

PAYBACK - Towards a EU Data Management System for Seized Assets

Final Conference

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Databases on seized assets in the EU: the stakeholders' needs

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Research objective

In order to substantiate the development of the Payback DMS, a research has been conducted on the needs of stakeholders in the EU in terms of management of seized assets.

- Methodology
- Critical factors in management of seized assets
- Needs in terms of purpose of a DMS for seized assets
- Needs in terms of coverage, data input, access, data output and security
- Conclusions

Methodology

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Questionnaire

Relevant stakeholders and experts: ex. ARO, AMO in EU MS

Data collection: January – June 2017

Questionnaire sent to the identified stakeholders.

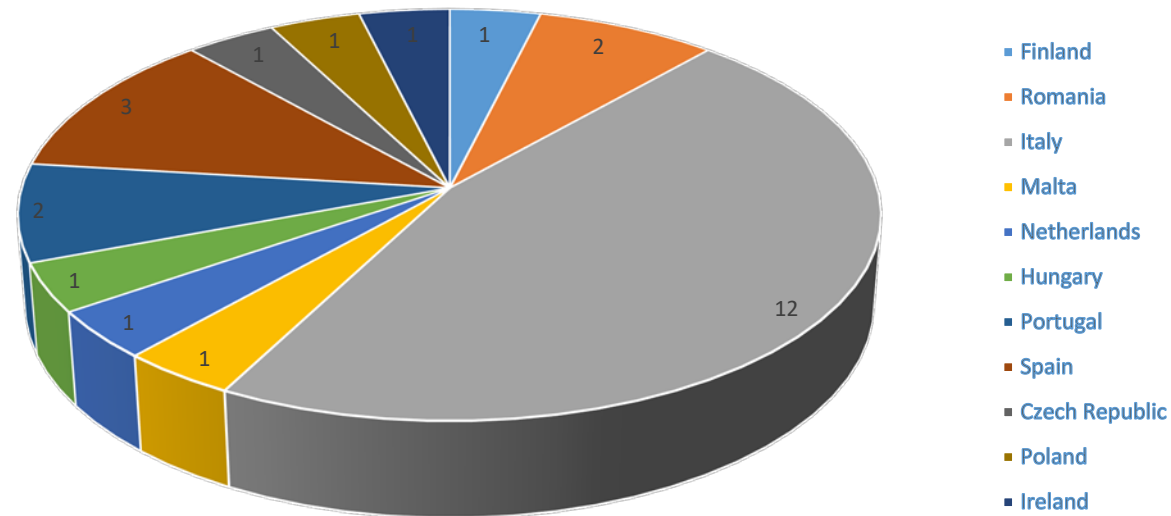
- Main types of questions:
 - Problems affecting the management of seized assets
 - Current database/s on seized assets (if any)
 - Needs in terms of purpose of a DMS
 - Needs in terms of coverage (which stages of proceedings?)
 - Needs in terms of data input
 - Needs in terms of data outputs
 - Needs in terms of data integration
 - Needs in terms of security, privacy and data protection

Data collection process has been challenging as many stakeholders did not see themselves having a role in the asset management process or they lack experience in this matter. Some stakeholders did not respond to the questionnaire because they consider other organisations to be competent or experienced.

Stakeholders involved

Relevant stakeholders from 11 MS replied, 26 replies in total

The report organises the views and needs regarding a data management system (DMS) for seized assets of the relevant stakeholders and experts from asset recovery offices, asset management offices and other organisations (ex. Ordine Dottori Commercialisti).



