

**Project: 101046613 – RINSE – JUST-2021-JTRA**

## **RINSE**

### **Research and INformation Sharing on freezing and confiscation orders in European Union**

#### **WP2 - PRELIMINARY ANALYSIS AND BEST PRACTICES**

##### **IDENTIFICATION**

##### **D 2.3 – ON-LINE SURVEY**

The report will detail the results of the online survey carried out at European level, highlighting training needs with regard to the 2 EU legislative provisions (Council Regulation (EU) 2018/1805 and EU Directive 2014/42), their practical implementation measures and their relations with CoE ECHR

UNIVAN

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Santa Maria C.V. (IT),

3 November 2023

## A. SURVEY INTRODUCTION

### Short summery

Depriving criminals of the proceeds of their illegal activities is a key strategy in Europe for disrupting transnational organized crime. Confiscating and recovering assets is considered an effective approach to preventing the re-injection of laundered criminal proceeds into the legal economy.

The goal of this effort is to strengthen the notion that *crime does not pay*.

According to Europol's 2021 Serious and Organised Crime Threat Assessment<sup>1</sup>, more than 80 % of the criminal networks active in the EU use legal business structures for their criminal activities; 68 % use basic money laundering methods such as investing in property or high-value goods.

In spite of this, the effectiveness of the EU is low, with more than 98% of the proceeds of crime remaining in the hands of criminals<sup>2</sup>.

To enhance the fight against organized crime by strengthening the asset recovery regime, the European Union actively encourages and promotes numerous initiatives, research projects, and think tanks.

In the Proposal for a Directive of the European Parliament and of the Council on asset recovery and confiscation<sup>3</sup>, the European Commission asserted that organized crime represent one of the highest threats to the European Union's security.

In the EU Strategy to tackle Organised Crime (2021-2025)<sup>4</sup>, the European Commission referred to the importance of depriving criminals of the illicit profits to prevent their infiltration into the legal economy. To achieve this, it is essential to refine the scope of the confiscation legal framework in terms of assets and criminal activities covered.

Moreover, at the European level, it is highlighted the importance of facilitating asset recovery by fostering effective practical cooperation among Member States<sup>5</sup>.

Within this context, a pivotal role has been assumed by Regulation (EU) 2018/805 concerning the mutual recognition of freezing and confiscation orders in the European Union. This regulation has replaced existing instruments such as Framework Decision 2003/577/JHA, which pertains to the freezing of property between Member States, and Framework Decision 2006/783/JHA related to confiscation orders among Member States.

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<sup>1</sup> <https://www.europol.europa.eu/publications-events/main-reports/socta-report>

<sup>2</sup> Europol 2016, Does crime still pay? Criminal asset recovery in the EU [1 February 2016], accessible at <https://www.europol.europa.eu/publications-documents/does-crime-still-pay>

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0245&qid=1653986198511>

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0170&qid=1632306192409>

<sup>5</sup> (COM 2015)185.

This Regulation presents several challenges, including the execution of freezing and confiscation orders in cases where the amount of money is located in more than one State, and the difficulty of communication between national authorities.

The legislative form chosen for Regulation (EU) 2018/1805 dated November 14, 2018, regarding the mutual recognition of freezing and confiscation orders, establishes its direct applicability within the EU. Structured with the intent of addressing issues related to the implementation of existing instruments, it aims to ensure that the general principle of mutual recognition of judicial decisions in criminal matters is acknowledged and enforced by another member States. This regulation broadens the scope of confiscation types in criminal matters, including preventive confiscation, provided there is a link to a criminal offense. It also proposes standard certificates and procedures.

This *Report* aims to gather data and information on the main training needs and common gaps in the training of public prosecutors, judges, lawyers, and other institutions involved in the tracing and identification of assets, their freezing, confiscation, and international disposal. The focus of this survey lies in the understanding and application of the two European legislative provisions Regulation (EU) 2018/1805 and Directive 2014/42/EU within the four member States involved in the RINSE project (Belgium, France, Greece, and Italy).

The survey questions are formulated to identify the level of knowledge within the target group concerning national and European regulations and practices. This means that the collected data does not provide information about the presence or absence of legislation or practices but rather about the extent of their dissemination.

The analysis has specifically focused on the target group's awareness of requirements, standards, and practices in national and European level, including the European Convention on Human Rights, related to measures such as freezing and confiscation within the framework of proceedings in criminal matters, as well as the recovery, and the reuse of seized and confiscated assets.

The results of this survey represent one of the pillars for defining the content and methodology of the training activities in the subsequent phase (WP3) of the Rinse research project.

The aim of the analysis is to identify areas where adequate training is lacking and to address them with specific training activities. Simultaneously, it has been considered crucial to gather best practices, nationally disseminated guidelines, and suggestions for improving the practical implementation of this essential instrument of judicial cooperation in criminal matters represented by the mutual recognition of freezing and confiscation orders in the European Union.

## **Methodology**

The survey consists of six sections that include multiple-choice questions and brief open-ended questions. In some cases, respondents were asked to share documents considered pertinent to the subject.

The target population comprises a specific group of individuals selected based on their profession and residing in the four member States that are part of the Rinse consortium.

Participants were selected in accordance with our Grant agreement and based on their specific legal or practical competencies in this field.

The questions were chosen based on legal and practical issues identified in the previous activity (focus group meetings). They represent difficulties or obstacles to the implementation of regulations, or, in some cases, have a more descriptive nature, and the answers may be considered informative.

The survey was developed by the research team at the University Vanvitelli, with support from other partners focused on identifying respondents and disseminating the survey.

The research team at the University Vanvitelli initially chose to disseminate the survey through the Google Form platform. However, after a brief period of the survey's validity, the partners highlighted difficulties, especially for judicial professionals responding via their institutional email addresses, in accessing the form without a Google domain email. Additionally, the Google Form format allowed the distribution of the survey in only one language, and not all consulted professionals were willing to respond to a questionnaire exclusively in English. For this reason, it was decided to transfer the survey to a less restrictive platform, namely Jotform. The results of the two surveys have finally been merged into a single form. This second survey was more readily embraced and allowed for a better dissemination. The questionnaire was distributed in English, Italian, French, and Dutch.

## **Structure**

The survey is structured into six sections. The first part is dedicated to collecting general information about the participants, including their names, professions, and nationalities. These details are crucial for defining the research sample and evaluating whether it meets the requirements outlined in the Grant Agreement. To construct the sample, this part also includes questions about participants' personal perception of their general knowledge about the two European legislative instruments: Regulation (EU) 2018/1805 and Directive 2014/42/UE, without delving into specific details. In the last questions of this part, participants are asked to indicate the number of mutual recognition proceedings in which they have been involved as requesting or executing authorities and specify the States to or from which the mutual recognition requests were directed.

The survey is structured into two sections regarding the participants' professions: the first part is dedicated to investigating the level of knowledge of legal professionals regarding legislative instruments,

while the second part aims to gather opinions and experiences from non-legal professionals involved in various capacities in the management and administration of freeze and/or confiscated assets in individual Member States.

The first section gathers questions around the theme “what Regulation is talking about”. The questions in this section aim to identify the level of knowledge within each Member State regarding the legislation, for example, by asking whether judicial offices have disseminated guidelines for the application of Regulation (EU) 2018/1805 and Directive 2014/42/UE. In this section, participants were also asked for their opinion on the existence, in other legal systems, of seizure and confiscation measures unknown to their own legal system, and whether this poses a problem when mutual recognition is requested for a measure whose legal status is not well-known in the executing State. This segment seeks to identify the most common types of confiscation among the States of interest and to assess the mutual understanding of confiscation measures.

The second section aims to address the question “problems in the mutual recognition process” and aims to identify the main issues that may arise, slowing down the executing process. The questions focus on describing the mutual recognition process as implemented in each State and on the communication methods among the various involved national and European authorities and agencies.

The third section aims to address the issue of “cross-border investigations” and is primarily directed at national authorities involved in asset identification procedures and the functioning of asset recovery networks among authorities from different Member States.

The fourth section aims to address the question “further consequences” and is dedicated to investigating the implications in terms of rights for individuals affected by the measures, especially when the executed measure is a confiscation imposed in the absence of a prior conviction.

The fifth section pertains specifically to “confiscated assets”. Participants are asked to identify the types of assets that are most frequently subject to seizure and confiscation. The aim is to assess whether there is uniformity in practices across the European Union.

The sixth section concerns the “management and reuse of frozen and confiscated assets” and is primarily addressed to non-legal professionals involved in asset management, such as third-sector associations or local authorities to whom the asset is entrusted by the State. Delving into the theme of the social and institutional reuse of frozen and confiscated assets is crucial for establishing shared best practices and urging Member States to adopt regulations that allow, in addition to the sale of the confiscated asset, its reuse for the benefit of the community.

### **Date of release**

The first survey (Google Form) was distributed on July 3, 2023, while the second survey (Jotform) was distributed on July 13, 2023. The surveys remained active until November 1, 2023.

## **Dissemination**

Each partner committed to maximum distribution through email dissemination using email lists (with priority given to experts who participated in various focus group meetings organized by the partners) and through individual requests to persons who potentially met the target criteria. The survey was then shared on the RINSE's LinkedIn page and on social media pages related to both the project and individual partners. Additionally, the survey was distributed through the DG Justice newsletter on September 12, 2023.

## **Key results**

Firstly, it should be highlighted that the success indicator for the survey was not achieved. The required number of responses specified in the grant agreement was not collected. At the survey closure on November 1, 2023, the participation from each Member State fell below the required threshold:

Belgium: 12; France: 18; Greece: 7; Italy: 20. In total, 57 individuals responded to the survey, including 37 legal professionals and 20 non-legal professionals.

A number of professionals, to whom the completion of the questionnaire was requested, opted not to participate. They expressed that their decision stemmed from a lack of prior experience with the mutual recognition tool and an insufficient level of familiarity with its functionalities. From their non-participation, we may deduce an important insight for our research: the mutual recognition procedure seems to be less prevalent among the Member States, likely due to a deficiency in understanding the normative and the substantive legal frameworks across various European legal systems.

This could be explained by the fact that the implementation process in Member States is still ongoing at the time of the survey, and national authorities are not yet familiar with the Regulation. Informations are not yet available at the time of writing because, as the results show, the collection of national data is incomplete. This implies that the system of mutual recognition of freezing and confiscation orders within the European context is still underutilized as a tool for judicial cooperation in criminal matters. There are still numerous practical challenges that need to be overcome.

A strategy for addressing these challenges involves implementing training programs and developing guidelines. These initiatives are designed to facilitate legal professionals in comprehending the intricate framework of existing asset forfeiture measures.

The first kind of information we deemed important to assess is the perception of one's knowledge of the two legislative instruments. The majority of respondents rated their knowledge as average (35% gave a score of 3 on a scale of 5). Between 10% and 14% responded that they do not know the regulations at all, while only 11-16% claim to have an in-depth understanding of them.

Among the participants, only 40% declare having ever been involved in mutual recognition proceedings related to freezing and confiscation orders, with the majority being prosecutors. It is interesting to note that among the most involved states, many are from Eastern Europe, and numerous requests are also made towards non-European Union states, for which Regulation (EU) 2018/1805 does not apply.

To better understand the level of knowledge and dissemination of the two legislative instruments (Regulation (EU) 2018/1805 and Directive 2014/42/EU), we inquired about the distribution of guidelines or internal circulars within the member state capable of guiding the application of the legislation. The collected data reveal that the majority of operators in the concerned states have not been provided with guidelines or circulars containing instructions and clarifications regarding the application of regulatory instruments. The level of dissemination of such documents is extremely low. In some states, circulars have been issued (Italy, France, and Belgium), but the corresponding level of dissemination among operators, especially among those not directly targeted by the circular, remains low. Only 30% of Belgian legal professionals reported being aware of the circulars, 11% of the French, and 15% of the Italians. In Greece, no one reports having received guidelines, recommendations, or circulars, raising doubts about their existence (in the results section these guidelines are listed).

As already highlighted, there are significant gaps in the harmonization of seizure and confiscation measures. It is crucial that legal practitioners are aware that mutual recognition of orders unknown in their own legal system may be requested. Responses are not consistent regarding awareness that other states have forms of asset deprivation that do not exist in their own legal systems. Taking, for instance, the scenario where mutual recognition is sought for a measure unknown in terms of legal prerequisites and application modalities, we inquired about whether this could pose challenges for mutual recognition. The responses highlight that operators would face difficulties. In this light, we believe that a manual or document containing an illustrative table of the various forms of seizure and confiscation applicable in different Member States could be a valuable operational tool. The respondents have shown a great interest in this type of output (95% of the respondents would find it useful to have a document illustrating the seizure and confiscation measures in place in EU countries). Above all, they indicated that the key characteristics of this document should be simplicity, clarity, and wide dissemination through specific training sessions.

Another aspect to delve into is how member states have implemented the procedure for issuing and executing freezing or confiscation orders within their own jurisdiction. We sought to identify the problematic steps in the process, where authorities may encounter difficulties, slowing down or refusing the recognition. As emerged from the focus group meetings, problematic aspects included the difficulty of meeting the 45-day deadline imposed by Article 20 of the regulation (especially when there is a need

to investigate double jeopardy issues, ensuring proportionality, etc), communication difficulties between authorities, challenges in understanding the mutual recognition form, reasons for refusing mutual recognition other than those specified by the regulation, and any other issues. Communication deficiencies are attributed to poor translation, insufficiently clear descriptions of the facts, and a lack of reference to the legal basis for the issuance of the measure. The interviewees were presented with practical questions to resolve, exemplifying the issues that emerged during the focus group meetings (such as what they would do if they received an incomplete or unclear certificate regarding the allocation of the asset or, in the case where multiple measures were issued on the same asset, would they know which procedure to apply). 62% of the interviewed would have difficulty identifying the correct procedure to follow in the absence of more specific indications or shared best practices and guidelines.

