decisions. Even if the courts order special or extended confiscation, their enforcement is a difficult process, especially without precautionary attachment. The Ministry of Public Finance, through ANAF, is the public authority in charge.

According to the Ministry of Public Finance's official data for 2014, the proceeds from the disposal of confiscated/abandoned assets and other sums found when the assets were confiscated pursuant to law amount to over 50 million lei, followed by proceeds from the recovery of court fees, charges and compensations, under 2 million euro, and proceeds from the disposal of confiscated assets derived from crimes connected to drugs and precursors.

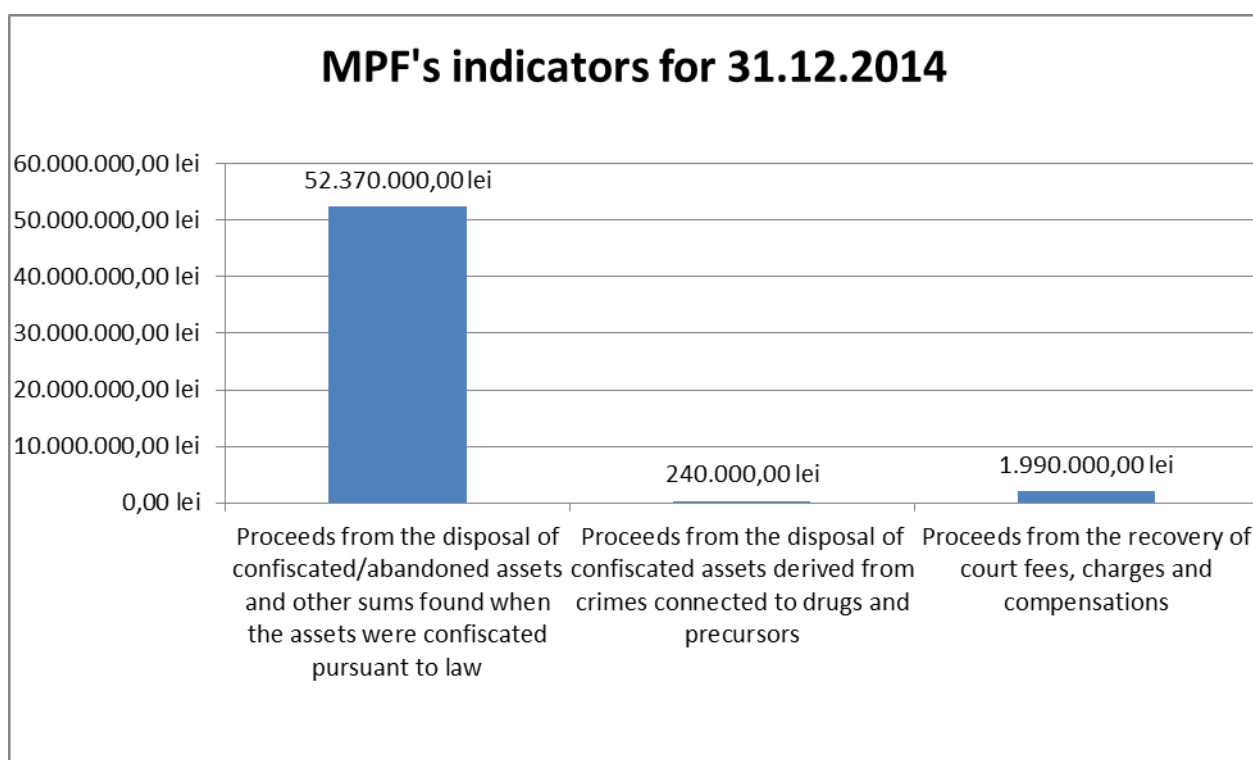


Fig. 26. MPF's indicators for 31 December 2014

As regards the year 2014, MPF identified "2,140 sentences/decisions received from courts in 2014, of which 31 decisions with a value of the damage worth 549.2 million lei (approximately 130 million euro) deriving from criminal cases handled by the National Anticorruption Directorate (case ICA 701/26.09.2013 T.B./DP 888/08.08.2014 stands out with a value of the damage set at 60,482,615 euro, i.e. approximately 266.2 million lei, representing half the value

of all damages²¹⁾”. According to MPF's estimates, more than half of the confiscations ordered by instances cannot be recovered due to various reasons that will be detailed in the next subchapter.

Another important authority, from the perspective of social reuse, is the reuse of cars. Thus, GSG and MPF have authority in this matter.

Regarding the cars that became private property of the state and were transferred free of charge in the first 10 months of 2014, official data show that a significant number of cars were redirected to the Ministry of Internal Affairs (27.3%). Practically speaking, all cars transferred free of charge were directed towards public institutions.

Location of the car	Institution that was assigned the car
General Directorate of Public Finance of Vaslui	County Council of Dâmbovița
AJFP Buzău	Court of Appeal of Brașov
AJFP Dâmbovița	Ministry of Internal Affairs
AJFP Hunedoara	Dâmbovița County Council
AJFP Suceava	Dâmbovița County Council
AJFP Brașov	General Secretariat of the Government
AJFP Sălaj	Superior Council of Magistracy
AJFP Constanța	City Hall of Roma, Botoșani County
AJFP Constanța	City Hall of Crasna, Gorj
AJFP Constanța	City Hall of Bumbesti-Pitic
AJFP Constanța	General Secretariat of the Government
AJFP Sibiu	Ministry of Internal Affairs
AJFP Sibiu	City Hall of Adâncă, Ialomița
AJFP Cluj	Superior Council of Magistracy
AJFP Suceava	Ministry of Internal Affairs
AJFP Suceava	Ministry of Internal Affairs
AJFP Suceava	City Hall of Verguleasa, OLT
AJFP Suceava	Ministry of Internal Affairs
AJFP Suceava	City Hall of Ulmeni, Călărași
AJFP Suceava	City Hall of Berceni, Mureș
AJFP Hunedoara	Ministry of Internal Affairs
AJFP Neamt	City Hall of Pucheni, Dâmbovița
AJFP Buzău	City Hall of Galicea, Vâlcea
AJFP Hunedoara	Ministry of Internal Affairs
AJFP Brașov	Ministry of Internal Affairs
AJFP Sălaj	City Hall of Bălăceana
AJFP Ialomița	Ministry of Internal Affairs
AJFP Ialomița	City Hall of Josenii Bârgăului
AJFP Timiș	City Hall of Moeciu, Brașov
AJFP Timiș	Visarion Parish, Bucharest

²¹ Dosarul ICA nu a intrat în eșantionul din prezentul studiu pentru a nu disproporționa datele.

AJFP Timiș	City Hall of Vîrlop, DOLJ
AJFP Buzău	City Hall of Stoieniști, Suceava
AJFP Caraș Severin	ANAF, Caraș-Severin

Table 2. Assignment for free of cars that became private property of the state

The situation regarding the disposal of cars shows that the system can work where a decision can be made and supported. For confiscated cars and means of transport, the legislation is clear and so are the GSG's responsibilities. In order to improve the situation for other types of confiscations, it is necessary to clarify the duties of all institutions involved and to place the responsibility on a certain institution. A number of other problems were identified during discussions between the project's experts and the institutions involved in different stages of the recovery and disposal of criminal assets. An important finding of the previous analysis concerns the relation between the seized values for which confiscation was ordered, the figures included in court final decisions and the values definitively recovered by ANAF. Thus, it turns out that ANAF managed to actually recover in 2014 a sum of approximately 54,600,000 lei (slightly over 12.2 million euro), while DNA say that only in final decisions given in 2014 for cases handled by this prosecutors' office, special confiscation was ordered for 31.6 million euro. Also, the final decisions of the tribunals only, within the above-mentioned monitoring activity, which form a partial database of courts and confiscations ordered through notifications sent to ANAF by courts, in 2014, are worth approximately 34,334,256.89²² lei (slightly over 7.7 million euro). This amount is communicated to ANAF in order to be recovered. On the other hand, ANAF also points to a number of problems that affect the efficacy of the process from their point of view, which reflects the need for whole system to support the efforts of the prosecutors' offices, the courts and the Ministry of Public Finance.

9.5. Identified problems

As regards the assets resulted from the criminal procedure, the specialized institutions (the General Prosecutor's Office and DNA) identified a number of elements that affect the confiscation and disposal of assets derived from corruption and crime. Some of them concern their own institutions, but even more refer to problems of the institutional system related to the confiscation and disposal of assets. The General Prosecutor's Office has identified, inter alia, the following problems:

- lack of cadastral database where real property and those holding ownership to be identified in order to take the measure of precautionary attachment;
- laborious procedure for collecting information regarding bank accounts for which a court needs to issue a surveillance warrant;
- lack of communication with ANAF and lack of interest shown by fiscal bodies in supporting criminal investigations;
- incomplete transposition of Framework Decision on confiscation into the national law;
- inaccurate assessment of assets that are confiscated by the criminal prosecution authorities;

²² The analysis of the database set within the project, including centralized notifications for final decisions in 2014, at the level of tribunals

- storage and maintenance of assets (especially cars), storage and identification of disposal forms for luxury goods (e.g. watches, very expensive jewelry);
- lack of legal reasoning for the prosecutor to supervise the stage of the enforcement of confiscation measures;
- the long time horizon for solving the cases implies delayed execution and disposal of assets;
- the level of asset recovery is unsatisfactory because financial investigations are very complex (in most cases the assets are possessed by third parties).

The above-mentioned problems are complemented by those of the Ministry of Public Finance that, through ANAF, is also responsible for the recovery of confiscated assets.

ANAF, according to the provisions in Chapter VIII "Tax receivable settlement through forced execution" Title VIII of G.O. no. 92/2003 on the Code of Fiscal Procedure is responsible for the disposal of assets confiscated according to the enforcement terms of court sentences/decisions, as well as for the recovery of damage in final, irrevocable and enforceable court decisions. Looking at the recovery rate, it turns out that the process is insufficiently efficient or adapted to the needs generated by the positive trends in case of increase in the number of confiscations in criminal cases.

- Only starting from 2010, according to the agreement with the Ministry of Justice, distinct monitoring activities were initiated regarding the results of the disposal of assets from special confiscations (under Article 118 of the Criminal Code) and from the recovery of damage caused by criminal offences.
- Due to the long period of time from the beginning of the investigations to the resolution of the criminal case, an important part of the defendants' personal property is sold and thus the recovery of the established damage is very difficult.
- The final asset recovery decisions in criminal cases are sent to the local fiscal units with significant delay;
- Impossibility of keeping a record of precautionary measures at the Office for Cadastre and Land Registration, regarding assets for which the debtor holds no land register certificate
- Difficult communication with the National Agency for Cadastre and Land Registration and with other institutions (directorates / departments for local taxes and tariffs, Directorate for Driving Licenses and Vehicles Registration, Romanian Naval Authority, Romanian Civil Aeronautical Authority, Central Depository, National Trade Register Office).
- Lack of precautionary measures taken by the criminal investigation authorities
- Assets that make the object of foreclosure are of no interest to the market and they usually belong to incarcerated persons and are worn and obsolete.

- There are situations when the final decisions in criminal cases are communicated but they are not accompanied by the documents referring to precautionary measures, so that it is impossible to enforce such measures.
- Assets such as real property cannot be assessed in the absence of their owner or a person empowered by them²³.

All these system problems add to the institutions' limited willingness to collaborate. That is why it is necessary to implement a solution agreed by all actors. The key solution concerns the establishment of an institution responsible for monitoring the public policy on confiscation, implementing the Framework Decision, defining performance indicators for the process etc. Here are some of the most urgent needs:

- To set a complex database of financial information that can be rapidly accessed, without further formalities
- To publish transparent information regarding confiscated real property that ANAF is in charge of, with all judicial and technical details
- To standardize statistical reports at ANAF's level – the Regional Directorates – in order to rapidly aggregate statistics at national level
- To establish a body with exclusive authority – perhaps within the Agency for Seized Assets or ANAF – regarding the assessment (during criminal prosecution) and disposal of assets
- To establish a specialized institution responsible for the recovery of damage / confiscations ordered through final decisions in criminal cases.
- Cooperation between the Ministry of Justice, the Public Ministry and SCM to develop a medium-term strategy regarding the recovery of criminal assets
- To motivate prosecutors, to change the perspective regarding the performance criterion for recovered/seized values vs. the number of indictments²⁴

The specific recommendations generated during the meetings organized within the project "Social reuse of confiscated assets (RO2013_C5.2_17)", inter alia, concerned the following:

a) The Prosecutors' Office: SCM should organize and standardize the databases of the prosecutors' office so that the prosecutors' offices publish on the platform open public data grouped according to types of offences, number of case etc.

b) The Courts: To standardize the form and entries of databases for enforcement orders sent by courts. When the monitoring activity was conducted, each court used a different format, communicated at different times, and statistics were still recorded on paper (in registries).

c) ANAF: To order information on confiscations managed by ANAF on a common platform in the form of open public data regarding both confiscations for contraventions and confiscations for criminal offences.