Critical factors hampering the timely and successful management of seized assets

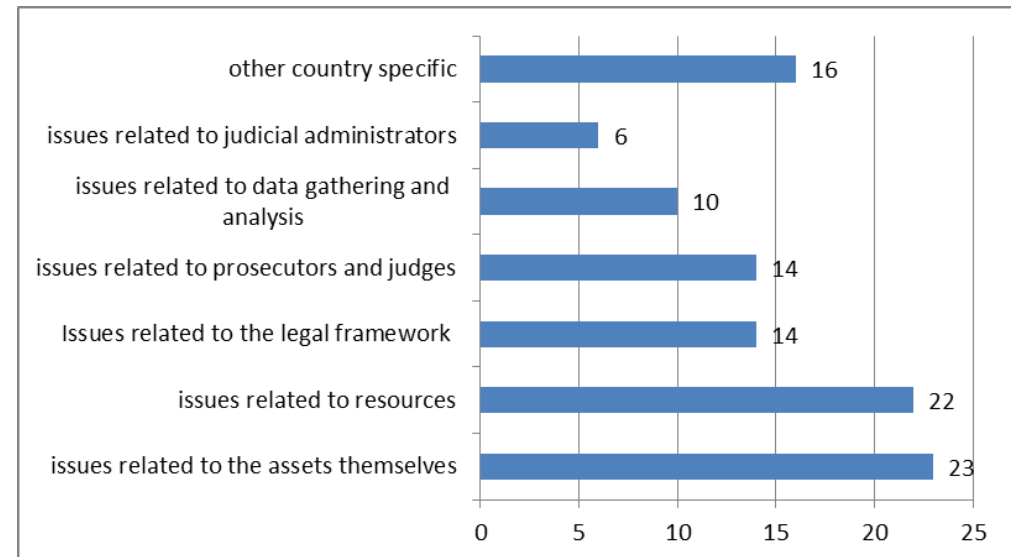
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Main critical factors

The stakeholders deal every day with critical factors that hamper an efficient management process of the seized assets.

- The main problem is with the seized asset itself: because of the long criminal procedures, the assets deteriorate and lose value; there is not proper storage available; are under joint property; **cannot be physically identified**; assets are under mortgage or other institutions claiming the rights over the same assets (third parties rights).
- The second problem is lack of resources (human as well as material). For instance, there are no resources available to invest and preserve the value of the assets.
- The third problem is related to the insufficient legal framework to cover all the circumstances.

The critical factors tend also to be country specific.