Article 24 of the regulation provides the option (it is not obligatory) for member states to appoint a central authority responsible for the reception and transmission of freezing and confiscation orders, and assistance to competent authorities. In this way, the procedure may be slowed down, but there would be better control over data and statistics and greater uniformity of application. Almost all states have indicated a central authority (the list is published on the EJM website); however, from the responses of the interviewees, it emerges that it is not always clear who this authority is and what its specific tasks are.

In the field of judicial cooperation, particularly in the phase of cross-border investigations aimed at identifying assets subject to seizure and confiscation, operating through networks of professionals proves highly beneficial. Although recommended at the European level, these networks still have limited reach and use. The Asset Recovery Offices (AROs) were established as a result of Framework Decision DQ no. 2007/845/JHA, focusing on cooperation between member states' offices for asset recovery, tracing, and identification of proceeds of crime or other related assets. CARIN (Camden Assets Recovery Inter-Agency Network) serves as an informal network of contact points and a cooperation group addressing all aspects of confiscation of crime proceeds. With experts from 53 countries and 9 international organizations, CARIN assists in locating investments, bank accounts, real estate, companies, and vehicles associated with illicit activities. It provides information on the regulatory and operational profiles of different countries to facilitate cooperation.

Despite these two networks being the most prominent, survey respondents also mentioned utilizing the BAmIn, Star, and PIAC networks. The Balkan Asset Management Interagency Network (Bamin) consists of government agencies from eight Western Balkan countries responsible for managing and disposing of assets seized from criminals<sup>6</sup>. The PIAC network is an internal network within France. The Ministry of the Interior's Criminal Assets Identification Platform (PIAC), established in September 2005 within the Central Office to Combat Serious Financial Crime (OCRGDF), is tasked with identifying the financial

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<sup>6</sup> <https://www.bamin-network.org/>



assets and property of defendants. Its objective is to enhance the identification of offenders' assets, both in France and abroad, to increase seizures and confiscations and systematize the financial approach to investigations against criminal organizations and offenders. Together with AGRASC, PIAC forms the bureau of asset recovery<sup>7</sup>. The Stolen Asset Recovery Initiative (StAR) is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime, supporting international efforts to eliminate safe havens for corrupt funds. StAR collaborates with developing countries and financial centers to prevent the laundering of corruption proceeds and facilitate the systematic and timely return of stolen assets<sup>8</sup>.

From the responses, it is evident that the network system is still underutilized. In Greece, it is nearly unknown, while in France, authorities are making considerable efforts to increase the use of these networks, with promising results (58% of those working on asset identification activities in France have reported knowing and using the networks). In Italy and Belgium, the usage is still undersized.

The Recital no. 13 of Regulation (EU) 2017/1805 establishes that “[I]t also covers other types of order issued without a final conviction. While such orders might not exist in the legal system of a Member State, the Member State concerned should be able to recognise and execute such an order issued by another Member State”. The most controversial type of confiscation that could raise questions regarding its execution in a legal system where it is unknown is non-conviction-based confiscation. The survey reveals that all states are aware of forms of non-conviction-based confiscation, but not all use the tool in the same cases. For example, not all states employ non-conviction-based confiscation in cases of the extinction of the underlying offense due to prescription/expiry of the limitation period (among the states surveyed, only Italy and Greece are familiar with this type of non-conviction-based confiscation). With the Revision of Directive 2014/42/EU on the freezing and confiscation of the proceeds of crime and the proposal for a new directive on asset recovery offices, there is discussion about harmonizing this form of confiscation as well.

An additional innovation of the regulation is the focus on crime victims. Articles 29 and 30 establish that national legislation must provide for mechanisms to protect and satisfy the victim through the return of frozen (Art. 29) or confiscated (Art. 30) property, or compensation for damage suffered. In various member states, these mechanisms are not uniformly present, and their existence is not widespread among professionals. Only in France is there highly precise and comprehensive legislation regarding the right to restitution of assets to victims (Article 706-164 of the Code of Criminal Procedure, Article 2.XI of Law No. 2021-1031 of August 4, 2021, on Solidarity Development and the Fight Against Global Inequalities). In other states, the possibility of restitution exists but only in specific cases.

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<sup>7</sup> <https://star.worldbank.org/sites/default/files/2023-01/Guide%20for%20the%20recovery%20of%20criminal%20assets%20in%20France%20%28Nov%202022%29.pdf>

<sup>8</sup> <https://www.unodc.org/unodc/en/corruption/StAR.html>

As is clearly evident, the major challenge in mutual recognition is the lack of prior harmonization of existing types of confiscation in Europe. In each state, there are differences regarding the scope of application of asset deprivation measures and also concerning the assets that can be frozen and confiscated. European policies frequently emphasize the importance of intercepting these assets to deprive them of criminal control even when the proceeds of the crime are invested in another asset and thereby transformed. The art market appears to be one of the most convenient ways to invest funds from illicit activities; companies are also assets that can serve as vehicles for laundering illicit funds. However, managing a company is a delicate matter as it has various implications for employment levels. Indeed, the seizure and confiscation of companies are a widespread measure mainly in Italy but less utilized in other states due to the evident challenges arising from managing such assets. On the other hand, the freezing and confiscation of artworks are on the rise throughout Europe. Undoubtedly, the assets that are still predominantly seized and confiscated are the “classic” real estate, bank accounts, and money, while cryptocurrencies are only taken into consideration in Belgium and France. These limitations in the practical application of freezing and confiscation orders result in a decrease in their effectiveness as a tool in combating transborder organized crime.

In the last section, we investigate the existence or absence, in each of the states under consideration, of regulations concerning the social reuse of seized and confiscated assets.

An aspect deserving attention at the European level is the phase following seizure or confiscation and what is done with the acquired asset. In Italy there is the Law No. 109/1996 allowing the asset to be entrusted to associations or local entities using it for institutional or social purposes. In France, the legislation (Law of April 8, 2021, and Decree of November 2, 2021) only came into effect in 2021 but is already yielding positive results. In this phase, Asset Management Offices (AMOs) play a fundamental role, tasked with managing the asset to prevent its devaluation. Even in this case, respondents’ answers are somewhat divided on the existence and functioning of AMOs in individual legal systems. The prevailing responses regarding the existence of AMOs in domestic legal systems show uncertainty.

In this phase, it would also be necessary to establish tools to ensure transparency and accessibility of data related to the management of assets subject to measures. The right to know is a fundamental prerequisite for the mechanism of preventing corruption and crime. Accessibility to data regarding the management of seized and confiscated assets serves as a safeguard against forms of mismanagement that could adversely affect the community and the individuals involved in criminal proceedings. However, at present, there are no centralized and efficient databases in Member States or at the European level (the debate is ongoing on this matter).

While at the European level, policies are seeking to increase the revaluation of seized and confiscated assets, among the interviewed states, only Italy seems to have allocated part of the funds from the Next Generation EU/Recovery and Resilience Fund for the revaluation of these assets.

## **B. RESULTS**

### **Target group**

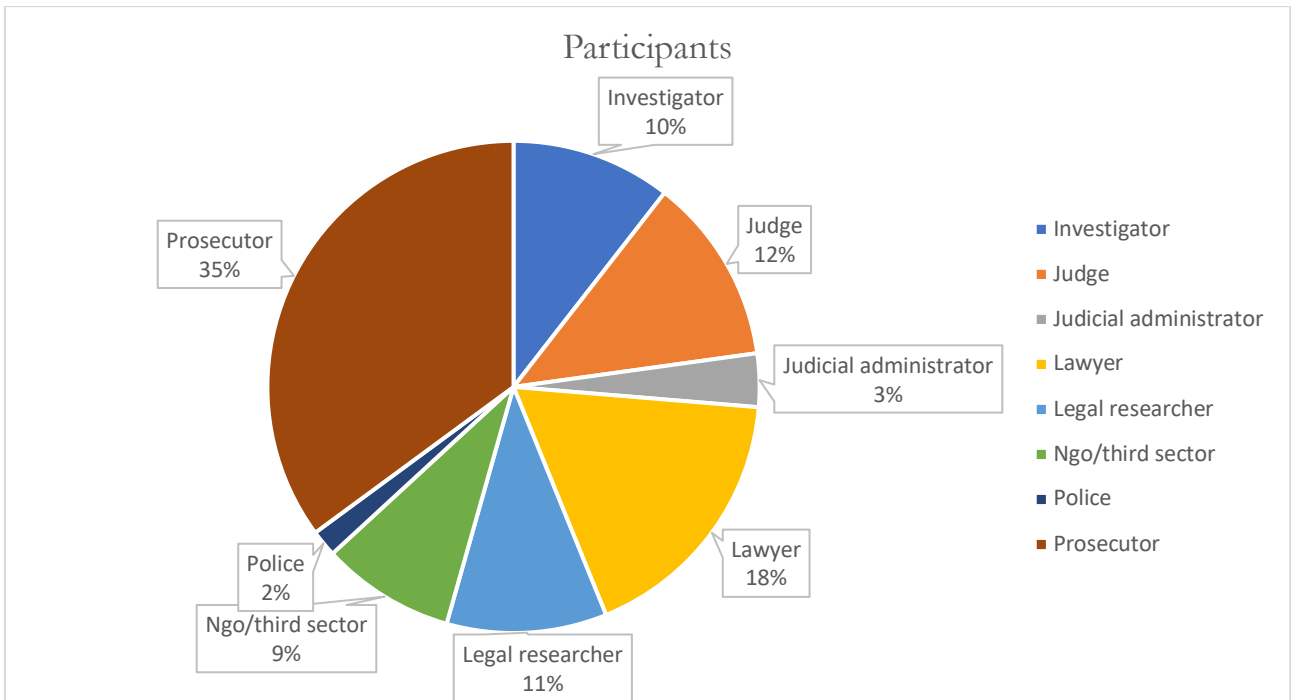
**Profession.** The indicator for the survey aimed to gather responses from a total of 100 legal practitioners (judges/magistrates, prosecutors, and lawyers) and 100 non-judicial professionals. Unfortunately, we did not achieve this target as many professionals surveyed reported a lack of prior experience with mutual recognition.

The surveyed categories include judicial professionals (prosecutors, judges/magistrate, lawyers) and non-judicial professionals, encompassing individuals involved in various capacities in the asset recovery process (from investigation to management). This includes legal researchers, law professors, NGOs, local authorities, municipalities, and law enforcement agencies, among others.

In terms of our survey responses, the participation breakdown is as follows:

- Prosecutors: 35%
- Lawyers: 18%
- Judges: 12%
- Legal Researchers: 11%
- Investigators: 10%
- NGOs/Third Sector: 9%
- Judicial Administrators: 3%
- Police: 2%

The graphical representation of the results is presented below.



**Nationality.** The countries involved in the Rinse project are 4, with 6 partners:

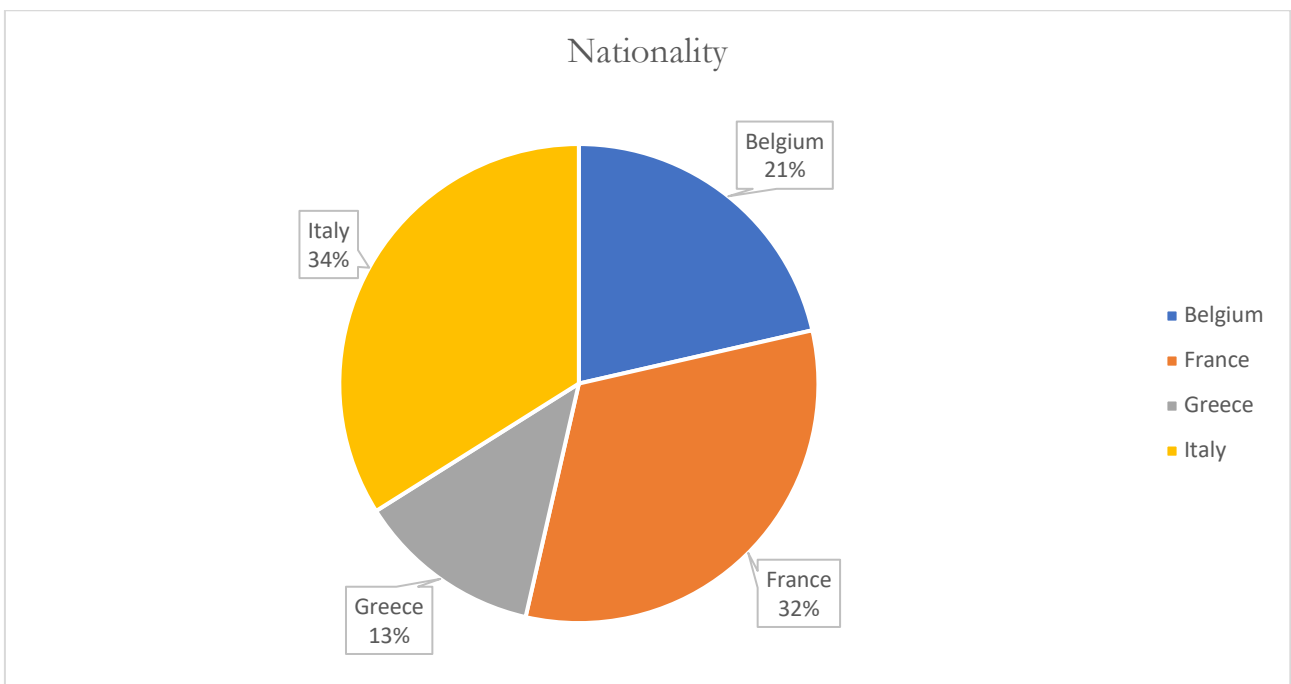
Belgium: IGO-IFJ

France: CrimHalt and Toulouse

Greece: EPLO

Italy: University Vanvitelli and Grate

The distribution of responses by nationality is as follows:

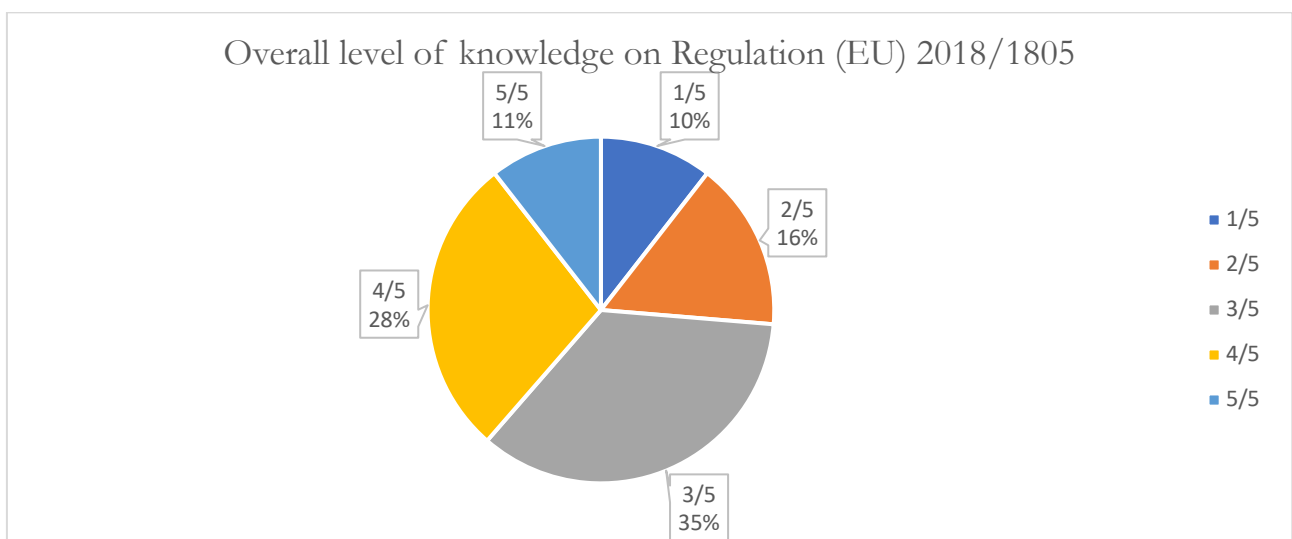


We asked each participant to share their personal perception regarding their familiarity with the regulatory framework. It's important to note that those who responded are generally individuals already acquainted with the regulations and directives; those who have no prior experience in this field opted not to participate in the survey.

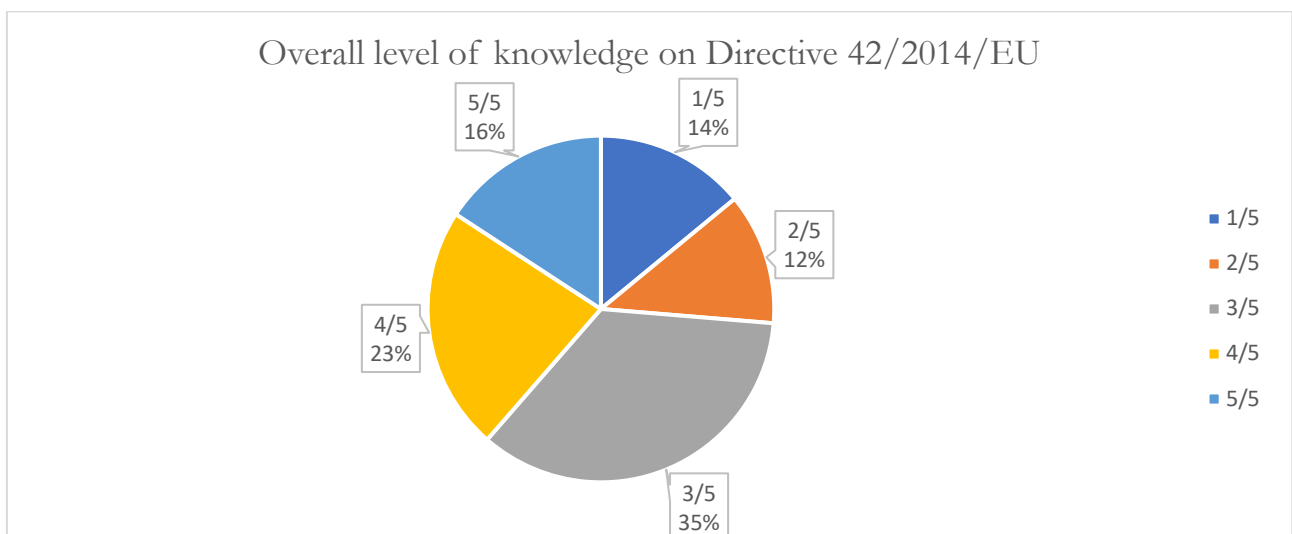
Participants could rate their knowledge of the regulatory framework on a scale from 1 to 5, where 1 indicated approximate knowledge and 5 indicated excellent knowledge.

The obtained result is as follows:

**Q: What is your overall level of knowledge of Regulation (EU) 2018/1805?**



**Q: What is your overall level of knowledge of Directive 2014/42/EU?**

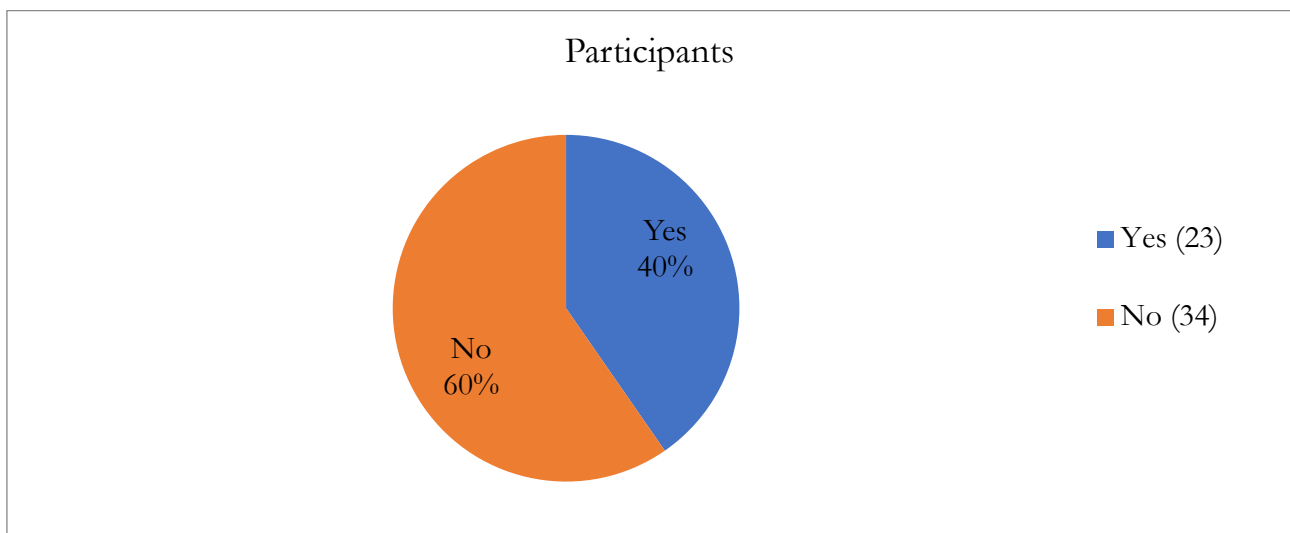


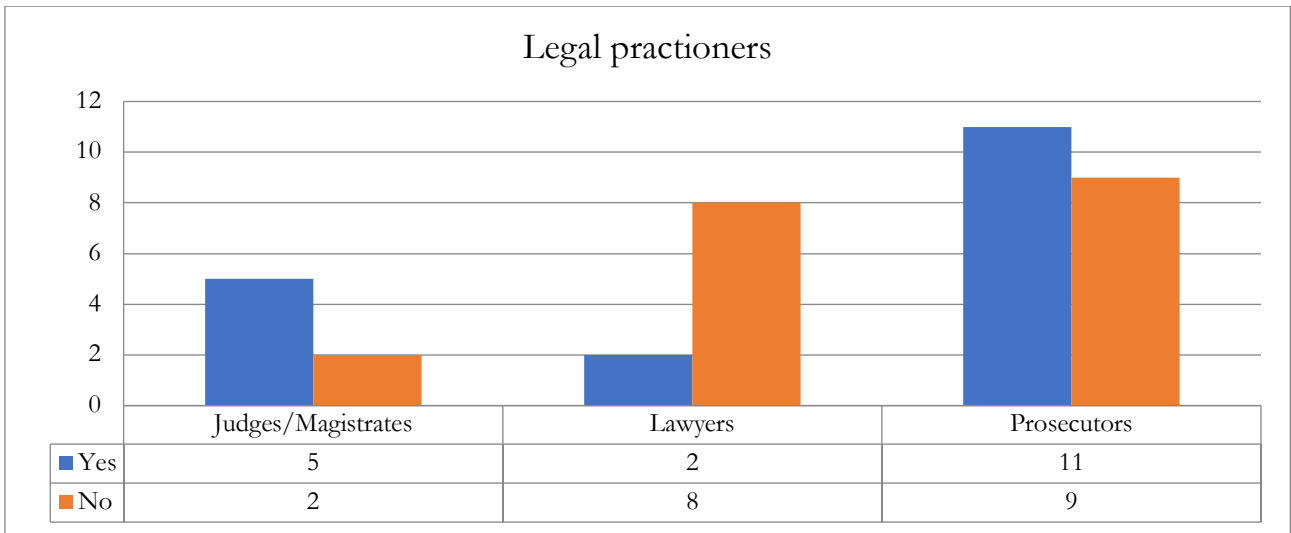
The results indicate that 35% of respondents rated their knowledge as average (3 on a scale of 5); 26% of respondents have an approximate understanding of the regulatory acts, both Regulation (EU) 2018/1805 and Directive 2014/42/EU.

Afterward, to compare the data on the perception of knowledge based on the respondents' professions, we asked whether they had ever been involved in a mutual recognition procedure of a freezing or confiscation orders under Regulation (EU) 2018/1805, both as a requesting authority and an executing authority. The results reveal that only a minority of participants, specifically 40%, reported having this experience. The percentage increases among legal professionals. Regarding legal practitioners who have been involved in mutual recognition proceedings (and have thus answered affirmatively), 48% of them are prosecutors.

Detailed results are presented in the following charts, the first one regarding the total number of participants and the second one with a specific focus on legal practitioners. Non legal professionals are not involved in mutual recognition process as it does not fall within their competences.