Source: Workshop CRJ.

²³ <http://m.hotnews.ro/stire/19871967>.

²⁴ See the above-mentioned discrepancy, regarding drug trafficking, between the big number of cases and the small number of ordered confiscations

10. 2015-2020 forecast regarding the recovery of criminal assets

Forecasts regarding the recovery of criminal assets include forecasts concerning special/extended confiscations (criminal proceeds and instruments) and compensation awarded to claimants.

In order to prepare a forecast of asset recovery, we took into consideration several indicators:

- the rate of growth of the number of special confiscations ordered by courts in DNA cases, 2012-2014 (15% in 2013 and 670% in 2014)²⁵;
- the value of assets seized by DNA in cases that ended in indictments decreased by 47% in 2013, but increased by 262% in 2014²⁶;
- The value of compensation in civil actions, awarded by courts in cases handled by DNA, increased by over 300% between 2013 and 2014.
- The total value of precautionary measures ordered by DIICOT increased by 400% in comparison to 2013.

These indicators show exponential growth due to both circumstantial factors (an increase in the number of cases due to a closer cooperation between the prosecutors' offices and the intelligence agencies due to identified vulnerabilities) and systemic factors (higher efficiency of courts, the adoption of the new Codes, increased importance of asset recovery at European level etc.). In our simulation we start from the premise that this exponential growth will level out and the level reached in 2014 will be maintained in the next period of time, the amounts decided by courts in 2015-2020 will increase by 3% on average and the average value recovered will increase by 60% because in the last years the value of precautionary attachment has increased. We also believe that the recoverable damage will increase on average by 10% each year. Obviously, the percentages can be subject to change, especially due to the qualitative nature and the variation of the final figures, that any change in the institutional structure, authority of prosecutors' offices, ANAF, budgets and responsibilities can generate. Thus, this projection should be seen on the background of institutional stability.

The base values were established on the basis of ANAF data, i.e. the total value of the established damage²⁷ in 2014 – 1,985.07 million lei (446 million euro) out of which only 922.45 million lei were actually recoverable (207 million euro) and of the sums recovered in 2014 – 54.6 million lei (12.2 million euro)²⁸.

²⁵ See figure 6

²⁶ See figure 3

²⁷ A notion used by ANAF that, taking into consideration the amount, includes extended and special confiscations, as well as compensations awarded to public authorities and institutions or state-owned companies for damage caused to the public budget or entities of public interest. DNA only reported for 2014 compensations awarded by courts in cases handled by this prosecutors' office that amounted to 287 million euro.

²⁸ Almost 6% recovered in the total recoverable sums.

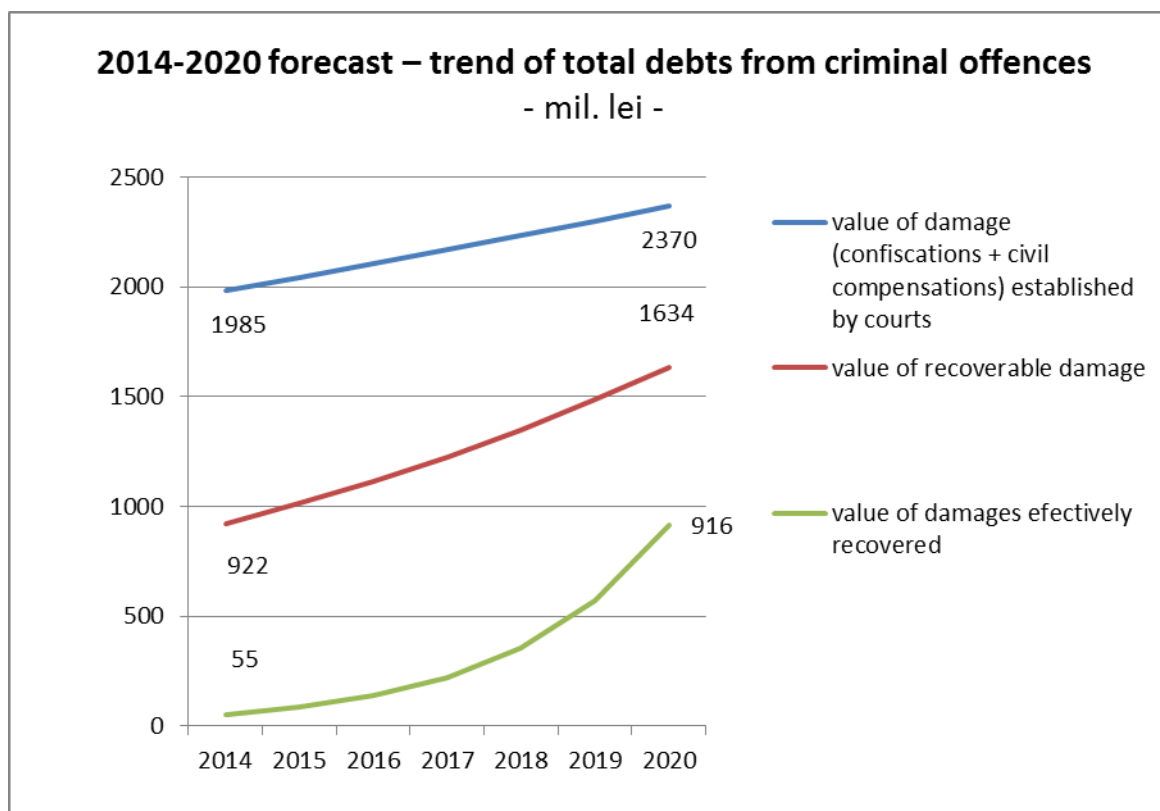


Fig. 27. Forecast of annual growth of sums concerning confiscations and recoveries

In order to reach these targets, a closer cooperation between institutions is necessary. According to this projection, the percentage of recoverable damage in the overall damage will increase from 46% in 2014 to 69% in 2020, and the percentage of the recovered damage in the overall recoverable damage will increase from 6% in 2014 to 56% in 2020. It is obvious that the proposed targets aim to reach a balance and not to recover the entire damage; however, taking into account the starting point, they seem extremely ambitious.

As regards the special/extended confiscation, we used DNA's value in 2014 as basic value – 140,549,769.98 lei. As regards the sums recovered in 2014 through special/extended confiscation there are no official data and therefore we shall take into account an actual recovery rate of 15% (the maximum percentage referred to in the 2014 CVM report), 21,082,465.5 lei. We believe that the average amount actually recovered will increase by 30% each year, because in the last years the value of the precautionary attachment has increased, and the sums established by courts will increase by approximately 3% on average each year in 2015-2020.

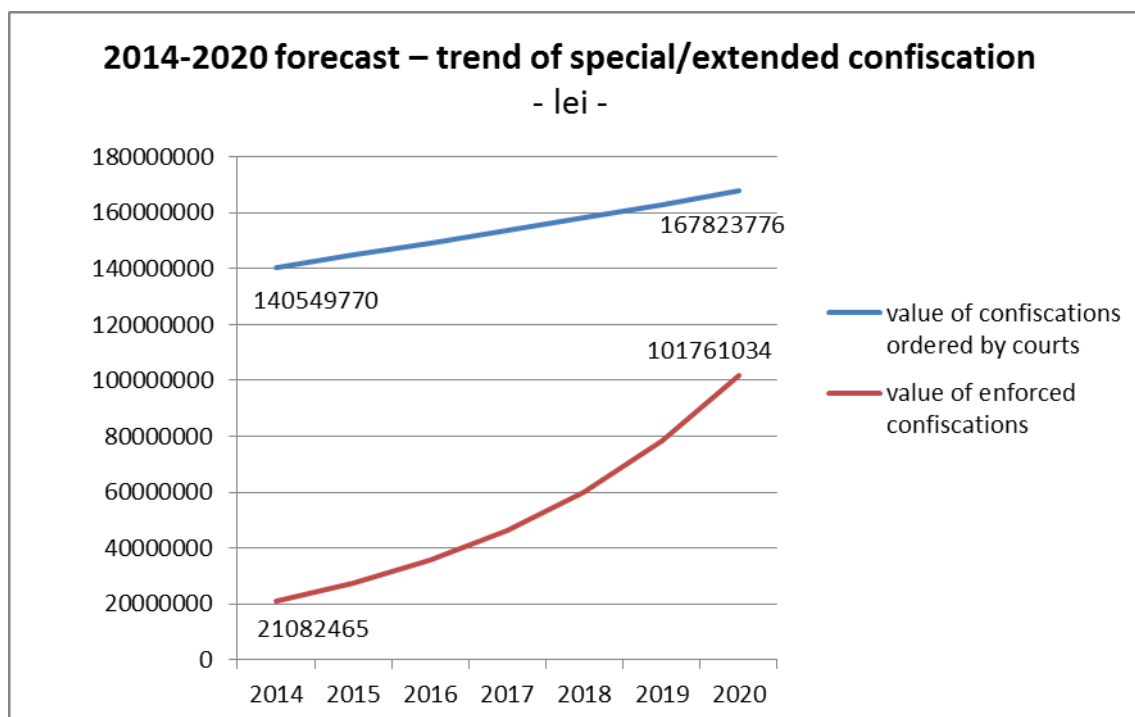


Fig. 28. Forecast of annual growth of sums from special/extended confiscation

These targets allow the increase in the percentage of actual confiscations from 15% in 2014 to 60% in 2020.

Assets (including money) from special/extended confiscation can make the object of social reuse, considering the existent practice at European level (e.g. Spain, Great Britain). However, when this analysis was conducted, the legal and budget framework in Romania made it impossible to reuse the confiscated sums derived from criminal offences. According to the legislation regarding the public finance, the budget is based on the principle of universality, i.e. the budget revenue cannot be directly allocated to a certain budgetary expense, except from donations and sponsorship that have distinct purposes²⁹, as well as on the principle of unity according to which it is forbidden to issue legal acts that create a legal framework for revenue to be used outside the budget³⁰. According to Article 30(2) of the Law no. 69/2010 on fiscal and budgetary responsibility, it is not allowed to allocate in advance budget sums for special purposes to certain main budget administrators or sectors; budget funds can be allocated to main budget administrators or sectors only through the annual draft budget³¹.

This chapter presented a projection with a positive trend of the value of confiscated criminal assets, against a background of institutional reformation initiated in 2012 (regionalization of ANAF directorates etc.) that involves the modernization of processes and procedures, electronic communication - use of databases, agreements with other institutions.

²⁹ Article 8(2) of Law no. 500/2002: Budget revenue cannot be directly allocated to a certain budget expenditure, excepting donations and sponsorship for distinct purposes.

³⁰ Article 10 of Law no. 500/2002: (1) Budget revenue and expenditure shall be recorded in a single document in order to ensure efficient use and monitoring of public funds. (2) It is forbidden to issue legal acts that create a legal framework for revenue to be used outside the budget, except for the provisions of Article 67.

³¹ We should also take into account Law no. 361 of 18 December 2013 ratifying the preventive Stand-by Arrangement between Romania and the International Monetary Fund agreed through the Letter of Intent signed by Romanian authorities at Bucharest on 12 September 2013 and approved through the Decision of the Executive Board of the International Monetary Fund of 27 September 2013.

This projection also included the establishment of a new institution, the National Agency for the Management of Seized Assets that will manage a comprehensive database regarding criminal assets.

The conclusion of any forecast shows an increase in the value of recovered sums and, at the same time, the introduction of new instruments for asset management that can come from the private sector (private standards according to the French or American model, for example, but the process should be monitored so that the management is not more expensive than the recovered value).

11. Options for social reuse

11.1. Analysis framework

Reuse of confiscated assets means the transfer free of charge of confiscated criminal assets or money to be used for the public interest or social purposes by public institutions (local public authorities) or nongovernmental organizations.

Social reuse is the only disposal form that guarantees citizens the visibility of confiscated assets because proceeds of crime are explicitly returned to the society.

