

ASSET
RECOVERY
BUREAU
(MALTA)



THE ROLE OF THE ARB IN
TRACING, MANAGING
AND DISPOSING OF
IMMOVABLE PROPERTY



AGENDA



- Overview
- General and Legal Framework
- Tracing of Assets (Immovable Properties)
- Evaluation of Property and Management
- Confiscation of Immovable Property
- Conclusion

OVERVIEW



- **Definition:** Asset Recovery is the comprehensive process of tracing, freezing, confiscating and returning funds obtained through illicit means.
- **Key Components:**
 - Tracing: Identifying illicitly obtained assets
 - Freezing: Restricting the use of identified assets
 - Confiscation: Legally taking possession of assets linked to criminal activities
 - Returning: Redirecting recovered funds for victim restitution or societal benefit

OVERVIEW



- **Strategy:** It should be considered as a strategy implemented within the criminal justice system to deprive criminals of illegal gains, disrupt criminal enterprises and safeguard society.
- **Multifaceted Approach:** It involves collaboration with law enforcement, investigators and prosecutors to address various offences from money laundering to terrorism funding.
- **Benefits of Asset Recovery:** Removing funds generated from criminal activity from circulation, dismantles criminal circles and stops funding to criminal enterprises

OVERVIEW

- **Dedicated Branch:** The benefits and complexities of Asset Recovery were recognized and dedicated Asset Recovery Offices (AROs) were established to focus on this critical task.
- **Legal Mandate:** Anchored through Council Decision 2007/845/JHA mandates Member States to create national AROs.
- **International Obligation:** The same council decision also plays a role in facilitating the exchange of information between national offices, enhancing global collaboration on matters related to asset recovery.
- **Ongoing Legislative Developments:** Regulation (EU) 2018/1805; EU Directive Asset Recovery and Confiscation.

GENERAL FRAMEWORK



Establishment of the National ARO:

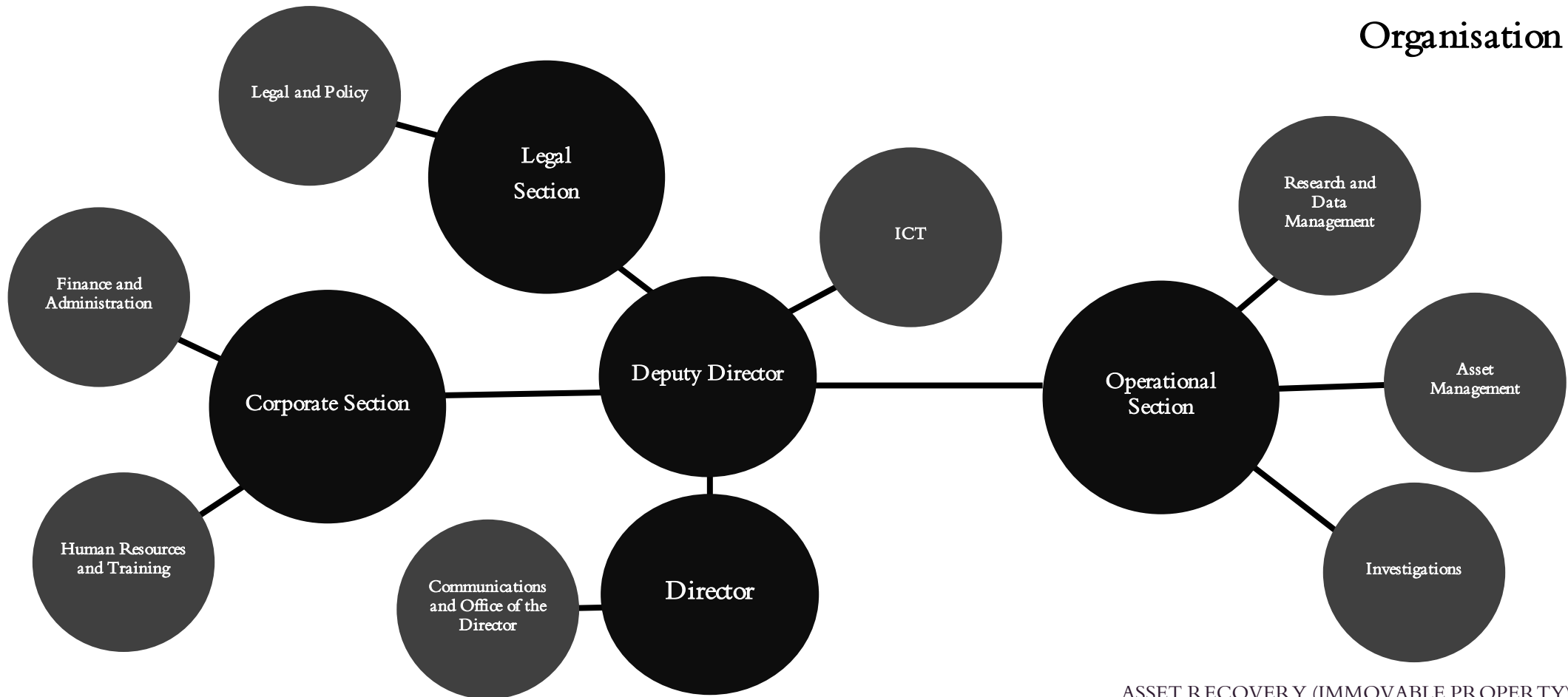
- National Asset Recovery Office (ARO) in Malta was established through Legal Notice 357 of 2015 providing for the Regulations of the Asset Recovery Bureau.