**Q: Have you ever been involved in a request for mutual recognition of a freezing and confiscation order, either as requesting authority or as executing authority, under Regulation (EU) 2018/1805?**

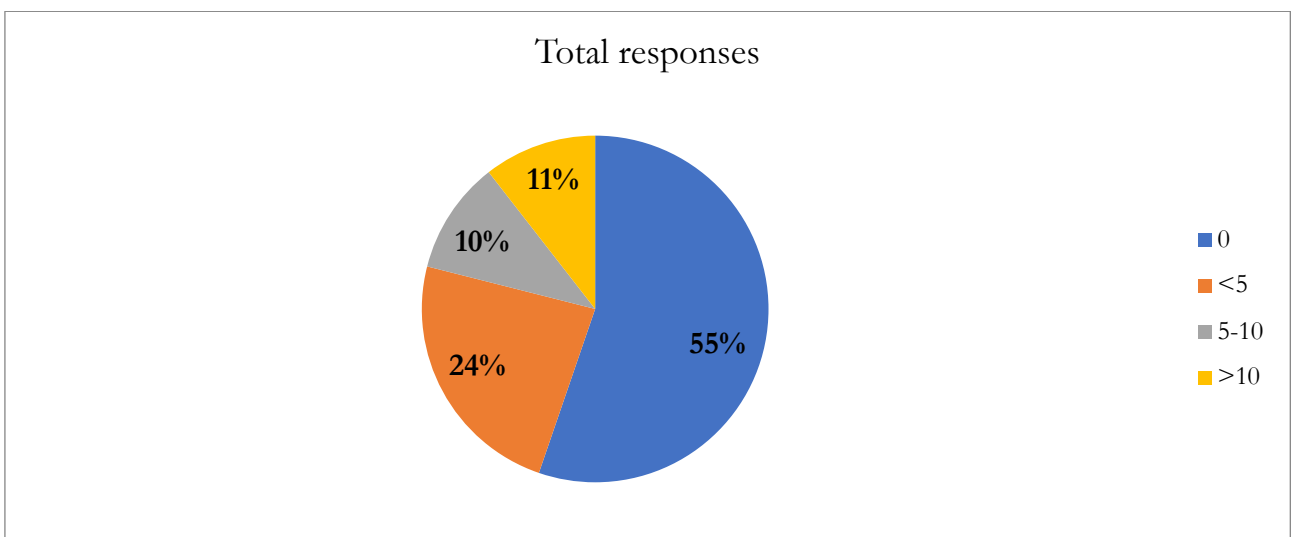


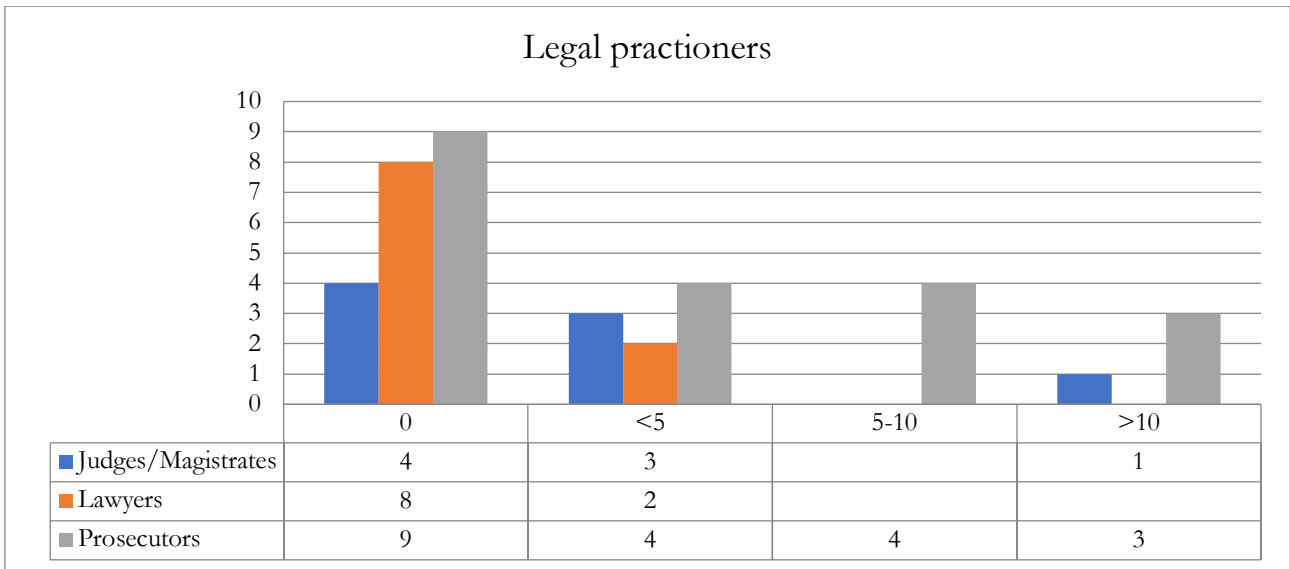


Responses indicating a very high number of cases, more than 10, have come from professionals affiliated with the Italian Ministry of Justice (these are involved in mutual recognition inquiries as the central authority facilitating communication between judicial authorities) or magistrates associated with the AGRASC (French Asset Recovery Agency).

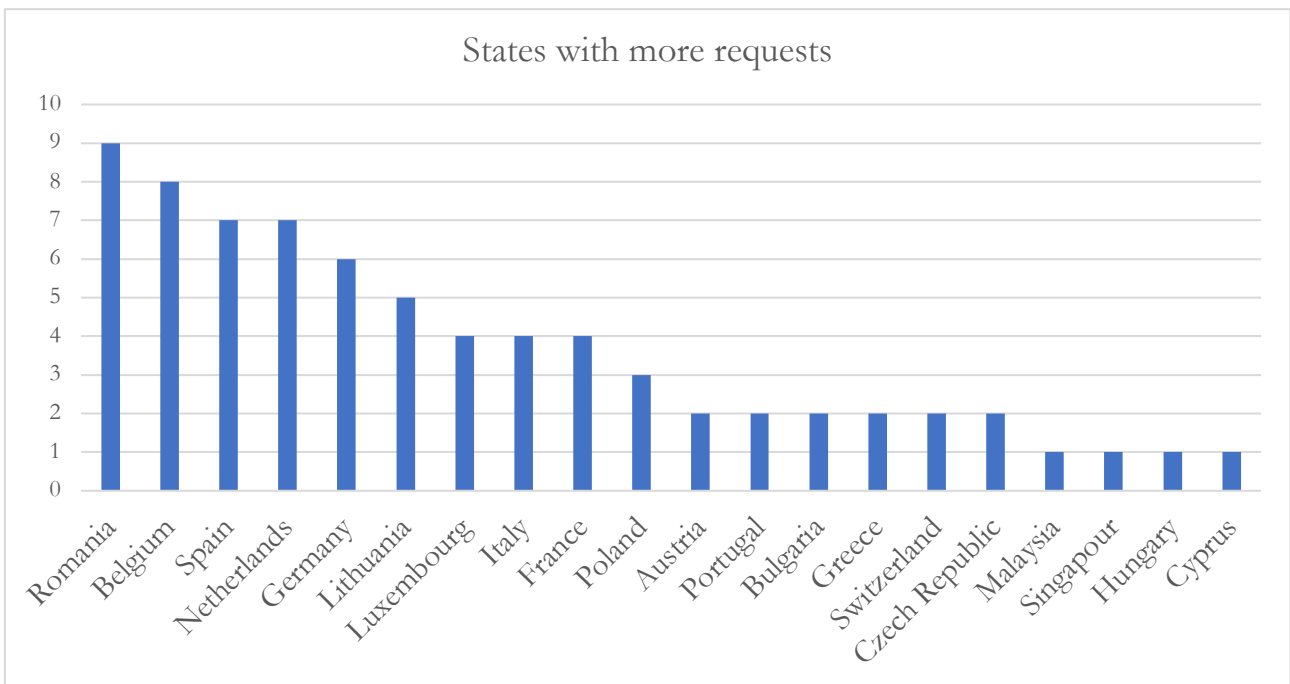
The number of mutual recognition proceedings is notably high among investigators and prosecutors, as is evident from the following graphics:

**Q: Please indicate the number of cases for which you have requested or been requested mutual recognition of freezing and confiscation orders since 2020.**





**Q: Please indicate to which States the request for mutual recognition was submitted or from which States the request was received.**



### I Section – What does Regulation (EU) 2018/1805 talk about?

The questions in this session are aimed at assessing the level of knowledge of two European legislative instruments (Regulation (EU) 2018/1805 and Directive 2014/42/EU). The purpose is to determine whether the national authorities of the concerned member states have issued guidelines to guide operators in the application of these regulatory instruments. Additionally, we seek to understand the extent of

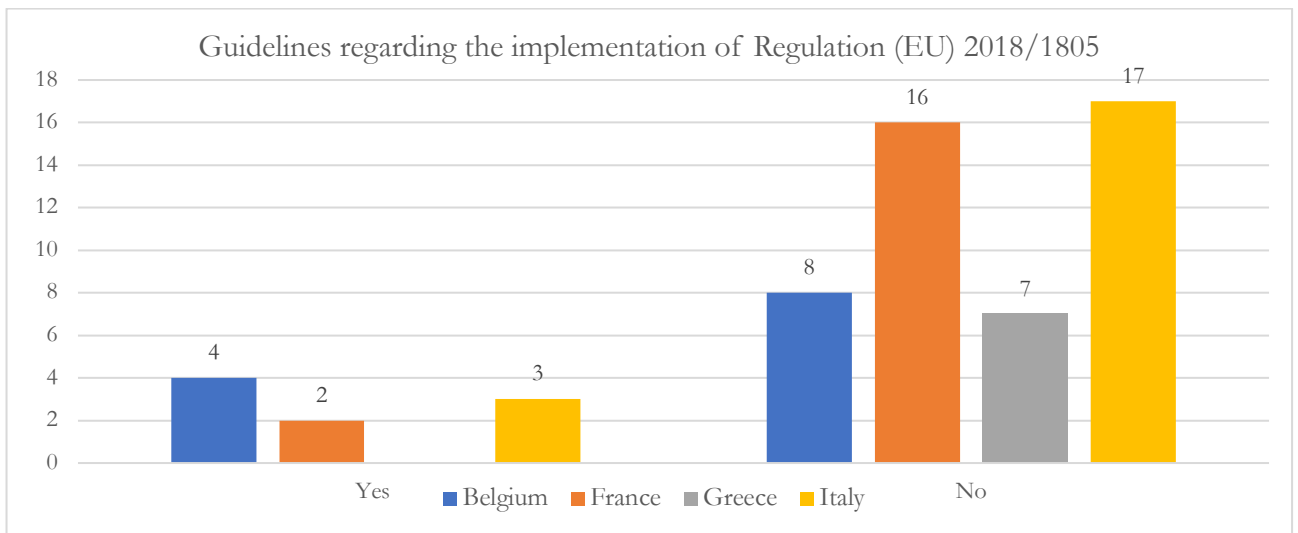


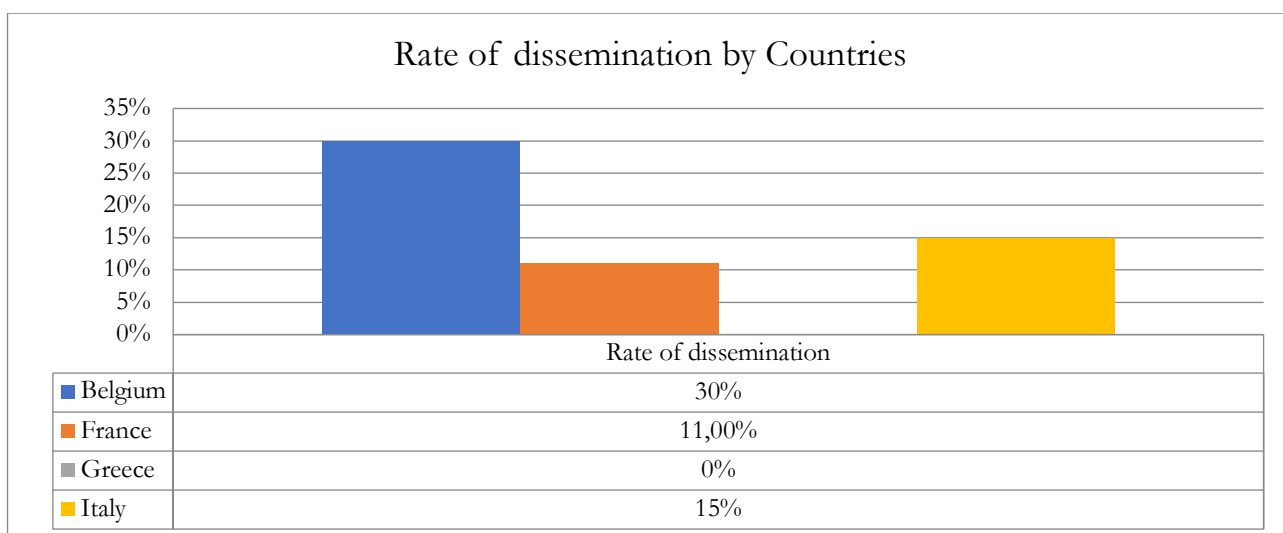
dissemination and awareness of these circulars and guidelines, if they exist, throughout the territory. We are also interested in knowing how well-known these guidelines are among operators, even if they are not direct recipients of the circular. Furthermore, we have requested the sharing of the document as an attachment to the response, enabling us to include it in the Rinse database and distribute it to operators in the respective states during the second phase of the Rinse research, which focuses on the training of legal practitioners and non legal professionals.

The collected data highlight that the majority of operators in the concerned states have not received guidelines or circulars containing instructions and clarifications regarding the application of regulatory instruments. The level of dissemination of such documents is extremely low. A telling example is the data from Greece, where no one reports having received guidelines, recommendations, or circulars, raising doubts about their existence.

Responses from Belgium, France, and Italy indicate, albeit with a low percentage, a partial dissemination. These states have, in fact, in the subsequent responses, indicated and provided copies of the requested documents.