The social reuse of confiscated assets is legitimate taking into consideration both the economic objectives of the policy on the disposal of confiscated assets and the social objective concerning the involvement of the community in the fight against crime and explicit recovery of crime proceeds.

The principle regarding the adoption of a complementary solution to social reuse refers therefore to the fact that *prison sentences are inefficient if offenders are allowed to safeguard their illegal profits*.

In the international practice two models of social reuse can be identified in Member States and they are useful for identifying solutions that are feasible from the administrative point of view to regulate the reuse of confiscated assets:

- a. Direct reuse for social purposes (Italy, Belgium, Bulgaria);
- b. Reuse for social purposes of money resulted from the disposal of confiscated assets through special funds (France, Spain, Luxembourg and Scotland);

For social reuse, the Italian model has generated positive consequences since it started to be applied, especially due to the fact that it is based on the principle of "direct transfer" of the assets to the community, NGOs and persons affected in one way or another by crime. This model provides social lessons and gives citizens the ownership of the fight against crime, and the principles are supported on a medium and long term. Such effects can be very important for the success of the fight against corruption and organized crime in Romania, especially when it is about vulnerabilities for national security.

The above-mentioned public policy in Italy has several characteristics that can be taken into account in a Romanian version of policy on social reuse of confiscated assets, especially those resulted from crime:

- specialized agency for the coordination of criminal asset recovery (Italy: Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata (ANBSC); www.benisequestraticonfiscati.it);

- reuse of real property (land, buildings) and movable assets (cars, rights on companies) through transfer free of charge to local communities, NGOs, groups of people (e.g. employees of confiscated companies);
- good practices (protocoli di intesa): agreements and partnerships between the factors interested in the immediate management of assets (prosecutors' offices, courts, civil society).

On the other hand, the public policy in France favors the sale of assets from drug trafficking and the use of money for the program regarding the fight against drug consumption; the sums are transferred to actors involved in regulating and operationalizing public or nonprofit programs in the field.

Main characteristics of the French system:

- specialized agency for the management of confiscated assets: AGRASC - Agence de gestion et de recouvrement des avoirs saisis et confisqués;
- AGRASC sells at auctions the movable and immovable assets from drug trafficking that are confiscated through court decisions. The money is transferred to the account of an inter-ministerial committee MILD – Mission Interministérielle de lutte contre la drogue et la toxicomanie, that annually allocates money for different projects: 60% the Ministry of the Interior, 20% the Ministry of Justice, 10% the Ministry of Finance, 10% social projects.

The American model can be praised due to the efficacy and efficiency of a national program for the confiscation of criminal assets. The principle the program is based on, which is reflected in the economy and efficiency of the use of such assets, is one that should be applied also in Romania, especially now when discussions are held on models for the organization of an Agency that is to be created for a better use to confiscated assets. The Assets Forfeiture Program was created in 1984 by the United States Congress at the same time with the adoption of the Comprehensive Crime Control Act and offered regulatory instruments to prosecutors and law enforcement institutions (courts, United States Marshall Service) to enable them to manage one of the important aspects of the fight against crime, the confiscation of offenders' assets. Since it was established, the US Marshall Service, the federal branch that deals with the recovery of confiscated assets, has generated important results, with recoveries worth over 7.1 milliard USD since 1985, with portfolio assets worth over 2.2 milliard USD in 2014 and with compensations awarded to crime victims worth over 1.9 milliard USD.³².

USA also have a robust program for social reuse that involves the transfer of the right to free use and/or ownership of real property to NGOs that run social programs in poor communities for the benefit of vulnerable groups. Real property (buildings, apartments) involved in this program (Operation Goodwill) must be worth no more than 50,000 USD and must be placed in poor neighborhoods where their market value is low.

Choosing a continental model including efficient solutions generated by the experience of American institutions is a solution for Romania. In the context of the Framework Decision on the recovery of confiscated assets, the recovery becomes a European priority and therefore a national priority and the best scenarios for increasing the efficiency of the recovery are to be generated.

³² http://www.usmarshals.gov/duties/factsheets/asset_forfeiture.pdf.

From an institutional point of view, several solutions of this kind have been previously offered. On the other hand, we believe that due to the fact that the recovery process needs to be taken on by the public, knowing the support given by the public for the fight against corruption, there is a need for a regulation regarding the use of confiscated assets based on the Italian model of social reuse of proceeds of crime.

Once the European Directive was adopted in 2014, several Member States adopted in their legislations policies regarding the confiscation of criminal assets. This Directive opened the way for the introduction of new elements regarding the social reuse of such assets. Although the talks are still at the beginning and the adoption of social reuse still faces strong opposition, initiatives like the project *Cultura contro Camorra*, supported by Franco Ianniello and Armand Rauch³³, former representatives of the European Commission, succeed in promoting the objectives of this policy that are mostly related to the following:

- a radical change of public mentality regarding crime and money can lead to a more efficient public fight against crime.
- setting up a social network including associations, cooperatives and partnerships at local and national level in cooperation with local authorities and public agencies involved in fighting crime.

11.2. Public policy proposal

In this context, the general objective of the public policy on social reuse, taking into account the efforts to improve the recovery of confiscated assets, refers to:

„Reduced public tolerance of crime and corruption through the use of confiscated assets for supporting social services for communities, leading to a positive public perception, minimal tolerance of crime and cooperation between key actors: local authorities, NGOs, social enterprises etc.”

In order to be able to define the different solutions, we offer a brief list of key problems that have a solution in one of the options for social reuse of confiscated assets.

The problems on which the proposal for social reuse is based on refer to:

a) lack of efficiency of the recovery activity carried out by the public institutions involved in this process

b) reduced efficiency of the same process which is generated by lack of "ownership" of the results of the fight against corruption that does not involve the civil society as partner and promoter.

The opportunities for social reuse refer especially to a more efficient disposal process through:

- Efficient use of assets through services that return directly to the citizens through the providers of social services and other initiatives regarding partnerships for social services (social enterprises, social cooperatives, associations etc.) in partnership with the local public administration
- The administrative capacity that such organizations have gained from running projects financed from European funds
- Experience of over 20 years in delivering social services in Romania and in managing specific budgets

³³ <http://www.euroalter.com/wp-content/uploads/2014/06/Marcel-Hipszman-EN.pdf>.

- Releasing public institutions from managing the crime proceeds
- Maintaining the economic value of the confiscated assets through their use by NGOs

The above-mentioned problems and opportunities can be solved if options for social reuse are identified taking into consideration the criteria allowing the selection of the best option. Therefore, in order to be able to differentiate between the options, we propose that the options should be analyzed based on the criteria below. The assessment is qualitative and uses information from existent studies, opinions of key actors, literature on impact assessment and principles identified in main regulations regarding the confiscation and social reuse of crime proceeds at international level:

Proposal for selection criteria for reuse options applicable in Romania:

Procedure feasibility	Efficiency	Efficacy	Social impact
Refers to the possibility of adopting specific laws that allow the NGOs to be included as beneficiaries.	Refers to the benefits generated by options as compared to the costs needed for implementation	Refers to the best way of reaching the aim of the policies regarding the disposal of confiscated assets	Refers to the impact on communities regarding the fight against crime and corruption
a) Low legislative and institutional feasibility (amendments to regulations in related fields in order to ensure a coherent legislation and the establishment of new organizations).	a) Inefficient (costs exceed financial and indirect benefits).	a) Ineffective – the option for social reuse is not effective because it does not generate a proper economic and social impact.	a) Low impact – does not encourage understanding of negative effects of crime and corruption at community level.
b) Total legislative and institutional feasibility (amendments to regulations at sector level and establishment of new organizations).	b) Optimal efficiency (benefits cover costs and offer the optimal achievable efficiency).	b) Optimal efficacy – the social reuse is effective and leads to the target economic and social impact.	b) Significant impact – significantly encourages understanding of negative effects of crime and corruption.
c) Partial legislative and institutional feasibility (amendments to regulations covering the newly established organizations).	c) Efficiency (benefits exceed costs).	c) Efficacy – the social reuse is effective and leads to a single type of impact (social and economic).	c) Great impact – encourages understanding of negative effects of crime and corruption.

Table 3. Analysis criteria

Legend:

The four criteria have the same percentages: Feasibility (25%), Efficiency (25%), Efficacy (25%), Social Impact (25%). The scales for measuring the impact of the criteria have the following values: a = 0 points; b = 10 points, c = 5 points.

For the analysis based on the above-mentioned criteria, we propose two options for the application of social reuse, a maximal version and a minimal version. We believe that at least one model should be adopted, that involves the actors from associations within the social field,

actors that deliver key public services for communities and can support the development of a successful model for the joint, plural provision of key services. In order to select the optimal option, we suggest the analysis of given options taking into account some criteria proposed at European level, the international good practices (Italy, France, USA), and the opinion expressed by key actors from the civil society, consultants from the meetings of the NGO coalition initiated within the project Initiative for reuse.

The establishment and success of the Initiative for social reuse of confiscated criminal assets/money, including an important number of NGOs in Romania, shows that the organizations need to have access to resources for the beneficiaries of social services in communities, especially in light of the objective taken on by its members regarding "The promotion of NGOs' involvement in the reuse of confiscated criminal assets/money for social purposes."

Option 1. Option for a policy regarding the social reuse in which the NGOs providing social services become the potential beneficiaries of immovable and movable assets from criminal activity, including anti-drug projects (maximal option)

The option regarding the maximal reuse is supported by its efficiency, transparency and possibility of creating additional abilities for nongovernmental organizations on the social services market.

This option is also legitimate due to its previous success in other European countries, such as Italy, where the organized community benefits from the confiscated assets and is given the feeling of ownership of assets the community was previously deprived of.

Moreover, in Romania, the requests made by NGOs regarding the assignment for free of assets (especially requests regarding the assignment of buildings) show an urgent need of spaces for social services provided by such organizations. Since the public administration cannot satisfy the need for social services (and when they can deliver, they are inefficient) and since NGOs in Romania have succeeded in developing a relevant expertise in this field, the option of directing the policy of social reuse towards them can be taken into consideration.

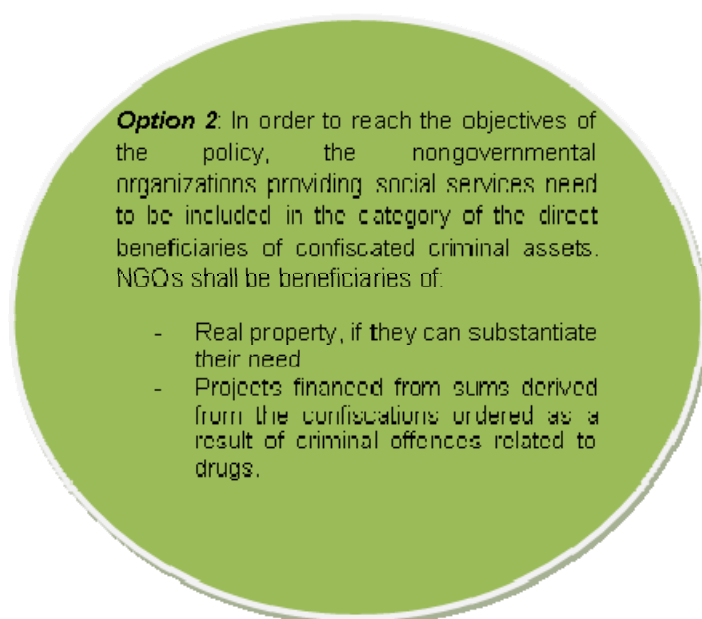


Fig. 29. Option 1 for social reuse

Option 1 describes how NGOs and other providers of social services can access resources derived from confiscations and managed by the Government of Romania (Justice, Finance), through the transfer of confiscated buildings that are suitable for social use, through competitions for social projects or funding social programs derived from sector strategies where the providers of social services will be the direct beneficiaries and through competitions regarding the implementation of policies and activities related to the prevention of drug consumption and the management of specialized institutions.

The maximal option (below) includes money resulted from special/extended confiscation.