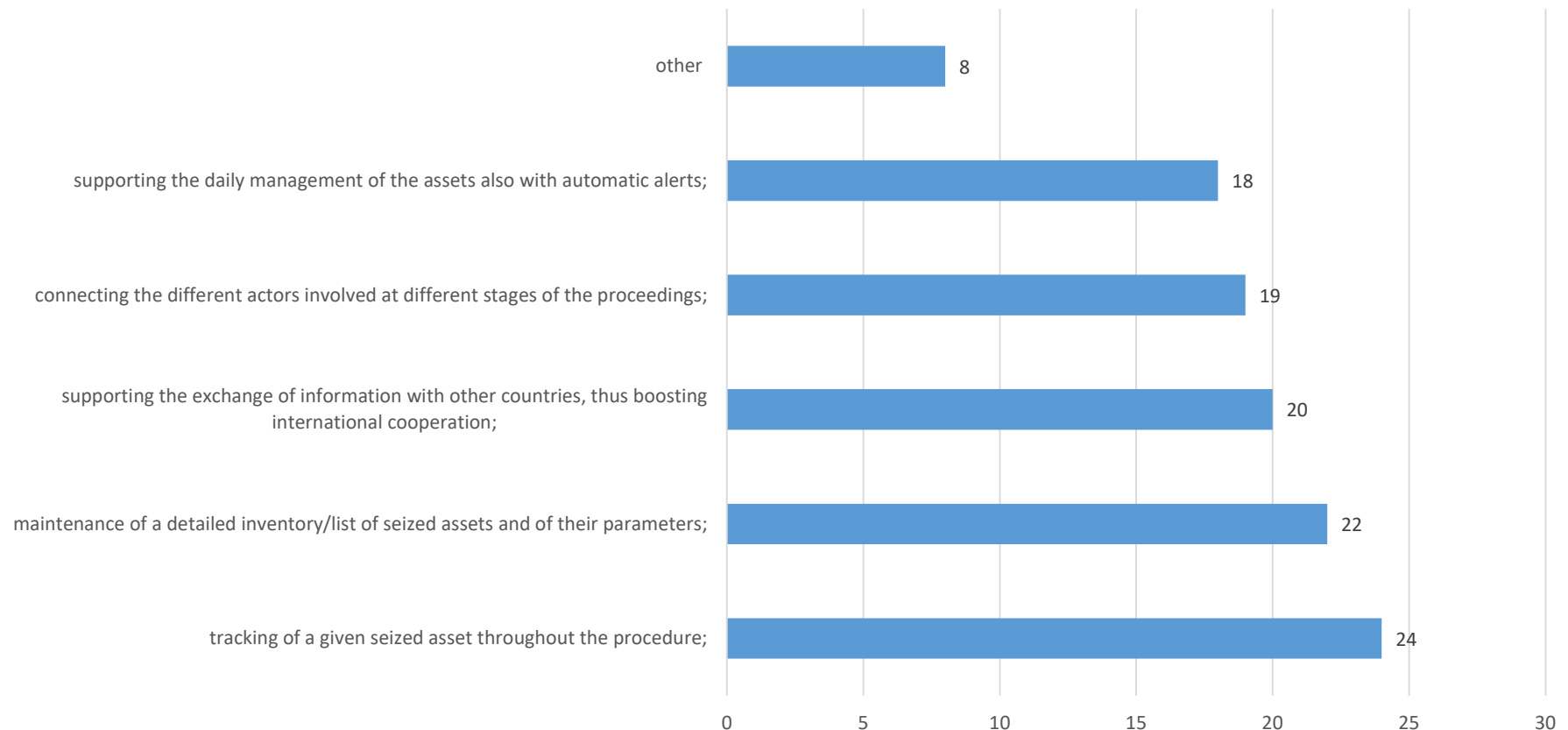


Data management system purpose

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Purpose of a DMS for seized assets

Main purpose of a data management system (DMS) for seized assets: tracking a given asset throughout the procedure



Alternative purposes of a DMS mentioned by the stakeholders

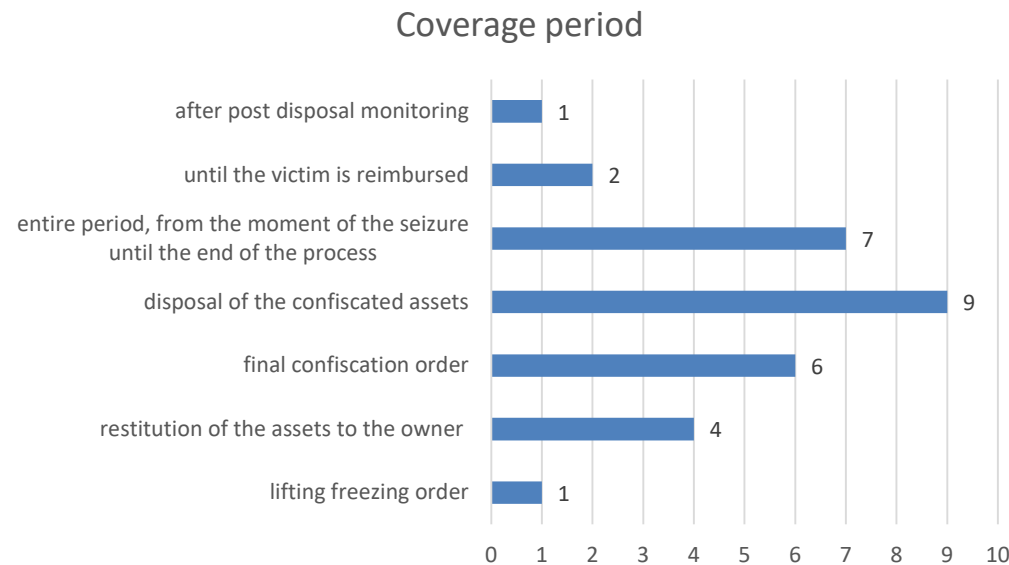
- Transparency reasons (better inform the citizens)
- Evaluation tool (evaluate the financial investigations)
- Exchange the information with EC
- Prevent double seizure
- Creating professional networks

Coverage, data input, access and data output

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Keeping track of the assets

In the view of stakeholders a data management system for seized assets should trace assets from the initial seizing/freezing order until the disposal/restitution and victim compensation phase (TIMELINE / TRENDLINE FUNCTION).



How long should an asset be kept by DMS after judicial proceedings have been completed/disposal phase ended?

- erased automatically after 5 years from the completion of the judicial procedure;
- e-archiving for indefinite time;
- manually erased, case by case;

Types of persons to input data into DMS

According to the stakeholders a data management system for seized assets has to be highly standardized to reduce subjectivity and errors: internal cross-checking, insertion constraints, comments and/or clarifications requests from users to the input person.