**Q: As a member of your office, have you received internal documents/guidelines regarding the implementation of Regulation (EU) 2018/1805 and Directive 2014/42/EU?**





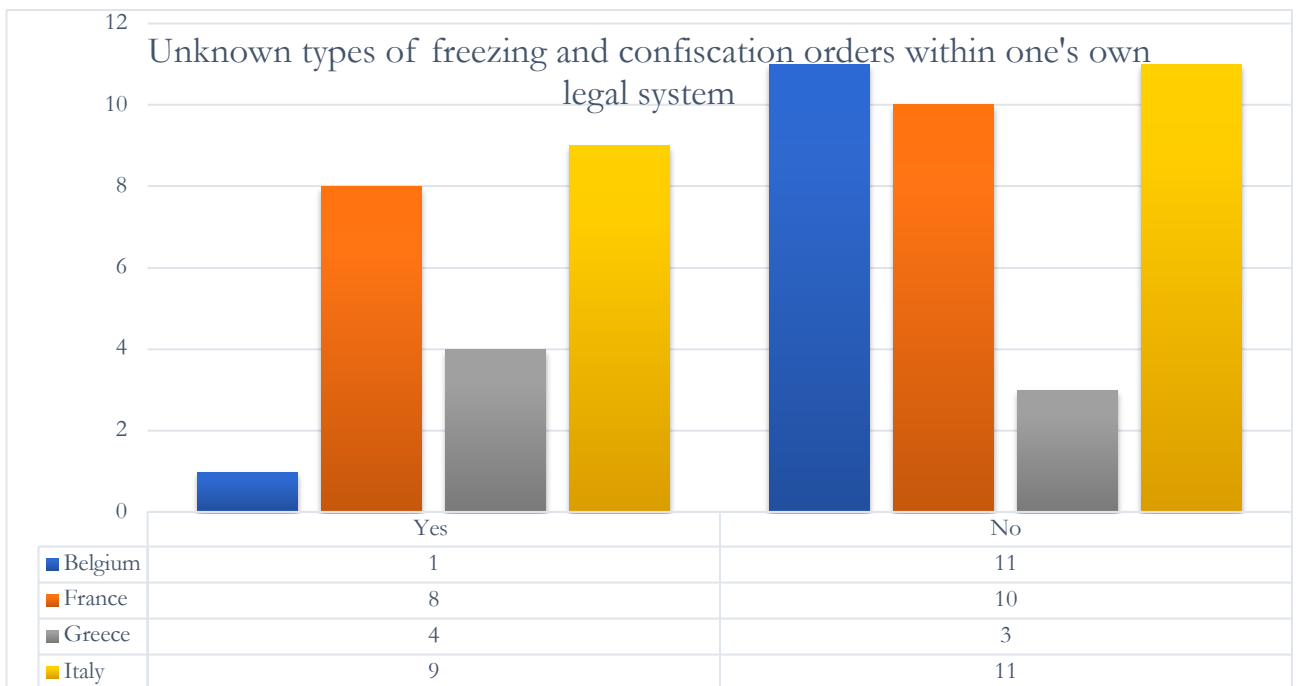
**Q: If you answered YES to the previous question, could you please upload, if possible, a copy of the documents/guidelines for the implementation of Regulation (EU) 2018/1805 and Directive 2014/42/EU. If not possible, please proceed to the next question.**

Italy	<p>1. Ministero della Giustizia, Direzione Generale degli Affari Internazionali e della Cooperazione Giudiziaria “Circolare in tema di attuazione del Regolamento (UE) 2018/1805 relativo al riconoscimento reciproco dei provvedimenti di congelamento e di confisca”  <a href="https://www.giustizia.it/giustizia/it/mg_1_8_1.page?facetNode_1=0_10_35&amp;facetNode_2=1_1%282021%29&amp;contentId=SDC322010&amp;previousPage=mg_1_8">https://www.giustizia.it/giustizia/it/mg_1_8_1.page?facetNode_1=0_10_35&amp;facetNode_2=1_1%282021%29&amp;contentId=SDC322010&amp;previousPage=mg_1_8</a></p> <p>2. Ministero dell’Interno, Dipartimento della pubblica sicurezza “Regolamento (UE) 2018/1805 del Parlamento Europeo e del Consiglio del 14 novembre 2018, relativo al riconoscimento reciproco dei provvedimenti di congelamento e confisca.  <a href="https://www.sistemapenale.it/pdf_contenuti/1610571319_circolare-ministero-interno-regolamento-ue-confisca.pdf">https://www.sistemapenale.it/pdf_contenuti/1610571319_circolare-ministero-interno-regolamento-ue-confisca.pdf</a></p>
Belgium	<p>1. FAQ Règlement (UE) 2018/1805 concernant les décisions de gel et de confiscation, L’organe central pour la saisie et la confiscation (OCSC), 15/12/2020.</p> <p>2. Note on the Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders. A new legal framework for judicial cooperation, Eurojust 2020.</p> <p>3. A circular from the college of attorneys general 4/2014 sets out the procedures for implementing framework decisions 2005/214/JHA, 2006/783/JHA, and 2009/299/JHA.</p>

France	1. Guide to seizures and confiscations (Agrasc/Directorate of Criminal Affairs and Pardons, Ministry of Justice).
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Then, we have inquired about the possible awareness of freezing and confiscation measures different from those in one’s own legal system.

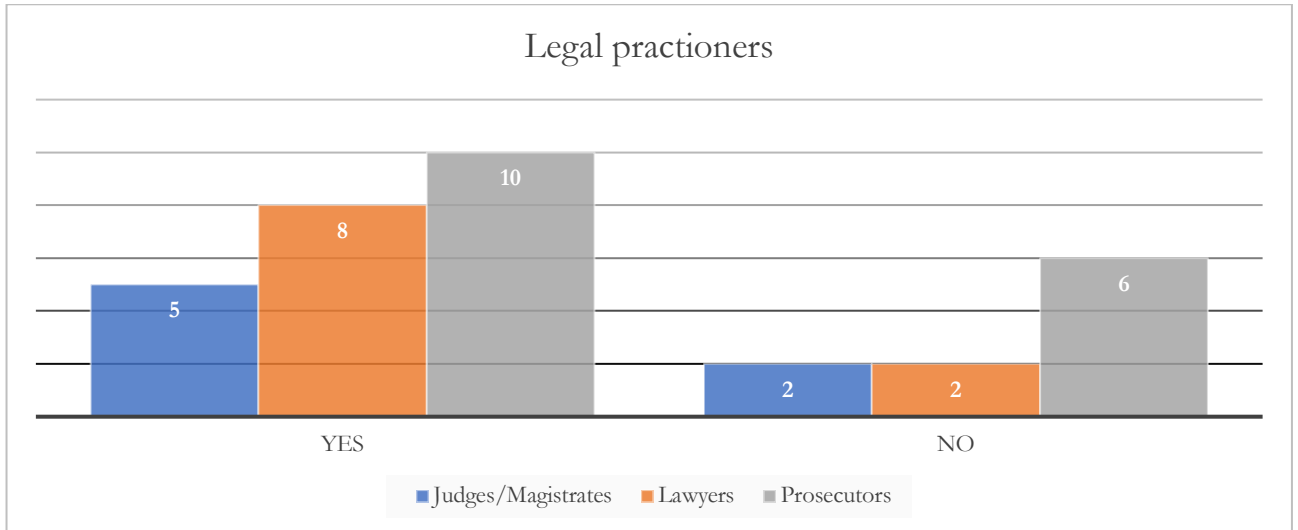
**Q: Are you aware of the existence, in other legal systems, of freezing and confiscation measures that do not exist in your own legal system?**



The data is analyzed for each individual member state. Responses from Belgium show a clear inclination towards a negative answer. Responses from France, Greece, and Italy, on the other hand, are divided fairly evenly between those who are aware of measures different from those in their own legal system and those who are not. The purpose of this question is closely linked to the next one. The inquiry revolves around whether a measure that does not exist in a legal system could somehow hinder the smooth operation of mutual recognition.

We have, in fact, asked whether the request for mutual recognition of a seizure or confiscation measure that does not exist in the receiving legal system (as stated clearly in Recital 13) could pose difficulties due to the lack of practical guidance on how to handle a measure for which the underlying conditions and legal consequences are unknown.

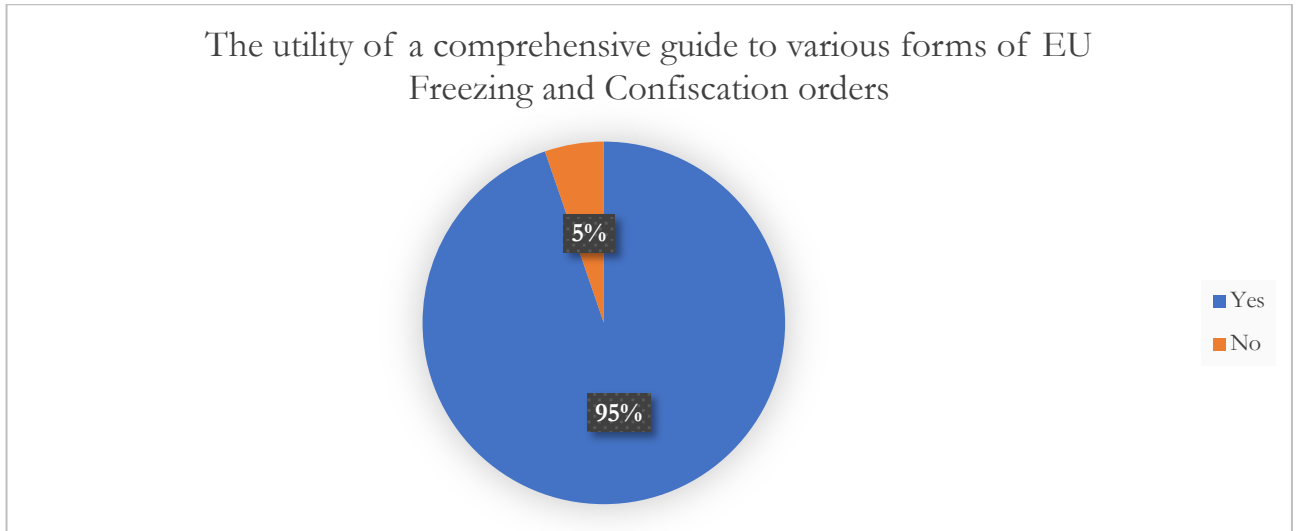
**Q: Do you believe you would encounter difficulties if you were to receive a request for mutual recognition of a freezing and confiscation orders for which you are unfamiliar with the underlying grounds and legal status?**



The collected data consider exclusively individuals belonging to the category of legal practitioners. The responses highlight that operators would face difficulties.

We have also inquired whether having a summary chart illustrating the various seizure and confiscation measures existing in different European countries could be an advantage for those required to be familiar with these measures for the purpose of effective judicial cooperation. In the event that the tool is considered useful, we sought suggestions on how to construct it effectively. This information is helpful for us to work on the proposed summary document.

**Q: Do you think it would be useful to have a document with an overview of the characteristics of the different forms of freezing and confiscation existing in the EU Member States?**



In this case, the response is clear: 95% of the respondents would find it useful to have a document illustrating the seizure and confiscation measures in place in EU countries. In this instance, numerous suggestions have been gathered.

**Q: If you answered YES to the previous question, do you have any suggestion?**

Major suggestions:
The information provided should be drawn up as succinctly and clearly as possible;
Which authority from which country(ies) can do what, within what limit(s) and in what case(s)...; Adm; Jud; time limit; etc...;
This information can be transmitted by the liaison magistrates;
Updated Court of Cassation Practical Sheet;
A presentation of the different models with a description of the different procedural steps to follow would be very useful;
Summary table on the different modalities of confiscation without mandatory criminal conviction;
A summary table of the different freezing and confiscation mechanisms, as well as the implementation procedures;
It would be useful to make such a document public, in order to allow organizations and civil society actors to be able to monitor the different trends in this area and refine their recommendations;
It would be useful to have fact sheets on the seizure and confiscation process in each EU country: possibility of general confiscation of assets, possibility of sale before judgment and on what criteria, possibility of confiscation without conviction, existence of a post-sentence investigation, etc.;
It would be useful to have a step-by-step summary and a model freeze certificate, etc.;

An overview of the currently existing forms of freezing and confiscation in the EU member states and other important third states (f.i. Switzerland, Armenia, Georgia), together with their basic legal prerequisites;
This guide must enable the investigator to provide sound advice on the criminal procedure but must not exclude explaining the process to the magistrates who will carry it out;
Comparative format with detailed reference links, including academic studies of rationales;
It's very important to know other forms of confiscation in EU states to try to make equal different form of forfeiture, adapting them at the UNODC guidelines;
Guidelines to coordinate the way of managing the seizure and confiscation companies in line with the given indication from EBA;
Document shared on line through EJTIN network/website / EU common handbook including all the legal framework of each MS;
It seems important to me that this document can serve both investigators and magistrates, who often are not familiar with asset freezing procedures (which directly impact the right to property).