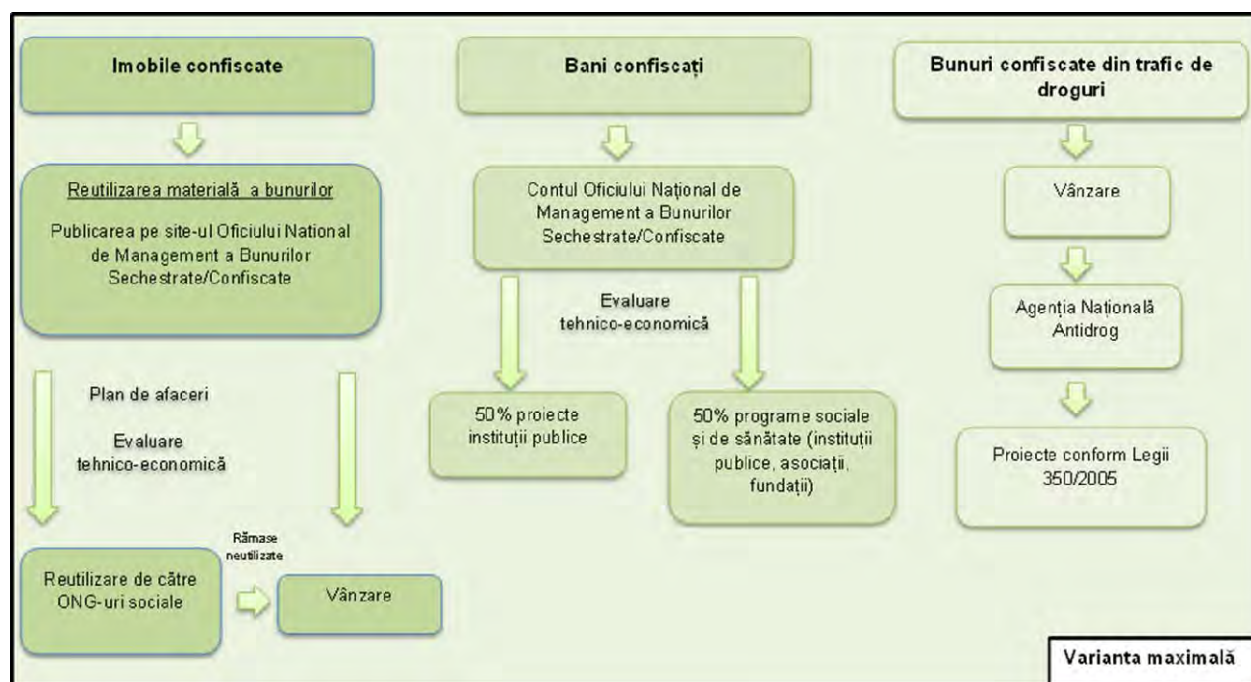


Fig. 30. Maximal policy option

As regards the impact of this option, the impact on the above-mentioned criteria has been calculated. The score is 22.5, resulted from the calculation of sums of the criteria below (30) and its share in 100%.

Procedure feasibility	Efficiency	Efficacy	Social impact
A	B	B	B
Explanation: Law no. 500/2002 on public finance should be amended in order to allow the use of confiscated money for precise purposes, without automatically considering them as revenue for the state budget. Similarly, the special account of the	Explanation: Optimal efficiency is generated because there will be an objective for which money from crime will be used. A second argument refers to the high capacity of the organizations to implement projects and to sustainably use money	The best option regarding the disposal of assets includes the reuse and the social and economic impact. The social impact is achieved by involving citizens as final beneficiaries and promoting the use of criminal	This option has a significant impact because, for example, the social projects funded can include raising awareness and providing information regarding the effects of crime and corruption, elements of public transparency and integrity,

Ministry of Internal Affairs regarding the sums derived from the confiscation of narcotics.	for precise objectives; this capacity results from grant-based projects implemented until now.	assets, while the economic impact is ensured by the maximal use of asserts and by direct and indirect advantages of the use.	transparency of the financing source.
Without negotiations at the highest political level and the consent of international financial institutions, amendments to Law no. 500/2000 are unlikely to happen.	Also, the social reuse of confiscated buildings ensures that their economic value is maintained; so far the State has had poor results in the management of confiscated real property.		

Table 4. Impact on analysis criteria – Maximal option

Option 2. Option for a policy regarding the social reuse in which the NGOs providing social services become the potential beneficiaries of immovable and movable assets from criminal offences – special/extended confiscation (minimal)

The minimal reuse option is supported by its higher administrative feasibility, but it loses points for efficiency, efficacy and social impact. This option is also legitimate due to its previous success in other European countries, such as Italy, where the organized community benefits from the confiscated assets, offering the feeling of ownership on assets the community has previously been deprived of.

Moreover, in Romania, the requests made by NGOs regarding the transfer for free of assets (especially requests regarding the assignment of buildings) show an urgent need of spaces for social services provided by such organizations.

In Option 2, NGOs and other providers of social services can access money only for projects financed under Law no. 350/2005 and only for the implementation of the national anti-drug strategy, and there will be no direct connection between the confiscated sums and the sums offered as grants.

Option 2 refers to the transfer of confiscated buildings that are suitable for social use to be used for free, as well as to the inclusion in the budget of the National Anti-drug Agency of the sums resulted from the disposal of confiscated assets from offences related to drugs and precursors (such sums are already recorded separately in a special account of the state budget). The budgetary allocations can be directed towards projects and activities regarding the prevention of drug consumption and the management of specialized institutions.

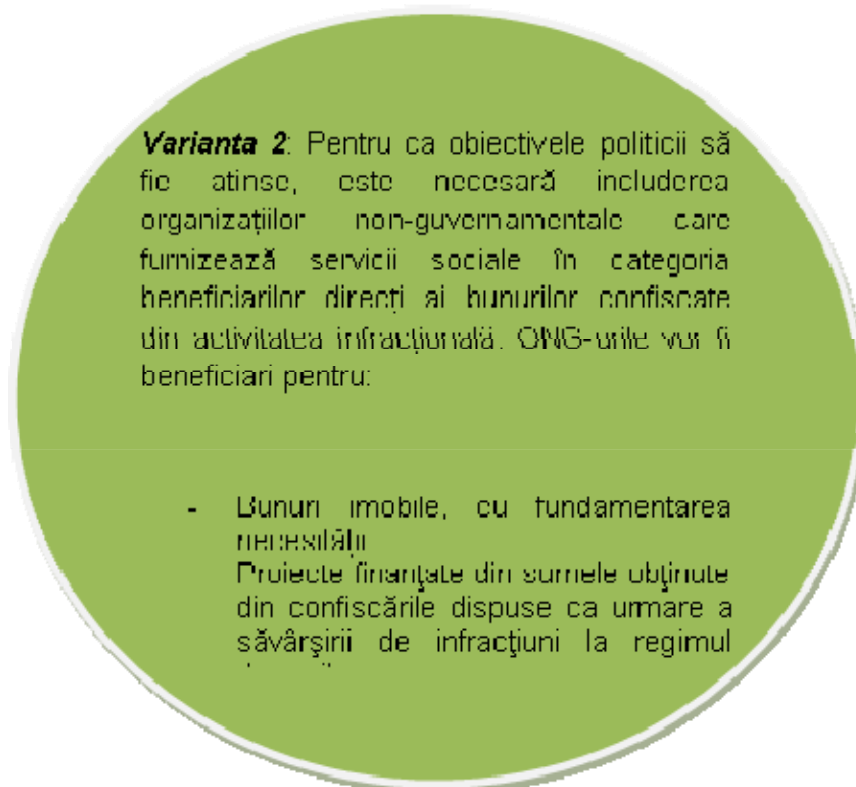


Fig. 31 Option 2 for social reuse

The minimal option (below) includes specially confiscated buildings irrespective of offences and money resulted from special/extended confiscation in cases of offences related to drugs and precursors.

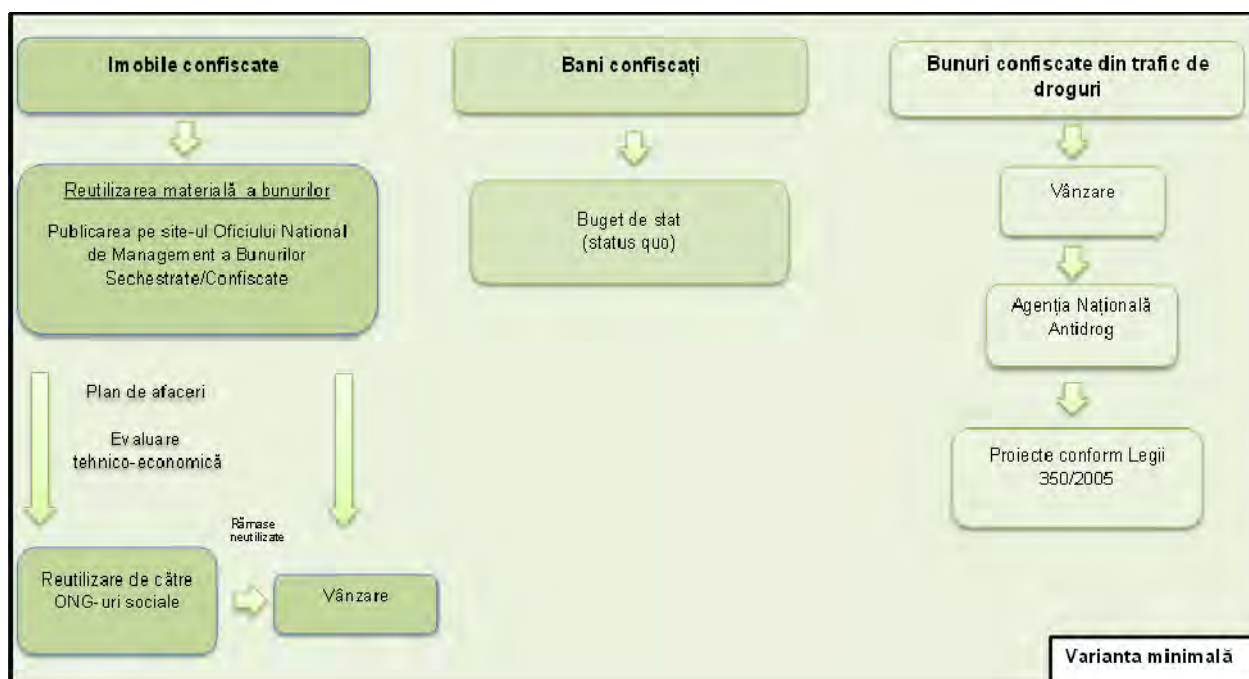


Fig. 32. Minimal policy option

As regards the impact of this option, the impact on the above-mentioned criteria has been calculated. The score is 18.75, resulted from the calculation of the criteria below (25) and its share in 100%.

Procedure feasibility	Efficiency	Efficacy	Social impact
A	C	C	C
<p>Explanation: amendments to Law no. 500/2002 on public finance are not necessary</p> <p>It is necessary to identify a budgetary procedure whereby the sums recorded in the special account in the current year to be found in the following year's budget of the Ministry of Internal Affairs as allocations for the national anti-drug strategy.</p> <p>It is necessary to regulate a procedure regarding the applications for buildings.</p>	<p>Explanation: optimal efficiency is generated because there will be an objective for which money from crime will be used.</p> <p>A second argument refers to the high capacity of the organizations to implement projects and to sustainably use money for precise objectives that results from grant-based projects implemented until now.</p> <p>Also, the social reuse of confiscated buildings ensures that their economic value is maintained; so far the State has had poor results in the management of confiscated real property. The social value will be higher than the nominal value that could be obtained through sale (price) because the benefits are collected on a longer period of time, not only after one single transaction. The value obtained through reuse is higher if the opportunity cost is taken into consideration (how</p>	<p>Explanation: the social impact is achieved by involving the citizens as final beneficiaries and promoting the use of criminal assets</p> <p>The economic impact is ensured only partially through the access of NGOs to anti-drug projects while the access to projects financed with confiscated money is not possible in this option.</p>	<p>Explanation: this option has a great impact due to the fact that there will be no funds for projects including raising awareness and providing information regarding the effects of crime and corruption, elements of public transparency and integrity, transparency of the financing source, except for projects funded under Law no. 350/2005 that explicitly refers to the prevention of drug consumption.</p>

	long can the sum resulted from the sale cover the rent for the social project running in the confiscated building?).		
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Table 5. Impact on analysis criteria – Minimal option

In conclusion, the maximal option has a greater impact according to the analyzed criteria and it is the ideal option for the social reuse of criminal assets.