Operational in August 2018:

- August 2018 marks its official operational start, a significant milestone in Malta's commitment to addressing financial crimes.

GENERAL FRAMEWORK

Organisation chart



LEGAL FRAMEWORK



Robust Legal Framework:

- Tangible developments have fortified the legal framework resulting in a dedicated act which came into force in March, 2021 – The Proceeds of Crime Act, Chapter 621 of the Laws of Malta

Key Focus Areas:

- The act addresses critical aspects such as the establishment and functions of the Asset Recovery Bureau, harmonisation of orders thus providing a toolkit for law enforcements, non-conviction based confiscation, and the creation of a specialized Civil Court for asset recovery matters.

LEGAL FRAMEWORK

Harmonisation of Court Orders

- Monitoring Order
- Investigation Order
- Attachment Order
- Seizing and Freezing Order

Non-Conviction Based Confiscations

- Abscondment or not in Malta
- Perpetrator is dead
- Perpetrator dies prior to concluding criminal proceedings

Specialised Court

- Civil Court (Asset Recovery Section)
- Determine property subject to confiscate
- Third party rights

TRACING OF ASSETS



“In the exercise of his functions under this Act, the Director and any member of the Directorate staff, authorised by him, shall have **power to seek from any person or authority any information with regard to any person or with regard to any matter**, and the person in possession of such information shall notwithstanding the provision of any law to the contrary be obliged to give the Director or any such member all information so requested...”

**Article 16 (1), Proceeds of Crime Act
Chapter 621 of the Laws of Malta**

IMMOVABLE PROPERTY



Data Sources for Immovable Property:

- Various avenues and data sources are explored for tracing immovable property, including collaboration with the Public Registry, tax authorities for duty transfer (CTD), residential addresses, and utility records.

Collaboration with Investigation Officers:

- Communication with investigation officers for possible intelligence or surveillance linking the subject person to a property.

IMMOVABLE PROPERTY



Exclusion of Notaries:

- Currently, notaries are not directly involved in the tracing process.

Potential for Collaboration?

- Collaboration with notaries to enhance the tracing of immovable property and ensure a comprehensive approach.

EVALUATION & MANAGEMENT



Onsite Evaluation Process:

- Once real estate is discovered, the ARB conducts an onsite evaluation in collaboration with an expert engaged by the ARB.

Preservation of Value:

- Preserving the value of the assets encountered is a critical factor influencing the level of effort dedicated to its management.

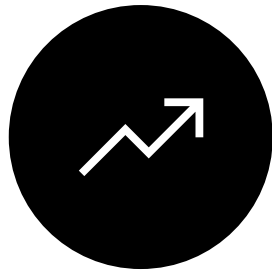
Immovable Property has:

- Limited hands-on management with the ARB not currently directly involved in the management of real estate
- Tenants or residents, thus reducing immediate need for hands-on management

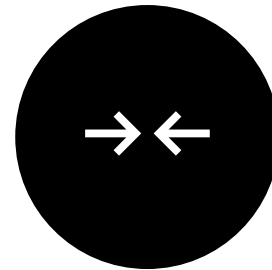
EVALUATION & MANAGEMENT



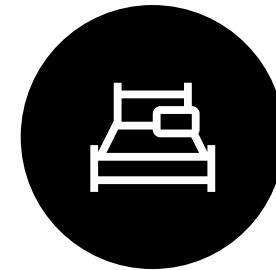
VALUE RETENTION



MARKET
REALIZATION
CAPACITIES



DEPRECIATION
IMPACT



OCCUPANCY
STATUS

“(b) When such property consists of objects or other assets, it shall be disposed of by the Bureau in a manner that ensures the greatest benefit to the Government.”