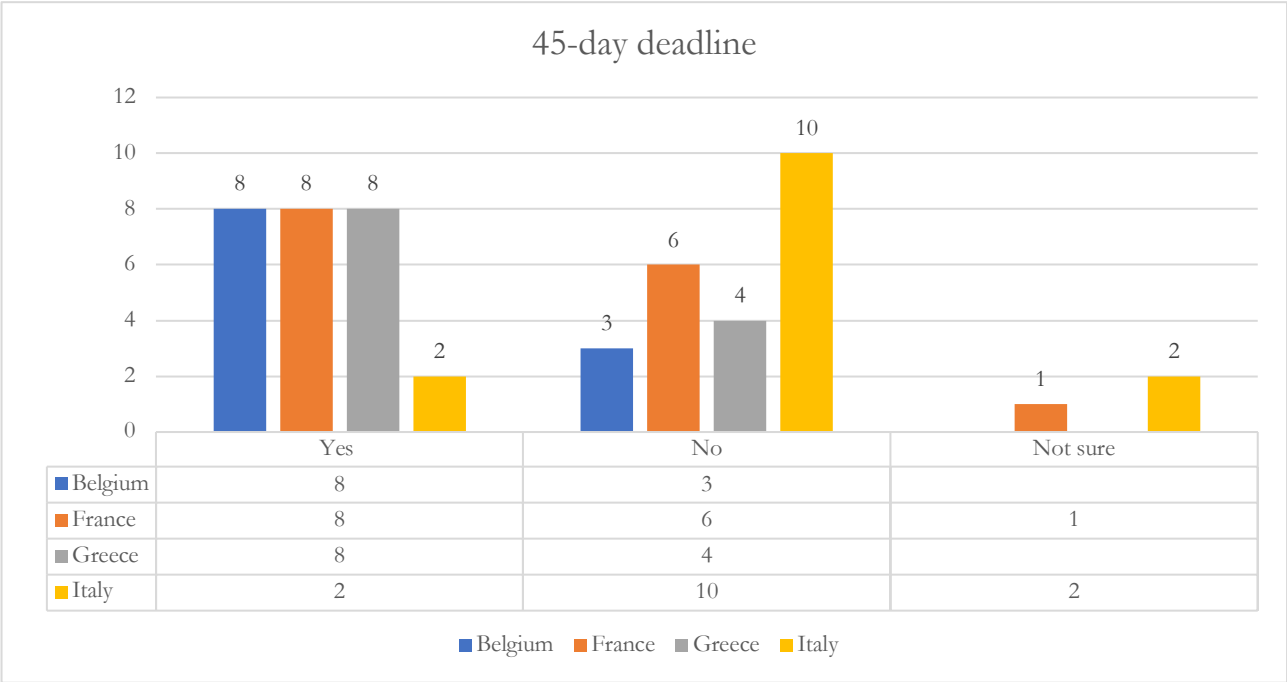
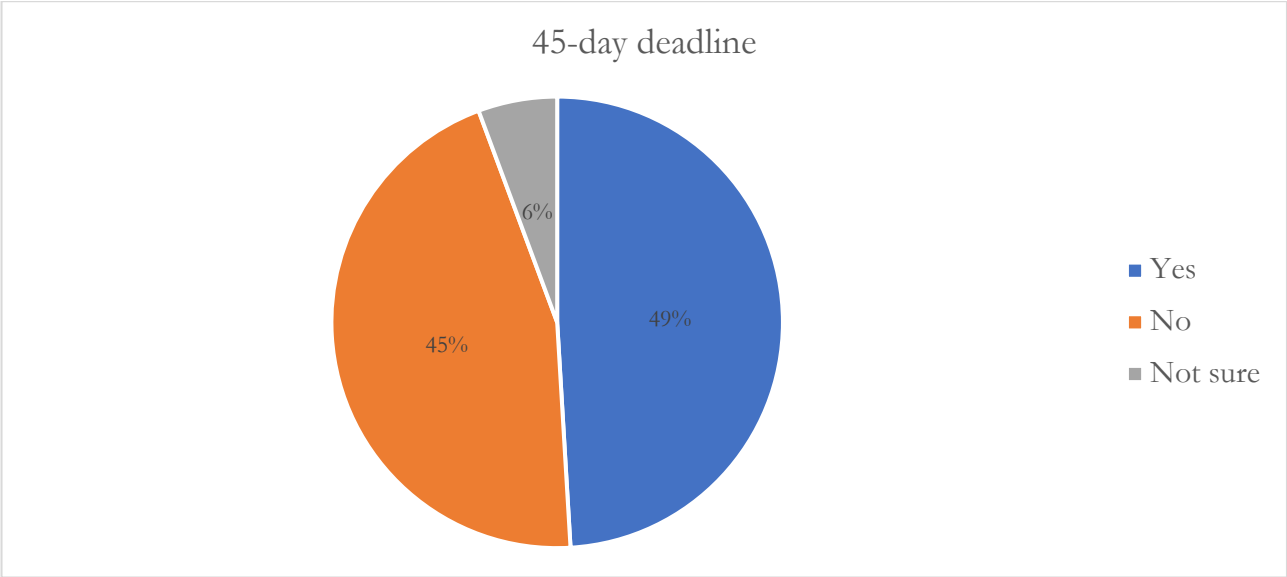
## **II Section - Issues in the Process**

The questions in the second section aim to outline the main characteristics of the mutual recognition procedure for seizure and confiscation measures involving competent authorities for execution and issuance of such measures. Important for our research is analyze the procedure implemented in various states and highlight points where the process encounters delays and difficulties. This includes indicating if there are problematic steps such as failure to meet deadlines for executing the measure, communication difficulties between authorities, challenges in understanding the mutual recognition form, reasons for refusal of mutual recognition other than those specified by the regulation, and any other issues.

One of the most contentious aspects identified during discussions with experts in the focus group meetings was the challenge of managing everything within the 45-day timeframe, especially when there are unresolved issues that could lead to the refusal of mutual recognition (e.g., investigating double jeopardy issues, ensuring proportionality, etc.).

Indeed, during the execution process, issues related to the lack of communication between authorities emerged, and poor contact between Member States risks undermining the effectiveness of mutual recognition. Communication deficiencies are attributed to poor translation (the certificate is transmitted in the language of the issuing State, with some States requiring the original freezing or confiscation order while others only request the certificate), insufficiently clear descriptions of the facts, and a lack of reference to the legal basis for the issuance of the measure.

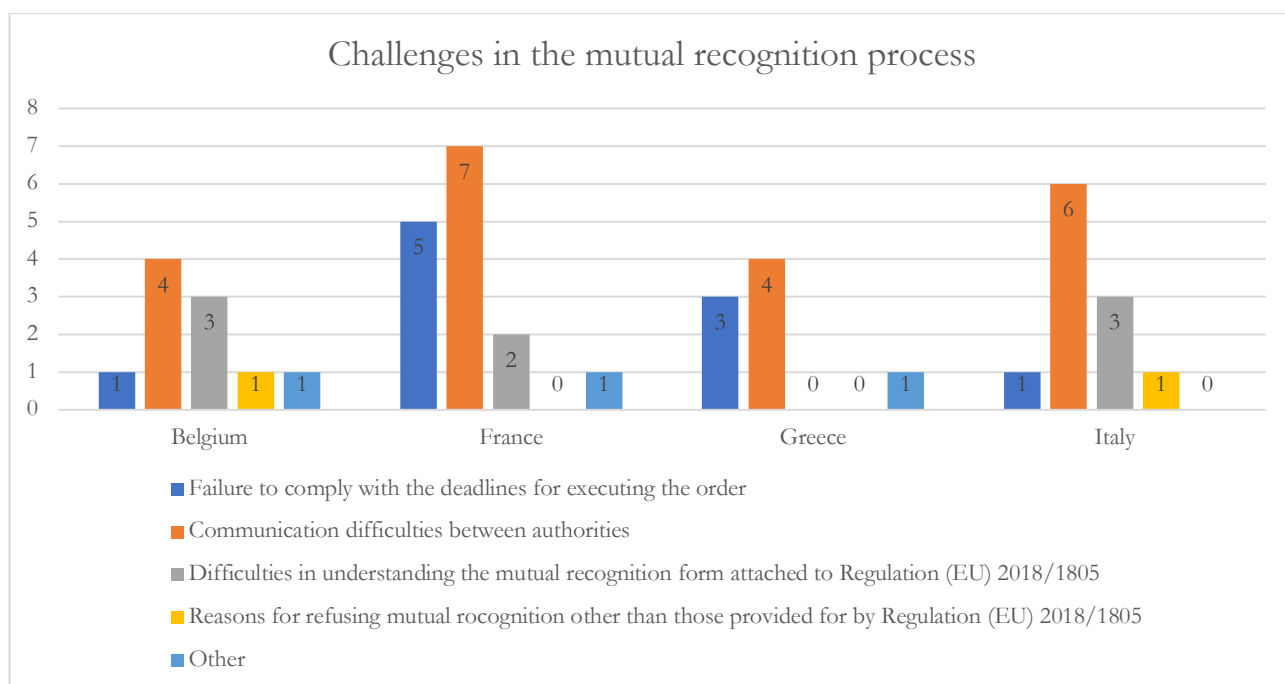
**Q: Do you believe that the 45-day deadline from the receipt of the confiscation order, as set out in Article 20 of the Regulation, is sufficient for the executing authority to carry out the measure requested by the issuing authority?**



From the collected data, it emerges that Italy is the state expressing the greatest concerns regarding the 45-day deadline, responding that the indicated term in the Regulation (Art. 20) is not sufficient. We also asked to specify which issues, among those listed, had arisen in the processes of mutual recognition of seizure and confiscation measures.

**Q: Please indicate which of the following problems you encountered in the process of mutual recognition of freezing and confiscation orders.**

- Failure to comply with the deadlines for executing the order;
- Communication difficulties between authorities;
- Difficulties in understanding the mutual recognition form attached to Regulation (EU) 2018/1805;
- Reasons for refusing mutual recognition other than those provided for by Regulation (EU) 2018/1805.



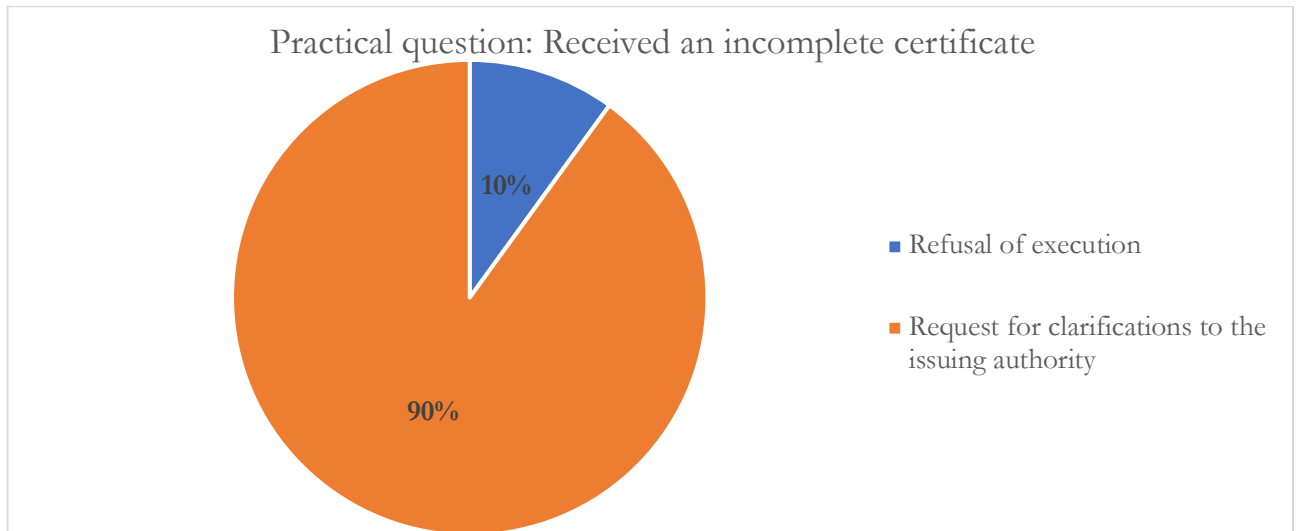
From the collected data, it emerges that for all the states involved, the main critical issue is related to the (1) difficulty of communication between the issuing authority and the executing authority and (2) the challenge of meeting the deadlines for the execution of the requested measure.

Difficulties have also arisen regarding the improper completion of the certificate attached to the regulation (Annex 1) and subsequently transmitted, sometimes in the absence of the judgment that applied the measure, to the foreign authority to request recognition of the measure. Faced with ambiguous or partial completion, the question arises as to whether the receiving authority halts the process or seeks clarification. The correct procedure is to seek clarification and not allow a mere formal problem to block the procedure. From the focus group meetings, it has indeed emerged that incomplete or inaccurate certificates have led to requests for additional information, resulting in delays in the execution of orders. For example, the name of the suspected company was incomplete and/or incorrect; the date of issuance of the certificate is missing.



**Q: In case of an incomplete certificate regarding the description and/or location of the asset, what procedure is adopted by the executing authority?**

- Refusal of execution
- Request for clarifications to the issuing authority

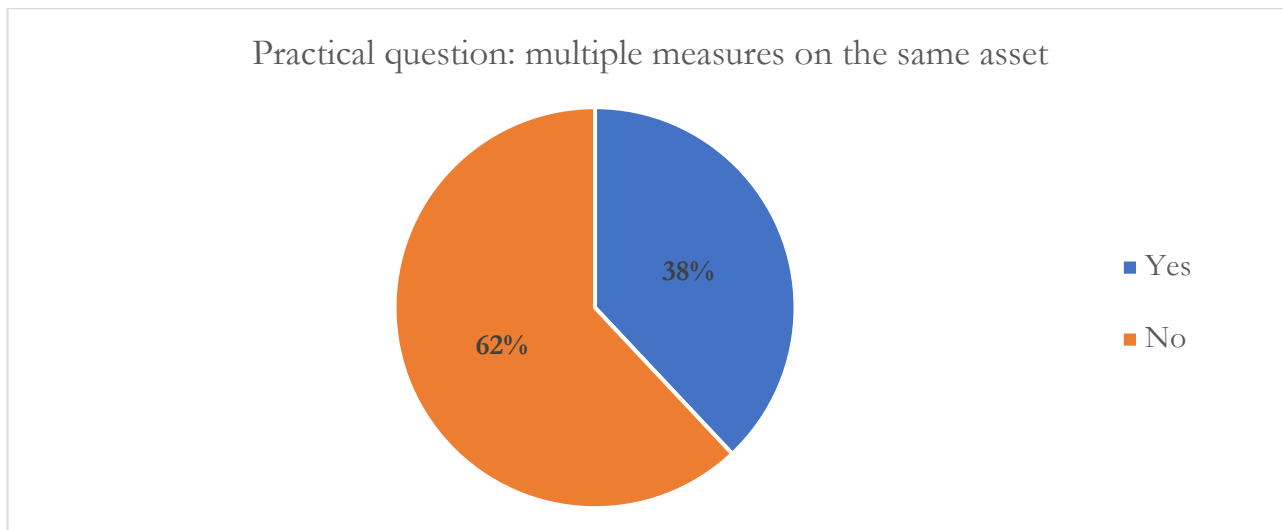


In this case as well, the interviewees were presented with a practical question to resolve, exemplifying the issues that emerged during the focus group meetings: we asked what they would do in the scenario where, in their capacity as the executing state, they received an incomplete or unclear certificate regarding the allocation of the asset to be seized/confiscated.