11.3. Implementation plan for the selected option (Option 1)

Existent substantiation studies, international practices referred to in this analysis, as well as the reuse model selected above offer central authorities the opportunity to place Romania, through regulations regarding the social reuse of assets, on a top position at European level among the states that propose active measures for the prevention of corruption and the efficient use of confiscated assets. The multi-criteria analysis also shows the vulnerabilities of such an attempt. They are not much related to the actual measure, which is opportune, but to the legal obstacles and the low quality of regulations concerning the procedures that the reuse policy is based on, especially the low administrative capacity of certain structures, parts of the institutions involved in the process of management and disposal of assets. Other vulnerabilities concern the relations between different state institutions, both in the criminal proceedings phase and in the following phases. During the criminal proceedings, the prosecutors can demand and the judges can order the confiscation of criminal assets, and other state institutions (governmental agencies, ANAF) can support this measure. When the court sends the final decision to ANAF, the fiscal inspectors have the key responsibility in enforcing the confiscation of assets. They have institutional relations with different authorities responsible for the clarification of the ownership of assets that are to be confiscated: The National Office for Prevention and Control of Money Laundering, the National Agency for Cadastre and Land Registration etc. The General Secretariat of the Government coordinates the Inter-ministerial Commission for the distribution of assets (cars) under Chapter 9, paragraph 1(a) of G.O. no. 14/2007 regulating the form and conditions for the disposal of assets that, pursuant to law, become private property of the state, republished³⁴.

On the other hand, the Ministry of Internal Affairs (the National Anti-drug Agency) is directly responsible for the national system for the prevention of and fight against drug trafficking/consumption and storage of substances. The sums resulted from confiscations in this criminal area go to the special account and, pursuant to Law no. 500/2002, are transferred in their entirety to the state budget at the end of the year.

It is obvious that the Ministry of Finance, through its local structures and the General Directorate for Legislation and Regulation regarding state assets, is an important actor in the disposal of confiscated assets. In the context of changes needed for the approval of social reuse it is necessary to understand where the resistance will come from. Although a simple analysis shows that the laws, with a few amendments, would allow the transfer free of charge of some assets to NGOs and providers of social services, in fact, the resistance is strong. The opposition

³⁴ The article refers to the transfer free of charge of cars, craft and detachable motors.

invokes G.O. nr. 14/2007 defined above and G.D. no. 731/2007 on the approval of the implementation procedures for Government Ordinance no. 14/2007 regulating the form and conditions for the disposal of assets that, pursuant to law, become private property of the state, according to which the immovable assets that are private property of the state should be sold, except for those under Article 22(2) regarding the use for staff accommodation of assets that are for sale but are not sold within 180 days.

A clear inventory of buildings that can be disposed of and the clarification of their status is a priority regulation regarding the disposal of criminal assets. A first step is the action initiated by the Government through the draft law on the establishment of the Agency for the Management of Seized Assets that provides for the publication on the Internet of the list of confiscated assets. This measure will allow a greater transparency of confiscated real property and a more efficient management/disposal.

11.4. Proposed amendments for the introduction of social reuse

This moment of amending the regulations and improving the disposal of confiscated assets also allows the introduction of social reuse. This will lead to:

- a greater transparency of the disposal method;
- a more intense public support for the fight against crime (the analysis regarding the enforcement measures at the level of tribunals shows that the most frequent criminal offences are those with social impact in community – drug trafficking, human trafficking, organized crime groups, corruption, tax evasion);
- a more efficient prevention;
- a more efficient use of public money resulted from confiscations;

The regulation of social reuse, in its maximal option, implies legal and institutional measures. Legal changes should take into account the changes happening now, especially those concerning the establishment of the National Agency for the Management of Seized Assets. Thus, the introduction of some provisions in the law on the establishment and activity of this institution would regulate how NGOs become beneficiaries of confiscated assets. The social reuse option includes access to confiscated real property and sums, including sums resulted from confiscations decided for offences related to drugs and precursors:

De lege ferenda, the option can be applied by introducing elements regarding the reuse:

Law	Proposals	Objective
Draft law on the establishment, organization and operation of the National Agency for the Management of Seized Assets and for amendments to certain legal acts (the version of the Ministry of Justice, 30.03.2015)	Article 30. (1) Real property confiscated based on a final court decision during the criminal proceedings can be transferred free of charge to eligible legal entities, at their request, for the purpose of social reuse. (2) In order to ensure the transparency of the process of social and institutional reuse of the assets listed under paragraph (1), the Agency	To define social and institutional reuse and to create possibilities for the reuse of real property as first disposal option. To establish the authority of the National Agency to decide how opportune the reuse is based on transparent criteria and procedures. Minimal

	<p>shall publish on its website updated information about each asset, including legal status, location, photographs, prove of state ownership, date of publication and other relevant information.</p> <p>(3) The eligible legal entities that can apply for the transfer free of charge of assets in paragraph (1) are:</p> <p>a) nongovernmental organizations in the social field that are legally established and have had general relevant activity and specific experience for the last three years;</p> <p>b) central and local public institutions and authorities;</p> <p>(4) The eligible legal entities in paragraph (3), individually or in association, can apply for the transfer free of charge of assets in Article 2, by submitting a plan for the use of the asset(s) within the strategy for organizational development, within 60 days from the publication of the notification of the Agency's webpage.</p> <p>(5) The Agency analyze the applications received according to paragraph (4) and issue an approval or rejection decision within 30 days from the expiration of the period provided for in paragraph (4) on the basis of the technical and economic assessment criteria established by the Agency's working procedure provided for in Article 13(d).</p> <p>The form for the plan of use of asset(s) as part of the organizational strategy, the list of supporting documents accompanying the plan, the asset acceptance procedures, the methodology for the monitoring of and annual report on the use of assets and the procedures ensuring the transparency of their use are approved through the Agency's Working Procedure.</p> <p>(7) If the plan for the use of asset(s) is</p>	<p>provisions regarding the transparency and monitoring activity for real property during the social reuse.</p> <p>To create the possibility of using the sums confiscated or obtained from selling the confiscated assets for financing social projects.</p>
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	<p>not complied with, the Agency can revoke the decision regarding the transfer free of charge.</p> <p>(8) In the situation provided for in paragraph (7), the asset shall be disposed of using other methods, according to the laws.</p> <p>(9) If in the period of time provided for in paragraph (4) there is no application for transfer free of charge, the assets shall be disposed of using other methods, according to the laws.</p> <p>Article 30¹.</p> <p>1) The sums of money that are confiscated and the sums resulted from the sale of assets confiscated on the basis of final decisions in criminal proceedings are transferred to a separate account of the Agency after the deduction of the money spent according to the legislation in force, within 5 days from receiving them.</p> <p>(2) The sums received pursuant to paragraph (1) during the current fiscal year shall be used in the following fiscal year as follows: 50% for financing and/or co-financing approved social projects or projects for the prevention of crimes proposed by the eligible legal entities provided for in Article 30(3)(a) and 50% for financing and/or co-financing approved social projects or projects for the prevention of crimes proposed by the eligible legal entities provided for in Article 30(3)(b).</p> <p>(3) The procedures regarding the submission and approval of social projects and the technical and economic assessment criteria for financing and co-financing projects provided for in paragraph (2) are established in the Working Procedures.</p> <p>(4) If there are breaches of the financing contracts approved according to this law, the Agency</p>	
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	<p>recovers the sums improperly spent, pursuant to the laws.</p> <p>Article 39.</p> <p>8. After Article 9(2) the following two new paragraphs (3) and (4) shall be inserted:</p> <p>(3) Assets that became private property of the state cannot be purchased by the person they were confiscated from or by their spouse, blood and/or in-law relatives, up to the 4th degree included, or by companies where the person they were confiscated from or their spouse, blood and/or in-law relatives, up to the 4th degree included, own equity interests or shares or act as administrators.</p> <p>(4) The provisions of paragraph (3) do not apply to jointly owned assets.</p>	
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Table 6. Amendments 1

The legislative proposals refer to the type of institutions that are eligible for real property from special/extended confiscations: public institutions, NGOs. After this first step, the implementation procedures provide for the definition of technical and economic assessment criteria in order to have a transfer that satisfies the need of competition, transparency and performance. The implementation procedures can therefore define technical and economic assessment criteria for assets such as:

Criterion	Purpose
Financial capacity	To prove the financial capacity of the applicant to use in optimal conditions the real property for at least three years.
Sustainability	The applicant shall prove they have funds or financing sources to pay for utilities, security, maintenance etc.of the real property).
Social impact	To prove generated social impact: number of beneficiaries in difficulty etc.

Relevance	Proven experience in activities that are similar to those for which financing is sought;
Maturity	Proof that in the last 5 years projects have been developed with a value that equals the sum requested for social reuse.

Table 8. Technical and economic assessment criteria for social projects

As regards the sums that will make the object of the special account of the Agency/Government, according to the legislative proposal above, they can be used (up to 50% of the total amount) for projects developed by providers of social services, releasing the state budget of this role and ensuring clear objectives and measurable indicators on the basis of the national objectives for social assistance and services that can be found in European financing programs 2014-2020 (e.g. the "Human Capital" Operational Program). Thus, co-financing can be ensured for key projects in the social sector, at local level, involving provision of services, development of efficient methods for the delivery of services, training of beneficiaries etc.

Like in the case of transfer of buildings, several criteria shall be used for co-financing projects. Technical and economic assessment criteria can be proposed as follows:

Criterion	Purpose
Capacity	Proven experience in activities that are similar to those for which financing is sought.
Sustainability	The applicant shall prove they have funds or financing sources to continue supporting the target group of the project.
Social impact	To prove generated social impact: number of beneficiaries in difficulty, with greater emphasis on local projects.
Relevance	Proven experience in activities that are similar to those for which financing is sought;
Maturity	Proof that in the last 5 years projects have been developed with a value that

	equals the sum requested for social reuse.
Integrity	Indicate how the prevention of crime is inserted in <i>awareness</i> activities, e.g. flyers, debates etc

Table 8. Technical and economic assessment criteria for social projects

The option can be therefore implemented under the conditions stated above. As regards the financing of projects for the social component that involves NGOs as direct beneficiaries, for this second component to be feasible from an administrative point of view, Law no. 500/2002 should be amended or a solution should be identified so that the money transferred at the end of the year to the budget should finance this fund, as is the case of funds for the support of SMIs managed by the Ministry of Finance. Knowing that the funds financed from the state budget have a mediocre performance, a proposal can be made to create a Guaranteeing fund for credits for projects of social assistance and services (youth, underprivileged persons, social enterprises, like the Guaranteeing Fund for Rural Credit), a fund that will guarantee credits for projects/associations financed from European funds, like those mentioned above.

Law	Provision	Proposal 1	Proposal 2
Law no. 500 of 11 July 2002 on public finance	1. Article 10(2) shall be amended to read: (2) It is forbidden to issue legal acts that create a legal framework for revenue to be used outside the budget, except for the provisions of Article 67 and those regarding the use and disposal of sums and assets confiscated according to final court decisions in criminal proceedings.	To amend Law no. 500/2002 to create the possibility of using the sums confiscated or obtained from selling the confiscated assets (special /extended confiscation) to finance social projects.	To create a fund for social assistance projects or to create a Guaranteeing fund for credits for projects of social assistance and services

Table 9. Amendments 2

To complete the option, amendments to Law no. 500/2002 would allow the use of the sums from the special account, including sums resulted from selling confiscated criminal assets related to drugs and precursors, for anti-drug projects. This aspect mainly concerns the National Anti-drug Agency that cannot use the sums from the special account where recovered sums and sums resulted from selling confiscated assets are transferred.