Article 19 (4) (b),
Proceeds of Crime Act

Chapter 621 of the
Laws of Malta

CONFISCATIONS

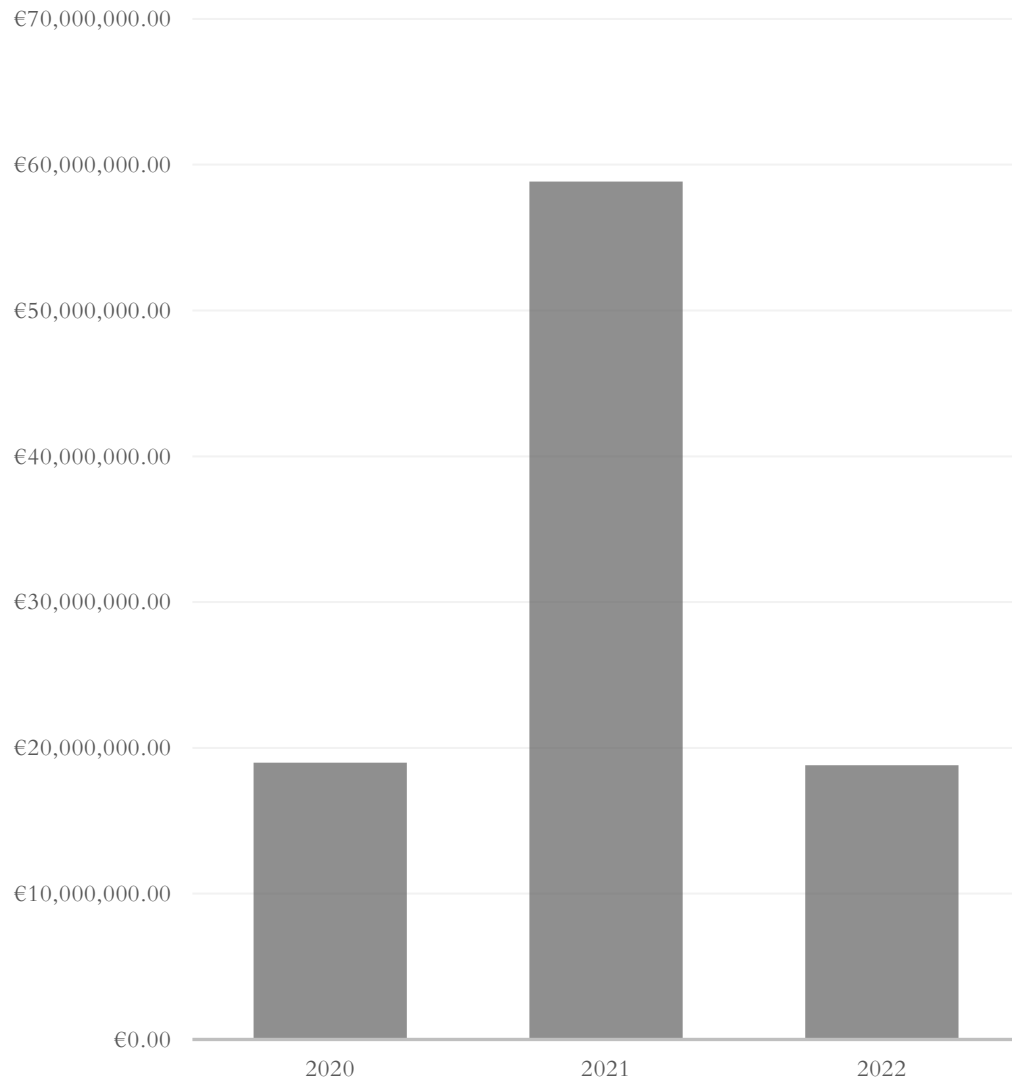
Court Judgements and Asset Direction:

- Court judgements play a pivotal role in determining the course of action for assets linked to or in possession of the accused.
- The court’s decision is crucial in outlining whether all or specific assets will be subject to confiscation.

Execution by Asset Recovery Bureau:

- The Asset Recovery Bureau is responsible for executing court orders related to asset confiscation.
- ARB should ensure lawful transfer of assets from the accused to the government of Malta in accordance with the court’s decisions.