On that occasion, 90% of the interviewees, to prevent a halt in the recognition process, would request clarifications from the issuing state.

Article 5 of Regulation 1805/2018, referring to Article 4, stipulates that the transmission of the freezing order is made to one executing state at a time, unless paragraphs 2 or 3 of this article apply. In the case of a freezing order concerning specific assets, the freezing certificate may be transmitted simultaneously to more than one executing state if: the issuing authority has reasonable grounds to believe that different assets subject to the order are located in different executing states, or the freezing of a specific asset subject to the freezing order requires actions in more than one executing state. In the case of a freezing order concerning a sum of money, the freezing certificate may be transmitted simultaneously to more than one executing state if the issuing authority deems there is a specific need to do so, particularly when the estimated value of assets that may be subject to freezing in the issuing state and any executing state is not known. We have, therefore, asked if, in such a circumstance, they would know which procedure to apply.

**Q: Are you aware of what procedure to follow in case of multiple measures on the same asset and/or conflicting purposes (e.g., in the case of a bank account freezing, the interest of the victim in satisfying the seized asset v. the interest of the State in seizing the asset)?**

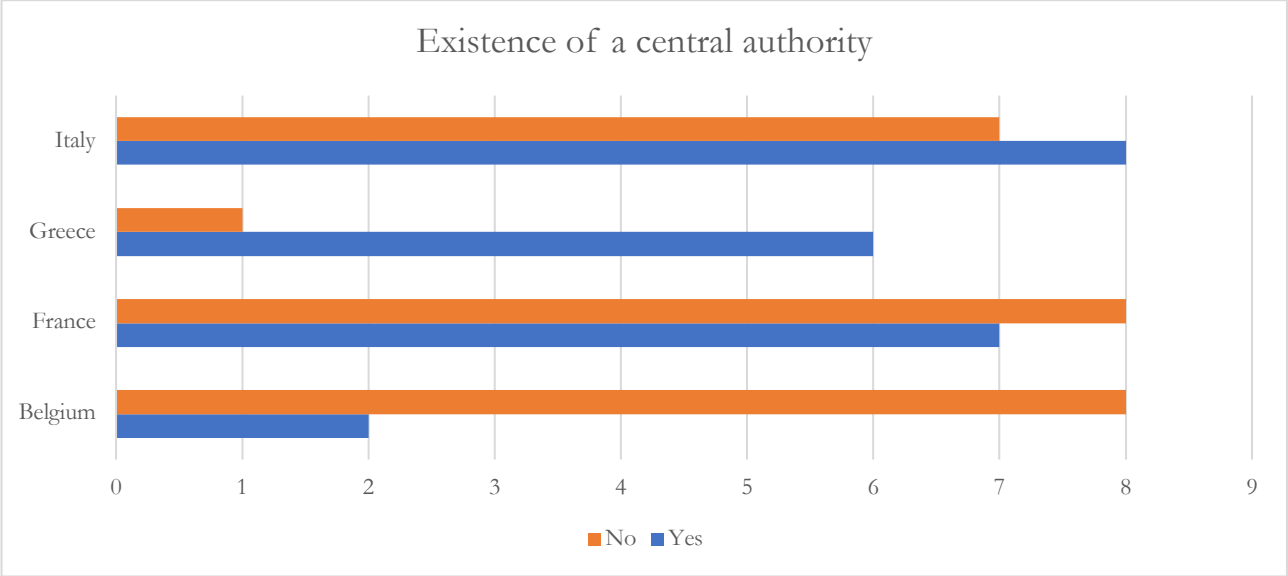


In this practical case presented to the attention of the interviewees, 62% would have difficulty identifying the correct procedure to follow in the absence of more specific indications or shared best practices and guidelines.

Article 24 of Regulation (EU) 2018/1805 requires Member States to list the national authorities responsible for issuing and executing confiscation measures, outlining their characteristics and essential functions. In particular, the article specifies that the State has the option, but not the obligation, to also appoint a designated central authority responsible for the transmission, administrative receipt of freezing and confiscation certificates, and assistance to be provided to its competent authorities.

If such an authority is appointed, the mutual recognition process is influenced as it establishes centralized management for receiving and transmitting measures, leading to less direct contact between the judicial authorities of the member countries. The outlined procedure is less streamlined, therefore more complex, but it allows for better control of statistical data. The following questions aim to highlight the peculiarities of the process when a central authority exists and the functions attributed to it by the State, as well as to identify any best practices to share.

**Q: Is there any central authority designated as responsible for the transmission and receipt of freezing and confiscation certificates and for the assistance to competent authorities?**



The designation of a central authority for the reception and transmission of freezing and confiscation orders is a disputed aspect because, being optional, it is often seen by states as a procedural burden without necessarily playing a facilitating role in the process of mutual recognition. Therefore, respondents are rather divided in their responses; their knowledge of the existence or absence of a central authority is controversial. This is also evident in the subsequent table where offices are listed that, although playing a role in the seizure and confiscation process, do not represent the central authority regulated by Article 24 of the regulation (The list of central authorities identified by the member states is available on the EJM website.)

**Q: If you answered YES to the previous question, could you please briefly explain the functions assigned to this authority and how it operates?**

<p>France AGRASC</p>	<p>Passage and transmission by EUROJUST; AGRASC + magistrate in charge of the case + liaison magistrate or EUROJUST (if more than 2 countries concerned). AGRASC supports magistrates in recovering funds. The <i>Bureau de l'entraide pénale</i> international within the DACG is only responsible for requests for mutual assistance from outside the EU. Concerning intra-EU freezing certificates, the de facto transmission from judicial authority to judicial authority hence the absence of recourse to the central authority. However, AGRASC regularly plays a supporting role with the courts.</p>
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Greece	The Prosecutor's Office with the Court of Appeals. A special judge in the court of first instance in Athens.
Italy	The Ministry of Justice acts as the central authority for the transmission and receipt of certificates of freezing and confiscation. In addition, it assists the Italian authorities responsible for issuing and executing certificates. The MoJ and the Italian Desk to Eurojust coordinate themselves when recognition and execution concerns more than one State. It functions under rigid deadlines with no effective ability to appeal. The deadlines are unreasonable and do not allow for ample response by asset owners which increases the litigation workload.

**Q: If there is not such an authority, have any practices been adopted for a centralized management of the receipt and transmission of orders? If so, could you please briefly describe these procedures?**

Belgium	No, there is no centralization procedure but establishment of an exchange of professional experience at the level of the prosecutor's office expertise network and the possibility of asking questions.
France	As an observer from civil society, I advocate for the creation of such a centralized authority, which, in addition to facilitating the transfer and receipt of mutual assistance requests, could also keep up-to-date statistics on the mutual assistance requests received/issued by type of offenses, etc. Such statistics are essential to refine and adapt the practices established in the field of international cooperation.  The regulation allows for direct transmissions from authority to authority without going through a central authority. AGRASC tries to obtain the transmission of all freezing certificates to ensure case monitoring. AGRASC is mandated by the

	courts to implement the confiscation seizures requested by the foreign authority and recognized in France
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### III Section – Cross border investigation

Our goal was to identify practices regarding cross border investigations, assess their adequacy, and explore possibilities for improvement. Specifically, we aimed to understand the entities involved in national procedures for asset identification, seizure, and others (e.g., police, financial police, etc.), as well as how asset investigations are conducted abroad. We were particularly interested in whether networks connecting various authorities from different states are utilized.

The tool of professional networks is crucial and valuable. At this point, we wanted to investigate the prevalence of these networks among professionals in the field. Interviewees were then asked if, in addition to the Carin network, they use other platforms that facilitate contact among experts.

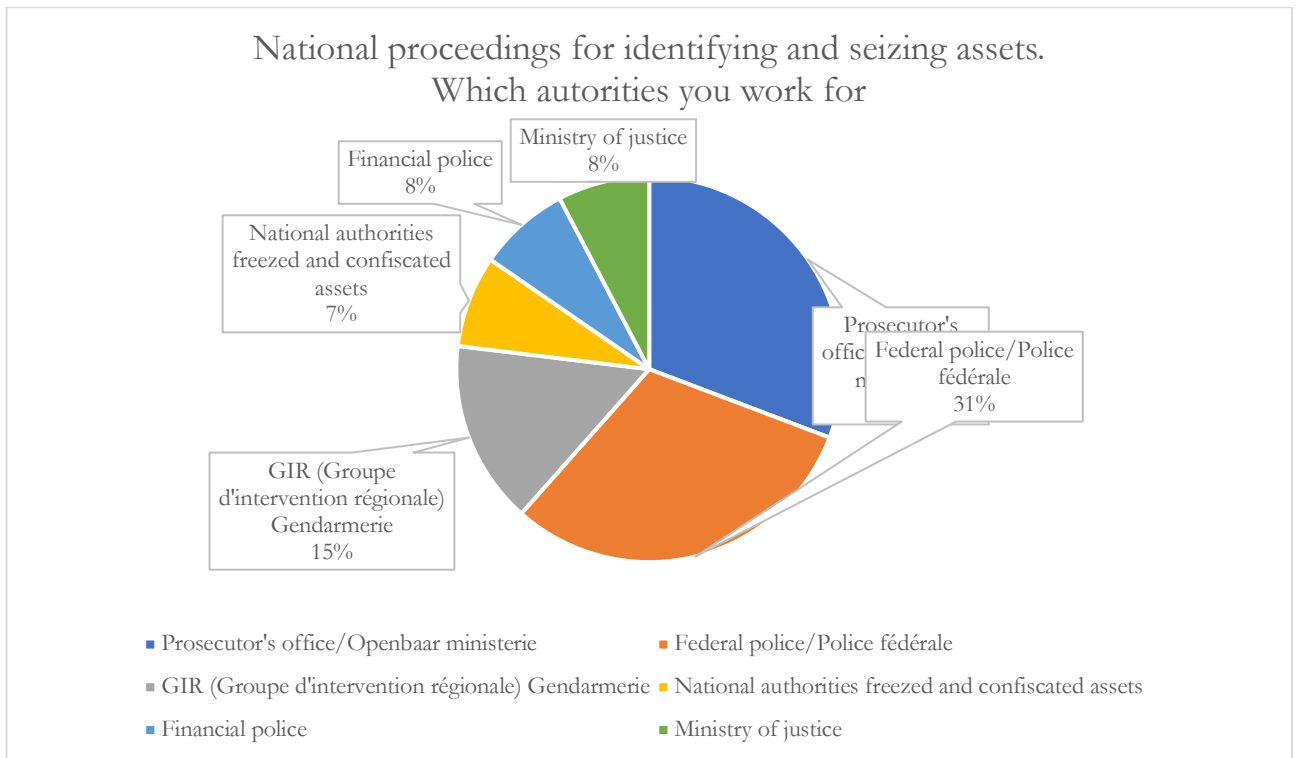
The identification of assets and the use of Asset Recovery Offices (AROs) has risen some problems. In some MSs freezing and confiscation orders are value-based with no reference of location of the assets, therefor the national authorities of the executing state find problems in identification of the assets that has to be confiscated. In this view, it is fundamental to create one or more AROs in MSs to facilitate the identification of assets and offer facilitates to the judicial authorities. Form focus group meetings has been reported a lack of awareness in MSs of AROs and their role; some judicial authorities and legal practioners are unaware of the presence of AROs in their own MSs<sup>9</sup>.

The administered questions aim to investigate the actual use of offices that serve as points of contact between EU countries. However, the collected responses demonstrate that only the CARIN network is effectively utilized in three out of the four countries that participated in the survey. The limited use of the aforementioned offices, if confirmed by a more significant number of responses, poses a risk of undermining their very establishment.