Depending on country, the following types of persons have to input data into a seized assets DMS:

- Police
- Prosecutors
- Courts
- Bailiffs
- Tax administration
- Asset management office
- Judicial administrators

Key data to input into DMS

1. Information on the freezing/seizing order

Examples of data to be added:

- name of the court and/or prosecutor issuing the order;
- registration number and date of the freezing/seizing order;
- the name of the police officer entitled to asset identification and to the enforcement of the order;
- the procedural phase in which the measure was ordered (investigative phase; preliminary chamber phase, the trial phase);
- the type of the interim/seizing/ freezing measure;
- the existence of a trans-border element and which legislation should be applied (EU conventions, bilateral treaties, international agreements);
- description of the regulatory and legal framing of the order;
- motive(s) for issuing the order;
- name and contact details of the clerk(s) who registers the data into the DMS.

Key data to input into DMS

2. Information on the criminal file

Examples of data to be added:

- criminal file number, date and the entity responsible;
- crime(s) allegedly committed;
- last name/first name/name of the person accused and type: legal entity or natural person;
- reference to the accused: suspect/defendant/civil liable party;
- Personal Identification Number/Unique registration code for legal entity*
- name and contact details of the clerk(s) who registers the data into the DMS.

Key data to input into DMS

3. Information on the asset(s)

Examples of data to be added:

- description of the asset;
- status of the asset at the moment of freezing /seizing (quality, mortgages, debts, other procedures in which the asset is involved);
- asset type, model and brand (ex: auto, boats, furniture, animals, appliances / industrial / commercial, IT and telephones, etc.);
- number of identical assets, if more than one;
- owner of the asset (split ownership, ownership issues);
- estimated value of the seized/frozen asset, method of estimation, date of estimation and currency;
- the location of the seized asset/geo-location references;
- name and contact details of the custodian of the asset (natural person or legal entity);
- updates on the asset (picture, video, reports etc.);
- possible destinations for disposal phase;
- disposal/restitution of the asset and victim compensation;
- name and contact details of the clerk(s) who registers the data into the DMS.

Key data to input into DMS

4. Information on the court file(s)

Examples of data to be added:

- number of court file;
- name of the court(s);
- the name of the judge(s) and clerk(s);
- other measures disposed during Court phase regarding and asset(s);
- name of the judge(s) who is in charge with the enforcement of the freezing/confiscation order;
- estimation date of final court decision;
- summary of court decision(s);
- name and contact details of the clerk(s) who registers the data into the DMS.

Types of persons to access data

- police
- prosecutors
- courts
- bailiffs
- Tax administration
- Asset Management Office
- Ministry of Justice / policy-makers
- judicial administrators
- potential beneficiaries of social reuse policy (associations, municipalities etc.)

Level of access to the data

The stakeholders suggested tracing all acces to the database (user, date, time, information reviewed and data saved/exported/altered/added) in order to aviod abuses.

Types of acces identified by the stakeholders:

- viewing/extracting data from the entire database/part of the database –courts, prosecutors, police, social reuse potential beneficiaries;
- viewing/adding/removing/extracting data from the entire database (full access) – asset management agency;
- full access to own data (view/add/extract/modify) and restricted access to other data – law enforcement;
- access only to statistical data – for policy makers, general public;
- full access to assets module only - police;
- system administrator;

Figures/statistics generated by DMS

Stakeholders need to regularly perform statistical or estimation analysis (ex. for annual report, for policy-making reasons, to inform the public, to complement the information in certain files, to identify trends and risks, to decide on specific cases etc.): *“the statistical module must produce information from the available data, in order to make operational-level and strategic-level decisions.”* Basic/default statistics should comply with obligations set out in the EU law regarding the collection of data related to freezing/confiscation orders (Directive 2014/42/EU).