Proposal of *lege ferenda* regarding the completion of the social reuse option regarding the sums resulted from *drug trafficking*:

Provision	Existent version	Proposal
Law no. 381/2004 on financial measures for the prevention and fight against illicit drug trafficking and use	<p>Article 1. This law aims to establish measures for financing programs and projects for the prevention of and fight against illicit drug trafficking and use developed by the National Anti-drug Agency within the national anti-drug strategy.</p> <p>Article 2. The programs and projects provided for in Article 1 are financed from the budget of the Ministry of Administration and Internal Affairs within the limit for budgetary credits approved for this purpose.</p> <p>Article 3. Confiscated criminal assets related to drugs and precursors are declared as such and are disposed of according to the conditions established by Government Ordinance no. 128/1998 on the manner and conditions for the disposal of confiscated assets or assets that, pursuant to law, became private property of the state, republished.</p> <p>Article 4. The sums resulted from the disposal of assets provided for in Article 3 are considered revenue for the state budget and are recorded in a separate account of the state budget.</p>	<p>Article 1. This law aims to establish measures for financing programs and projects for the prevention of and fight against illicit drug trafficking and use, according to the national anti-drug strategy.</p> <p>Article 2. The programs and projects provided for in Article 1 are financed from the budget of the Ministry of Administration and Internal Affairs within the limit for budgetary credits approved for this purpose and from the sums resulted from disposing of the assets provided for in Article 3.</p> <p>Article 3. Confiscated criminal assets related to drugs and precursors are declared as such and are disposed of according to the conditions established by Government Ordinance no. 14/2007 on the form and conditions for the disposal of confiscated assets or assets that, pursuant to law, became private property of the state, republished.</p> <p>Article 4. The sums resulted from the disposal of the assets provided for in Article 3 are considered revenue of the National Anti-drug Agency, are transferred to a separate account of the Agency and are used for financing and/or co-financing specific objectives provided for in the National Anti-drug</p>

	<p>Strategy, in compliance with the legislation regarding grants from public funds awarded for nonprofit activities of general interest.</p> <p>Article 4.1.</p> <p>The projects financed according to Article 4 shall be made public as being financed from the sums resulted from the disposal of confiscated criminal assets related to drugs and precursors.</p> <p>Article 5.</p> <p>For the application of this law, the National Anti-drug Agency has the following responsibilities:</p> <ul style="list-style-type: none"> a) keeps record of court decisions on the confiscation of assets provided for in this law, that are communicated by courts; b) develops programs and projects that will be financed according to the priorities provided for in the National Anti-drug Strategy; c) solicits the inter-ministerial commission attached to the General Secretariat of the Government, under Article 13(2) of the Government Ordinance no. 128/1998 republished, to be transferred free of charge assets covered by this law; d) solicits the Ministry of Public Finance to be assigned for free other confiscated criminal assets related to drugs and precursors, according to Government Ordinance no. 128/1998, republished. 	<p>Strategy, in compliance with the legislation regarding grants from public funds awarded for nonprofit activities of general interest.</p> <p>Article 4.1.</p> <p>The projects financed according to Article 4 shall be made public as being financed from the sums resulted from the disposal of confiscated criminal assets related to drugs and precursors.</p> <p>Article 5.</p> <p>For the application of this law, the National Anti-drug Agency has the following responsibilities:</p> <ul style="list-style-type: none"> a) keeps record of court decisions on the confiscation of assets provided for in this law, that are communicated by courts; b) develops programs and projects that will be financed according to the priorities provided for in the National Anti-drug Strategy; c) manages the separate account provided for in Article 4. d) solicits the Ministry of Public Finance to be assigned for free other confiscated criminal assets related to drugs and precursors, according to Government Ordinance no. 128/1998, republished.
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Table 10. Amendments 3

The amendments to Law no. 500/2002 could therefore influence the National Anti-drug Agency's capacity to use resources for specialized projects, including partnerships with associations and foundations providing specialized social services etc.

As regards the institutional impact of the reuse option concerning the inclusion of NGOs and providers of social services in the category of direct beneficiaries of confiscated real property, positive effects can be expected for the social field, for the fight against crime, effects on the plural governance:

Expected impact:

Type of impact	Manner
Social impact	Assistance for providers of social services and assistance through material and financial resources to improve the situation of underprivileged groups.
Impact on integrity	According to the example of Italy, the final beneficiaries have ownership of the assets confiscated from criminals so that they adhere to the values of integrity and change their civil attitude/offer more support due to a better understanding of the fight for integrity and anticorruption.
Economic impact	A more efficient use of the funds can be predicted due to the specific nature and the clear objectives that must be pursued by beneficiaries. Also, the assets that can be used do not lose their economic value due to degradation etc.
Impact on governance	The partnership generated by social reuse between providers of social services and other institutions is a channel for communicating better types of legal education, means for a better prevention of crime, corruption and drug consumption.

Table 11. Expected impact of social reuse

12. Advocacy plan

The promotion of the concept of social reuse started from the analysis of stakeholders. Thus, stakeholders from the nongovernmental environment and public sector have been identified. Each stakeholder has been analyzed from three perspectives: interests and how they are affected by social reuse, capacity and motivation to make a change, possible actions oriented towards their interests.

Stakeholders and main characteristics	Interests and effects of problems	Capacity and motivation to make a change
Ministry of Finance - ANAF	low interest, moderate effects due to lower revenue in the state budget	high capacity/low motivation
NGOs	considerable interest, significant effects due to increased capacity to deliver social services	low capacity/high motivation
The Ministry of Justice	considerable interest, significant effects	high capacity/high motivation
Mass-media	medium interest, insignificant effects	medium capacity/low motivation
The Public Ministry (DIICOT, DNA, Prosecutors' Office)	high interest, low effects	high capacity/medium motivation
The Ministry of Internal Affairs (ANA, ANITP, IGPR)	medium interest, significant effects	low capacity/low motivation
The General Secretariat of the Government	medium interest, insignificant effects	medium capacity/low motivation
The Ministry of Work	medium interest, insignificant effects	low capacity/low motivation
The Ministry of Education	medium interest, insignificant effects	low capacity/low motivation

Table 12. Analysis of stakeholders

As a result of the analysis of stakeholders, actions for motivating and increasing their interest have been identified. Relevant advocacy actions are directed towards deputies and senators in order to reach a political consensus regarding an option for social reuse. On a medium and long term, the positive effects of social reuse can be documented in order to demand that more assets make the object of social reuse. The activities included in the advocacy plan:

1. To set up a coalition for the reuse of confiscated assets (secretariat, bylaws, regulation, internal procedures, assigned representatives).

2. To organize a public debate for stakeholders (the Ministry of Justice, the Public Ministry – DNA, DIICOT, ANAF, ANA – politicians, ANITP, mass-media to present the coalition/ program/ strategy/ attract new members).
3. To organize a media campaign (website, social networks, film/documentary about crimes the assets result from/ what happens to the confiscated assets/ how they can be used for social purposes/ examples of good practice in EU states, advertisement regarding the use/ advantages for the community, online petition).
4. To run an advocacy campaign (participation of local/national mass-media, film/ advertisements, online petition, online posts).
5. To develop and propose a draft law on the reuse of assets (involving civil servants, senators and deputies).
6. To launch a draft law (within a public event/ press conference).
7. To present the strategy/ draft law to decision makers.

Table 13. Advocacy plan

In order to promote the concept of reuse, in 2015, the Centre for Legal Resources has carried out more advocacy activities:

- Organized the seminar "Reuse of confiscated assets for social purposes: towards common EU Standards" of 08.07.2014, with expert guests from Italy and Bulgaria;
- Initiated proposals for partnership agreements with the Ministry of Justice (June 2014) and the Ministry of Public Finance (December 2014). The Ministry of Justice answered on 4th December 2014 that, in principle, they agree to sign an agreement, but during following discussions they postponed sine die signing the document. The Ministry of Finance considered the agreement useless.
- Submitted 8 applications for free-of-charge transfer of some confiscated assets. We were supported in this action by Motivation Foundation and Carusel Association.
- Organized two visits to Iasi (19.09.2014) and Timișoara (10.11.2014) to promote the Initiative for reuse and to bring more information on the topic of social reuse.
- Initiated the coalition Initiative for reuse including 35 nongovernmental organizations from Bucharest, Pitești, Oradea, Cluj-Napoca, Timișoara, Iași and Bacău.
- Sent recommendations to MRDPA regarding the inclusion of social reuse in the Strategy for Integrity of the Ministry of Regional Development and Public Administration. All CLR's recommendations were included in the final form of the MRDPA's Strategy.
- Sent an open letter to the Ministry of Justice on 26.01.2015 – The public debate concerning the Agency for the Management of Seized Assets is late.

- Launched the online petition "Assets confiscated from offenders must be visibly returned to the society" on 12.02.2015 – http://www.petitieonline.net/petitie/bunurile_confiscate_de_la_infractori_trebuie_sa_fie_redate_vizibil_societatii-p45333146.html
- Organized a working group, wrote and sent proposals to the Ministry of Justice on 31.03.2015 (excerpt from the press conference for the launch of draft law where the Minister of Justice talks about CLR's proposals): "In fact, we have just received today, from a nongovernmental organization, the Centre of Legal Resources, that have been a partner of the Ministry of Justice in developing this legal act, proposals to use these assets for social purposes, as it happens, for example, in Italy. In Italy the assets are first of all directed towards social purposes that can be followed by selling procedures.")
- Organized the seminar Social reuse in the context of the establishment of the Agency for Confiscated Assets - good practices from Italy and Spain on 3.04.2015.
- Wrote and sent amendments to the draft law on the Agency for Seized Assets.
- Contacted partners for supporting the Initiative for reuse.
- Actions were brought before the Ombudsman regarding the Emergency Ordinance no. 7/2015 (the Ombudsman brought an action before the Constitutional Court of Romania).
- Organized on 23.04.2015 together with the USA Embassy a meeting with members of the Parliament to support the amendments of the coalition Initiative for reuse.
- Organized the conference "Social reuse in Romania: models, good practices and alternative regulations" on 3.06.2015. The conference included the presentation of good practices developed in Italy and Spain for the reuse of confiscated criminal assets. In the USA, the former Attorney General, Eric Holder, initiated "Operation Goodwill" in order to demonstrate that citizens and communities should benefit from the confiscated assets. Thus, confiscated assets are transferred free of charge to support community programs of local authorities and nongovernmental organizations in the area of drug consumption and addiction, education, crime prevention, professional training etc. Judge Guglielmo Muntoni and judicial administrator Luca D'Amore explained the laws in Italy and how the real property confiscated from organized crime groups is directly used by local authorities for social purposes or is given in concession to associations, cooperatives, non-profit organizations of public utility. Daniela Irrera from the University of Catania talked about how the universities and civil society from Italy cooperate for the reuse of assets confiscated from the Mafia. Davide Guidi, expert in the management of seized and confiscated assets explained how the Rome Tribunal manages the database for seized and confiscated assets. This database was built by specialists working for the Tribunal and the Italian party was willing to offer the software free of charge to the Romanian authorities.

13. Concluzii și recomandări

Social reuse is a useful instrument for the public policies concerning the control of crime.

Social reuse is successfully used in Italy and Spain, two EU member states facing the same problems as the Romanian society and having similar cultural backgrounds.

Social reuse ensures great transparency for confiscated assets.

The social reuse, the information on and presentation of assets send strong social messages of fight against crime.

Confiscated assets are visibly returned to the society and vulnerable groups, they are not lost. Previously sent messages are supported and validated by the transparency of assets.

Social reuse leads to a reduced social tolerance/acceptance of crime.

Through social reuse of confiscated assets social economy structures are developed, which generates inclusion, solidarity and dignity for vulnerable groups.

Social reuse is viewed with skepticism by the political actors and public institutions with authority in this field in Romania and no actor is willing to take on the topic of social reuse unless it is used in statements or strategies to present in front of international partners.

The advantages of social reuse are not understood by the main institutional actors, and the political interests are mainly oriented towards protection/retention of confiscated assets, towards hiding such assets or limiting the transparency of their recovery and use.

Low inter-institutional cooperation and administrative capacity lead to an inefficient recovery of crime proceeds (actual recovery rate of 5-15%).

The civil society can put enough pressure on the political environment and the public sector so that they accept social reuse by building coalitions, involving citizens, making public the advantages of reuse, involving deputies and senators.

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Legal acts

European level

1. Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union;
2. European Commission – COM (2011) 308 final - Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee: Fighting Corruption in the EU, 2011;
3. Decision 2007/845/ JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime
4. European Commission - Commission Decision of 13/XII/2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption;
5. Framework Decision 2006/783/JHA. of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders
6. Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property
7. Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence
8. Council Framework Decision 2001/500/ JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime

Romania

1. Government Ordinance 14/2007 on the form and conditions for the disposal of assets that, pursuant to law, become private property of the state;
2. Government Decision 731/2007 on the approval of the implementation procedures for Government Ordinance 14/2007 on the form and conditions for the disposal of assets that, pursuant to law, become private property of the state;
3. Criminal Core
4. Code of Criminal Procedure
5. Law 78/2000 on preventing, discovering and sanctioning of corruption acts;

Spain

1. Law 36/1995 of 11 December on the Fund of confiscated assets from drug trafficking and related offences (in force until 19 June 2003)
2. Law 17/2003 of 29 May regulating the Fund of confiscated assets from illicit drug trafficking and related offences.
3. Criminal Code
4. Code of Criminal Procedure

Italia

1. Law 17/1992;
2. Decree of 17 March 1995
3. Decree-law 127 of 20 July 2009, adopted through Decree 119/2010.
4. Decree-law 4 of 4 February 2010, adopted through Law 20 of 2 February 2010.
5. Decree-law 4 di 4 February 2010 adopted through Law 50 of 31 March 2010
6. Law 109/1996
7. Law 159/2011

Other EU states

1. The Code of Criminal Procedure of France;
2. Law on criminal proceedings of Great Britain.

Anexa 1. Initiative for reuse

„Initiative for reuse” is a coalition of nongovernmental organizations from the social and civic sector that aim to improve the laws on the disposal of confiscated criminal assets and to increase the role of NGOs in the reuse of confiscated criminal assets/sums for social purposes.