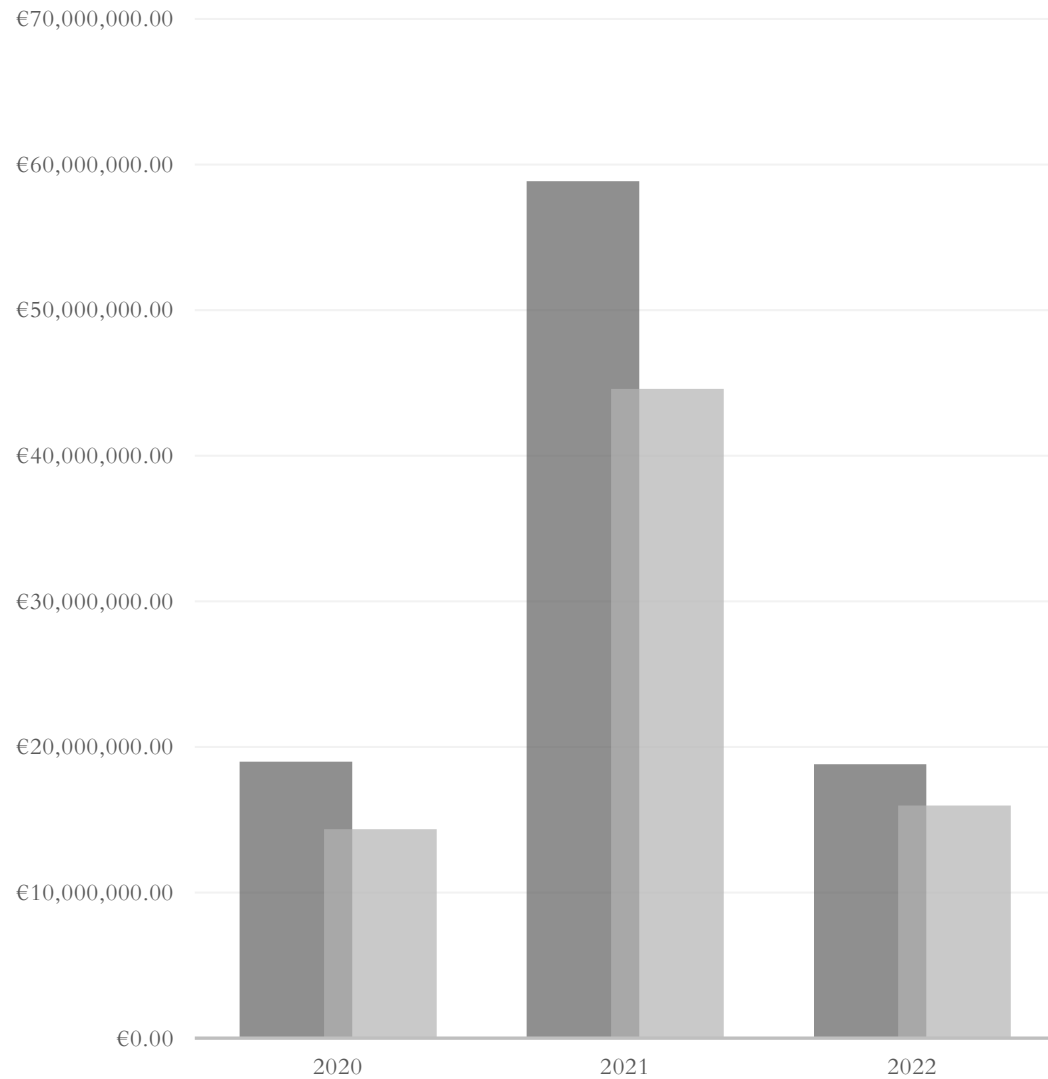
Total Frozen Assets



STATISTICS



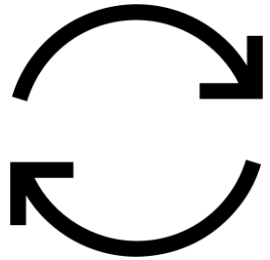
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STATISTICS



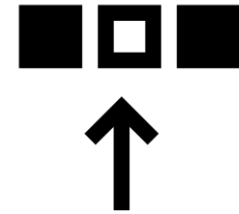
CASE STUDIES



Ongoing



Concluded



New Cases

Operational Framework:

- Mandated by Council Decision 2007/845/JHA for national AROs to facilitate international cooperation.
- ARB established in 2015, operational in 2018, and fortified by a dedicated legal framework in 2021.

Tracing and Management:

- Strategic approach involves information requests, collaboration with financial institutions, and exploration of diverse data sources.
- Immovable property, a significant asset, undergoes expert evaluation with a focus on preserving value.

Court-guided Confiscation:

- Court judgements pivotal in executing confiscation orders and ensuring asset transfer for societal benefit.
- Ongoing cases demonstrate ARB active role in securing immovable properties.

CONCLUSION

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