The stakeholders reported the following needs in terms of figures and statistics:

- Macro analysis of data on seizing over time, such as overall volume of assets seized by geographical location and nature of the assets;
- Maps of seized assets related to different types of crimes;
- Statistics and tables on disposal of assets;
- Training needs;
- **Frequencies, tables and cross-tabs on any data (first place):**
- tables on items connected to the same case/same owner/same suspect;
- tables on items with the same legal status/same place/ same authority;
- statistics about the number/value of sized assets at the beginning of the period compared with the final numbers;
- statistics about the length of procedures.
- raw, anonymized data

Search into DMS and export formats

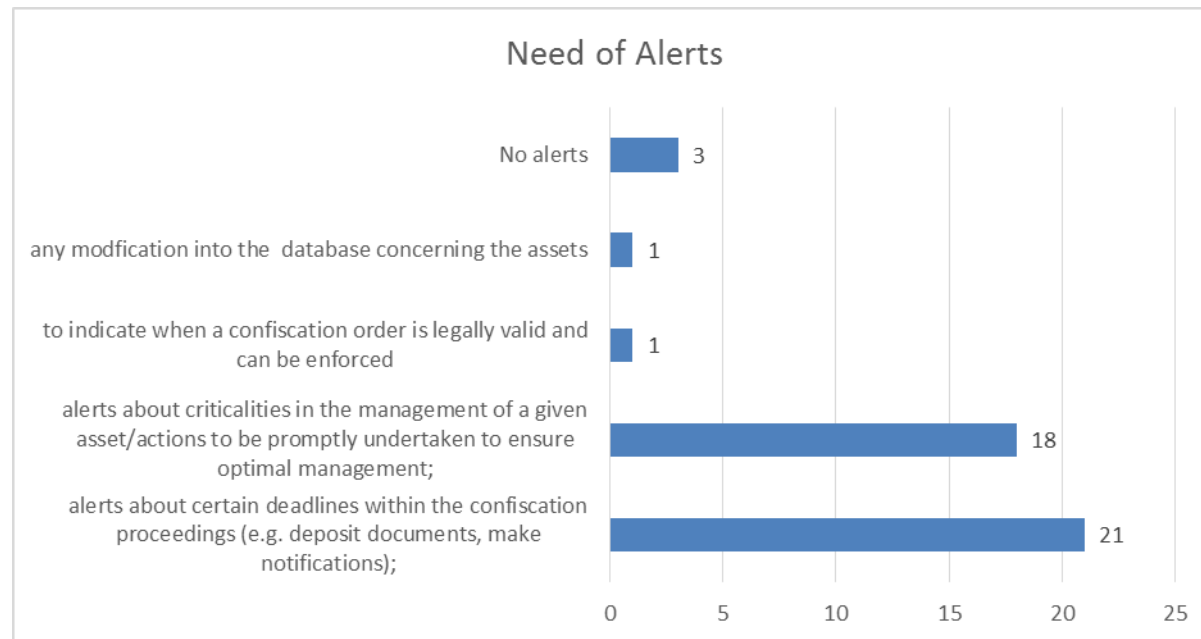
- by name of any part involved in the criminal file (suspect, victim)
- by date of confiscation order
- by court/prosecutor
- by owner
- by type of asset
- by value of asset
- by location
- by a specific sentence or keyword
- existence of an international order regarding the asset
- by type of offence
- name of potential buyer/disposal unit
- name of the actual buyer/disposal unit

Export options: MS Excel, MS Word

- PDF
- Open source
- Exportable to web portals

Alerts

- alerts about certain deadlines within the confiscation proceedings (e.g. deposit documents, make notifications);
- alerts about criticalities in the management of a given asset/actions to be promptly undertaken to ensure optimal management;
- alert to indicate when a confiscation order is legally valid and can be enforced



Dialogue with other databases

- land and real estate registry;
- chamber of commerce;
- tax registry;
- other databases, country specific

Needs in terms of security, privacy and data protection

- Confidentiality rules can be challenging when using open information system;
- special conditions needed in terms of security and data protection;
- conditions regarding personal information (full respect of data protection)
- access based on password;

Conclusions

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Conclusions

- Stakeholders views are very diverse, considering the national constraints (legislation, institutional development, administrative capacity, political commitment etc);
- Three areas of interest are widely recognized at EU level as essential to ensure an effective management of seized assets:
 - location of the assets;**
 - value of the seized assets and ongoing updates on the condition/value of assets;**
 - statistical analysis, reports and notifications (ex. trendlines);**
- Several countries have their own DMS (France, Netherlands, Belgium) others are working to build one (Romania, Czech Republic, Portugal, Spain). Many MS do not have a national database (ex. Finland).
- Payback DMS has to be a flexible solution able to meet the needs of MS having a database in place as well as member states not having one.
- Payback has to complement the existing database and be able to integrate into existing infrastructure. Payback has to be scalable and implemented gradually.

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