The Initiative for reuse includes the following nongovernmental organizations:

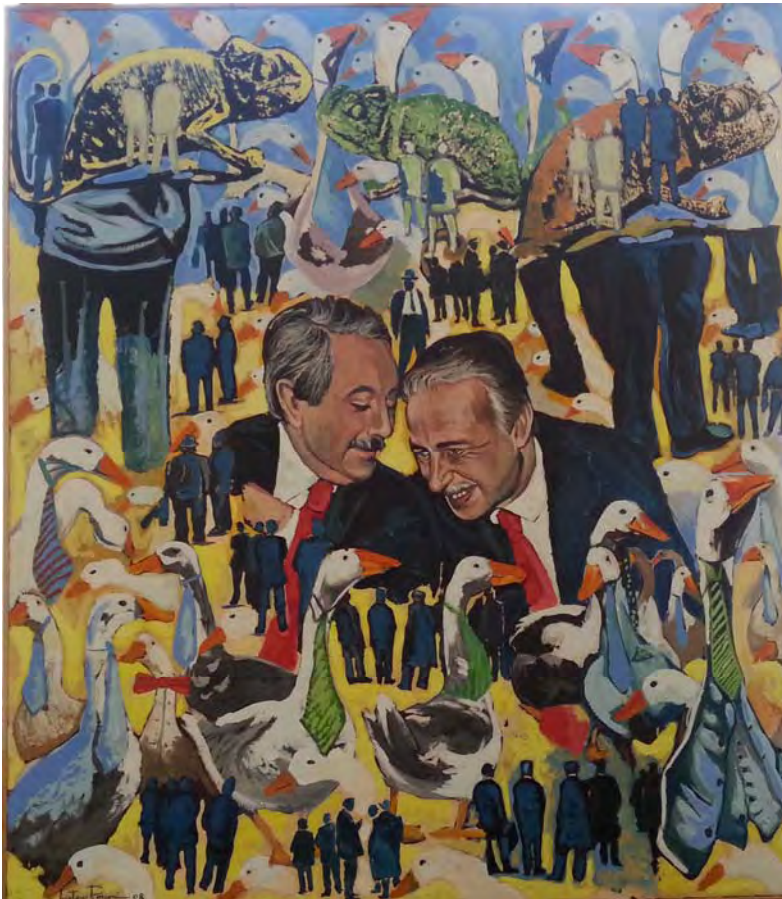
1. Centre for Legal Resources Foundation (www.crj.ro)
2. Motivation Foundation of Romania (www.motivation.ro)
3. Carusel Association (www.carusel.org)
4. Resource Centre for Public Participation (www.ce-re.ro)
5. Policy Centre for Roma and Minorities (<http://policycentre.eu/>)
6. "Alături de Voi" Foundation (www.alaturidevoi.ro)
7. National Union of Organizations of People Affected by HIV / AIDS (<http://unopa.ro/>)
8. European Centre for Legal Education & Research (www.eiler.ro/)
9. Bethany Social Services Foundation Iași (www.bethany.ro)
10. Save the Children Association, Iași Branch (www.salvaticopiii.ro)
11. Solidarity and Hope Foundation (www.fundatia.mmb.ro/)
12. Partners Foundation for Local Development (<http://fpdl.ro>)
13. People2People Foundation (www.people2people.ro)
14. "Hope in the Future" Anti-Hiv Family Association
15. "Generație Tânără" Association (Unga-Liv) - www.generatietanara.ro
16. Agency for Information and Development of Non-governmental Organizations (AID-ONG) - www.aid-ong.ro
17. League for the Defense of Human Rights, Timiș Branch
18. Assistance Centre for NGOs – Centras - www.centras.ro
19. Pro-Democracy Association - www.apd.ro/
20. Reaching out Romania - <http://reachingout.ro/>
21. National Association of Citizens Advice Bureaux - www.robcc.ro
22. Romanian Angel Appeal Foundation - www.raa.ro
23. ActiveWatch Association - www.activewatch.ro
24. Adpare - Association for the Development of Alternative Practices for Education and Reintegration - <http://adpare.eu>
25. Romanian Anti-AIDS Association, Timișoara Branch - www.arasnet.ro
26. Open Door Foundation - www.usadeschisa.ro
27. Ratiu Democracy Centre - www.ratiudemocracycentre.org
28. Terra Mileniul III Foundation - <http://terramileniultrei.ro>
29. Centre for Social Intervention and Studies – Romani Criss www.romanicriss.org
30. Advocacy Academy <http://advocacy.ro/>
31. Transparency International Romania www.transparency.org.ro
32. „Pentru Voi” Foundation Timișoara www.pentruvoi.ro/
33. Romanian Maltese Relief Service Timișoara www.maltez.ro
34. Caritas Diocesan Centre of Iași www.caritas-iasi.ro
35. Romanian Youth Movement for Democracy www.rymd.ro

Anexa 2. Case study: Italy

Italy established an agency for the disposal of confiscated assets: Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata (ANBSC) - www.benisequestraticonfiscati.it. According to the data provided by the Agency, the total number of assets definitively confiscated in Italy is 12,944 assets (real property – 11,237 and companies – 1,211).

Example 1

Rome Tribunal initiated agreements and partnerships (protocolli di intesa) between all stakeholders for the immediate management of seized assets (prosecutors' offices, courts, civil society). Real property and companies seized pursuant to the Antimafia Code are immediately assigned a judicial administrator from the moment they are frozen (they can no longer be used by defendants);



The picture dedicated to magistrates Giovanni Falcone (left) and Paolo Borsellino (right), assassinated by the Mafia in 1992 (at the entrance of the Faculty of Law, University of Palermo).

Example 2

Grand Hotel Gianicolo from Roma was taken for judicial administration from the organized crime group 'Ndrangheta. It is a former monastery converted in 2000 into a luxury hotel with 48 rooms, a swimming pool and its own car park (as part of a money laundering operation). The hotel stands on Gianicolo Hill offering a spectacular view over Rome. The building was seized

from the Calabrian-born real-estate magnate Giuseppe Mattiani, along with another hotel (Hotel Arcobaleno of Palmi) – seized assets worth 150 million euro. According to Eurispes, the annual 'Ndrangheta profit from drug trafficking equals 3% of Italy's GDP. 'Ndrangheta is one of the most impenetrable Mafias from Italy, a family-based organization.



Pictures:: <http://www.grandhotelgianicolo.it>

Example 3

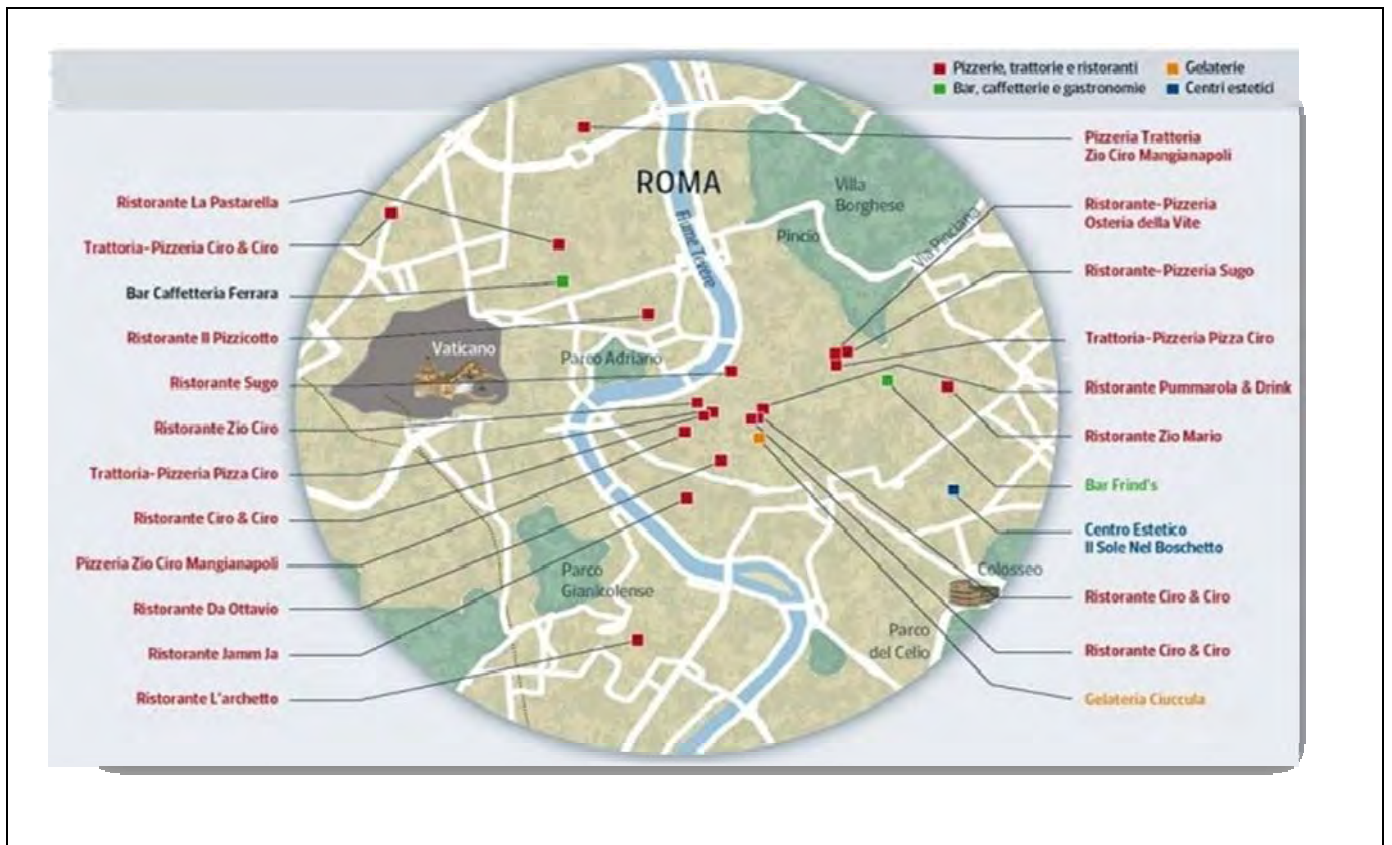
Seized building used as home for families in danger.



Picture: Presentation Luca D'Amore (Bucharest, 3 June 2015)

Example 4

Restaurant chain seized in Rome from the group named by the media „Mafia Capitale”. In 2014, the judicial authorities in Rome began to investigate fixed public acquisitions and misappropriation of funds that involved politicians and civil servants associated with organized crime groups. The misappropriated public projects were related to waste management and accommodation for immigrants.



Pictures: Presentation Luca D'Amore (Bucharest, 3 June 2015)

Example 5

Villa confiscated and reused in Rome – converted into a cultural centre. Casa del Jazz (<http://www.casajazz.it>) includes three buildings that house different activities. Inside the main building, a multifunctional room of 150 seats is used for live concerts, projections and meetings. In the other two buildings there is a restaurant and a recording studio. The property belonged to the former cashier of Banda della Magliana, Enrico Nicoletti, and after confiscation was transferred free of charge to the city of Rome. At the entrance there is a plaque with names of Mafia victims, which was made in collaboration with "Libera" Association.





Pictures: Presentation Luca D'Amore
(Bucharest, 3 June 2015)



Example 6

Nine social cooperatives were set up on the land definitively confiscated from the Mafia, and the produce is sold in business premises definitively confiscated from the Mafia. In the summer, the land is used to organize youth harvesting camps. Libera Terra Mediterraneo is a non-profit consortium including social cooperatives of Libera Terra, as well as other operators. It was founded in 2008 in order to unite agricultural activities of cooperatives for unitary and efficient access to the market. Libera Terra Mediterraneo coordinates the production of individual cooperatives and supervises the process of turning raw materials into final products.





Pictures: liberaterterra.it

Annex 3. Case study: Spain

In Spain there is a specialized structure for the assignment of confiscated assets from drug trafficking and related offences (e.g. money laundering): Delegation del Gobierno para el plan nacional sobre drogas (within Secretaria de estado de servicios sociales e igualdad, a part of Ministerio de sanidad, servicios sociales e igualdad). Assets confiscated from other types of offences are disposed of by enforcement courts, and the money is transferred to the state budget.

The social reuse is regulated by Law 17/29.05.2003. This law provides for the reuse of assets, proceeds and instruments that are confiscated and become private property of the state on the basis of final court decisions on drug trafficking. All confiscated assets are disposed of (sold or leased free of charge), and the money are transferred to the Fund of confiscated assets from drug trafficking and related offences that is managed by the Delegation. The sums collected annually are used for financing projects within the Anti-drug Strategy – National Plan for Drugs – public policy since 1985 (through a request for project proposals, once a year). The money from the Fund is a small part of the total funds of the Anti-drug Strategy (e.g. funds from local authorities).

The objectives financed by the Fund are: prevention of psychoactive substance abuse; assistance and professional reinsertion of drug addicts; prevention, investigation, criminal prosecution and reduction in drug trafficking; international cooperation. Eligible beneficiaries of funds: dedicated nongovernmental organizations, in part or in whole, at national level, for activities with drug addicts; local autonomous communities, for actions to control drug offer and to reduce drug demands; the special anti-drug prosecutors' office; The Government Delegation for the National Plan for Drugs; police forces; the agency for customs and excise taxes; other public bodies coordinated by or subordinated to the State Administration for the development of drug-related programs; international agencies, supranational entities and foreign governments for the above-mentioned purposes.

Quantitative data about the Fund	2011	2012	2013	2014
Number of sentences	3.344	2.717	2.735	2.499
Number of confiscated assets	2.134	2.162	2.391	2.013
Sums distributed through the Fund (million Euro)	31,96	27,50	27,50	27,59

Allocation of funds to reduce drug demands, in 2014

Beneficiaries	Value
Autonomous communities	8.625.000 euro
Local authorities	4.500.000 euro
NGOs	3.125.000 euro
The Spanish Federation of towns and provinces	345.495 euro
The Government Delegation for the National Plan for Drugs	1.155.000 euro
International organizations	100.000 euro
TOTAL	17.850.495 euro

Allocation of funds in 2014 to reduce drug offer

Beneficiaries	Value
National Intelligence Centre against Organized Crime	700.000 euro
Police and Civil Guard	5.000.000 euro
Penitentiaries	625.000 euro
The Ministry of Defence	775.000 euro
Anti-drug prosecutors' office	48.197 euro
The customs authority	826.350 euro
The National Institute for Toxicology	164.958 euro
TOTAL	8.139.505 euro

Example 1

The sale with social clauses of the Pazo Bayón property. The main activity of the business is to cultivate vine and to produce Pazo Bayón wine. The property was bought in 1978 with proceeds from drug trafficking by a drug dealer, Laureano Oubiña. The court proceedings were initiated in 1994, the first sentence was pronounced in 2002 and the final sentence was pronounced in 2004. The enterprise was under judicial administration for the whole interval. The process enjoyed social interest and constant presence in mass-media. This case became a symbol of the fight against drug trafficking in Galicia and led to an important civil movement against drug trafficking and for the care and rehabilitation of drug addicts.





In 2006 the National Court decided to approve the accounts presented by the judicial administration of the companies and to transfer the companies Oula SA and Albarino Bayon SL, as well as Pazo Bayón property to the Fund of confiscated assets from drug trafficking and related offences. Measures were taken for the disposal of those assets: the General Shareholders' Meeting was established for the confiscated companies; a post-confiscation administrator was appointed; the exploitation lease signed with Freixenet SA continued (2001-2008); the Pazo Bayón property was evaluated: 8,693,972.66 euro; the shares of the two companies were evaluated separately from the property; an award commission was established.

Elements that were taken into consideration in the competitive sale of the assets:

- to prevent assets from returning to or being used for drug trafficking;
- eligibility condition for admittance to the auction: four years in the vinery field and 5 million euro average annual income;
- not only economic criteria for assignment, but also social orientation and finality;
- Criteria: transparency, objectivity, quantifiable.

Assignment criteria:

- 45% Price: maximum score for an increase by over 50% of the auction's starting price.
- 20% Commitment to take further the business and the wine brands for at least 15 years.
- 20% Commitment to sign temporary contracts (for processing, bottling etc.) with people who completed a rehabilitation program for drug addiction: maximum score for at least 400 days per year, for 15 years.
- 15% Commitment to make annual contributions to the Fund: the highest score, a contribution of at least 5 % of the annual income from selling Pazo Bayón wine, for 15 years.

The sale:

- Offers that met the requirements: 5 economic operators (Viña Izadi, Marqués de Riscal, Martín Codax, Condes de Albarei and Freixenet).
- Winner: Condes de Albarei (€15,102,000.00).
- Contract signed in July 2008.
- Guarantee for fulfillment of social criteria: € 600,000



Pictures: Delegación del Gobierno para el Plan nacional sobre drogas

Fulfillment of contractual obligations:

Year	Production (Bottles)	Profits for the Fund (5%)
2009	26.667	8.373,44 euro
2010	55.335	18.675,56 euro
2011	38.000	13.414,00 euro
2012	25.333	8.904,55 euro
2013	30.000	10.335,00 euro
2014	51.600	18.937,20 euro
TOTAL	226.935	64.130,24 euro

Fulfillment of contractual obligations:

Year	Employees	Paid working hours
2009	8	584

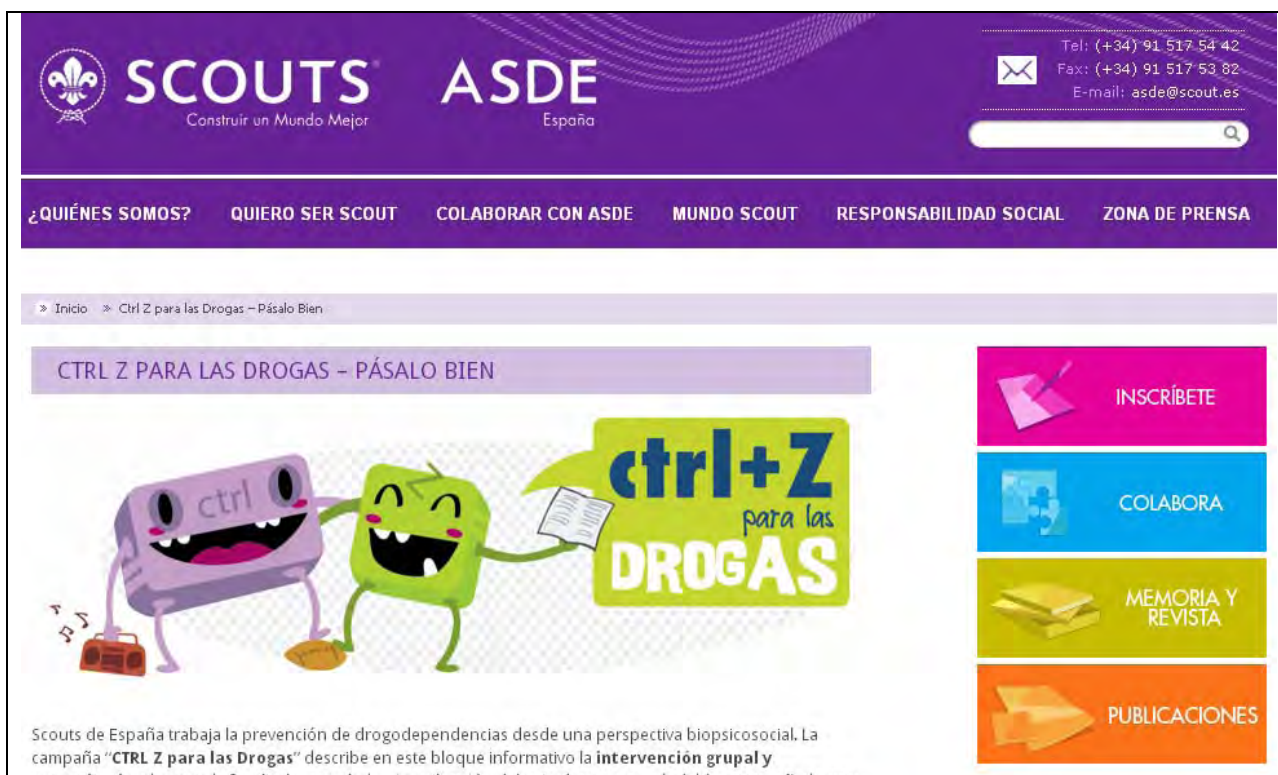
2010	7	846
2011	15	823
2012	10	618
2013	5	530
2014	8	719
TOTAL	53	4.120

Example 2

The sums collected to the Fund are used for financing the following types of projects developed by NGOs in relation to the Anti-drug Strategy – the National Plan for Drugs:

1. Prevention
2. Raising awareness
3. Training
4. Family therapy for drug addicts
5. Improvement of management and transparency of NGOs
6. Studies and research
7. Maintenance and support for coordination structures

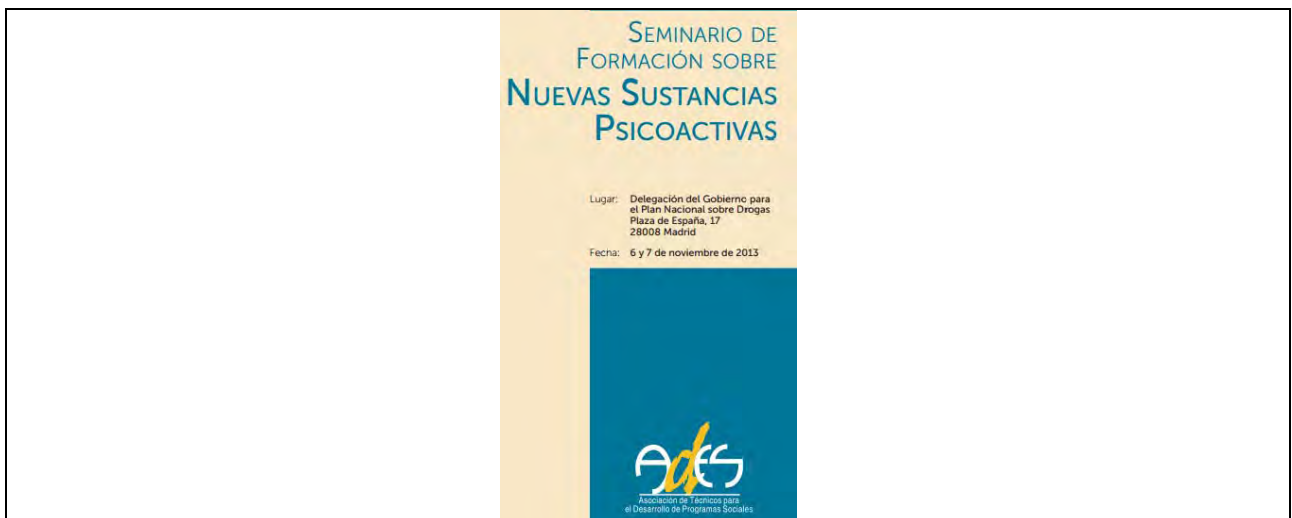
The Scouting Federation in Spain: Prevention of drug consumption during leisure time – €30,000



The Movement for Peace, Disarmament and Freedom - Advertising campaign for the prevention of drug trafficking - € 12,000



Association of technicians for the development of social programs, Seminar on new psychoactive substances - € 13,000



The Spanish Confederation of Parent Associations, Courses and materials for families regarding the prevention of drug consumption - € 80,000



Loyalty Foundation, Improvement of practices regarding the transparency and management of entities totally or partially devoted to drug addiction - € 12,000



The Foundation for Assistance against Drug Addiction, Social perception of problems related to drugs in Spain 2013 – €67,000



"Proyecto" is the magazine of the Proyecto Hombre Association, an NGO that specializes in the prevention and treatment of drug and other addictions. "Through our magazine we wish to send a message regarding our educational and therapeutic experience in drug addiction and to get closer to those searching for solutions to their addiction problems, to their families and to those interested in the topic of centers, treatments, rehabilitation and prevention."