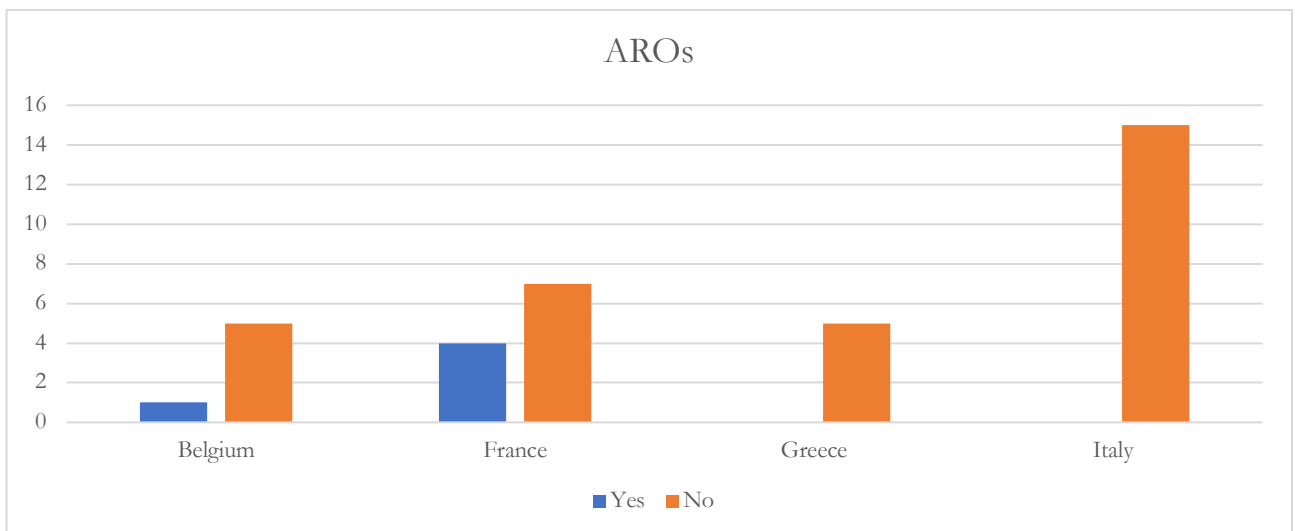
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<sup>9</sup> Council Decision 2007/845 concerning cooperation between Asset Recovery Offices of the Member States

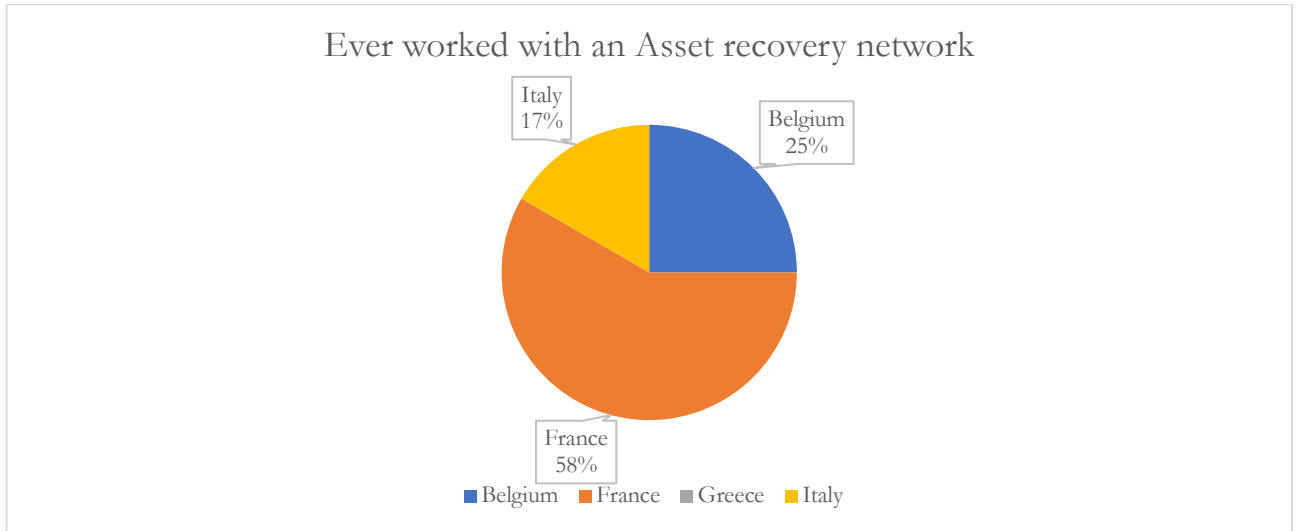
**Q: If you are involved in the national proceedings for identifying and seizing assets, please indicate which authority you work for (e.g., police, financial police).**



**Q: Does the office you work for belong to the Asset Recovery Offices (AROs)?**

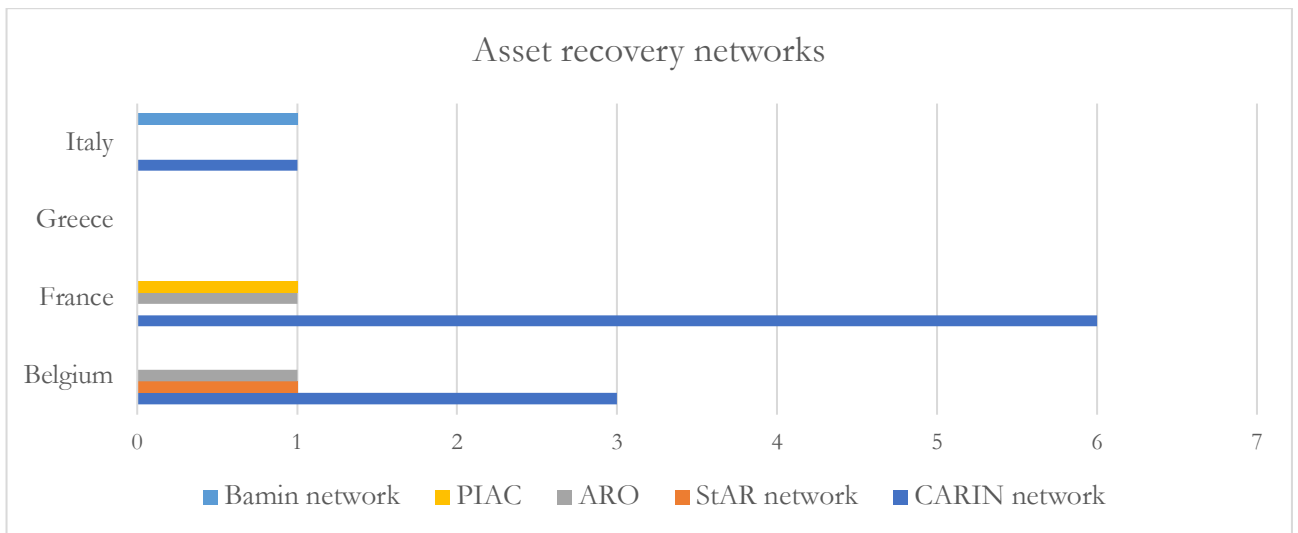


**Q: Have you ever worked with an Asset recovery network?**



**Q: If you answered YES to the previous question, could you please indicate which asset recovery network you have worked with?**

- CARIN network
- StAR network
- Others



#### **IV Section - Further consequences**

In the present section, we have sought clarification on the protection of rights that may be affected by the Regulation. In order to identify the guarantees that must be put in place to protect the fundamental rights of those subject to asset recovery measures, we first inquired about the states where the so-called non-conviction-based confiscation is applicable and in which cases. This ablative measure rises considerable debate among scholars as it lies between criminal and administrative measures. It allows for asset forfeiture, often serving a punitive purpose, without a prior conviction and, therefore, lacks a preceding declaration of criminal liability for the individual concerned.

Non-conviction based confiscation is a measure that European legislators are attempting to harmonize (as it is in the Revision of Directive 2014/42/EU on the freezing and confiscation of the proceeds of crime and proposal for a new directive on asset recovery offices). This type of confiscation is considered a very effective tool but, at the same time, must be used with caution as it highlights the differences between various legal systems.

Regarding procedural rights, it is crucial that the rights of parties, affected by freezing or confiscation proceedings are upheld. The different forms of confiscation, indeed, in relation to their nature, whether civil or criminal, can lead to tensions with a series of fundamental principles such as the prohibition of double jeopardy or the violation of Article 6 of the European Convention on Human Rights (ECHR), such as the right to a fair trial; the issue of a reasonable timeframe or Article 7 of the Charter of Fundamental Rights of the European Union.

Nevertheless, the responses indicate a lack of consensus on the applicability of confiscation without conviction in their respective domestic legal systems.

This tendency is evident in light of the collected results from French practitioners (4 Yes, 10 No) and Italian practitioners (14 Yes, 2 No). The more or less clear prevalence of “No” in the former case and “Yes” in the latter reflects a rejection or inclination towards this instrument.

The interpretation of the data is more complex for Belgium and Greece, where there is greater uncertainty, as the gap between the Yes and No responses is narrower.

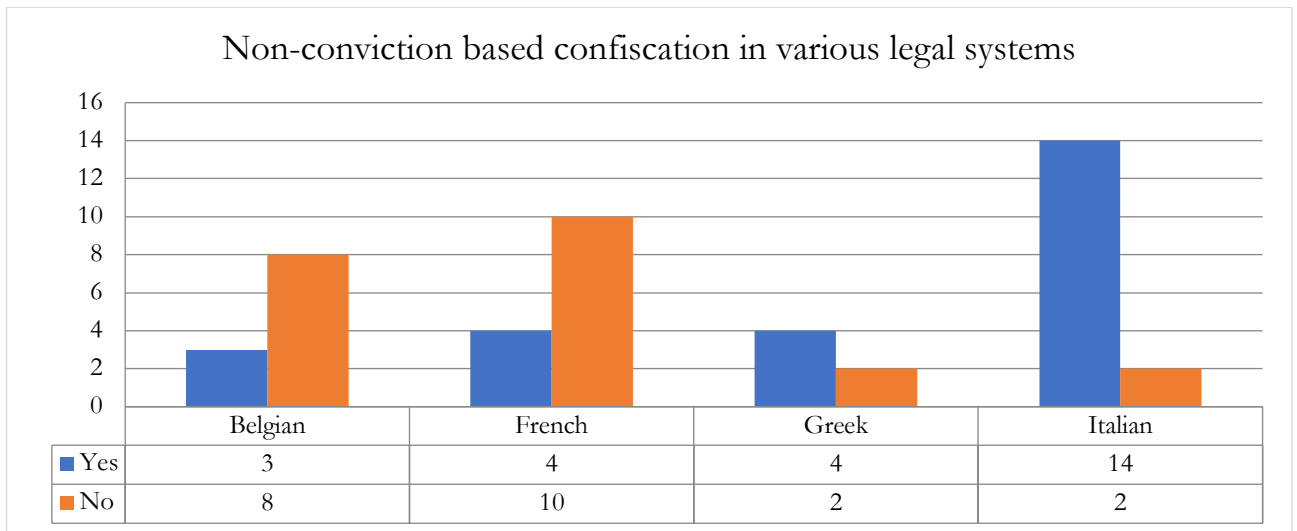
Articles 29 and 30 of the regulation establish mechanisms for the protection and satisfaction of the crime victim through the restitution of frozen or confiscated assets or compensation for the damages suffered. Not all states have these mechanisms. Therefore, an inquiry has been made to verify whether the interviewed states allow the victim the possibility to directly benefit from the seized or confiscated assets. In the different MS, the context of protecting the victim of a crime appears diverse. Generally, concerning confiscated assets, the spectrum ranges from primarily compensatory protection to restitutive protection. In the Belgian and Greek legal systems, their respective legislators tend to favor restitution to the victim as the main remedy.



Conversely, in Italy, restitution is residual as it is only provided when the confiscated asset is the direct product of the crime; in all other cases, only compensation for the damage remains.

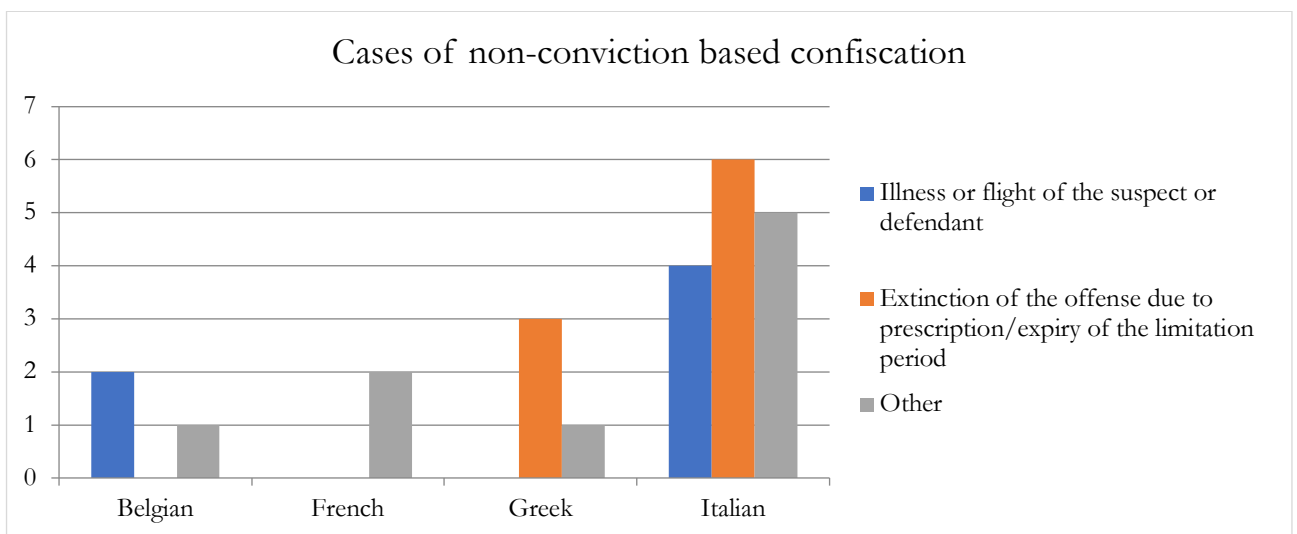
Finally, in France, restitution is subject to the explicit request of the victim, and compensation for damages is generally provided.

**Q: In your legal system, is confiscation without previous conviction possible?**

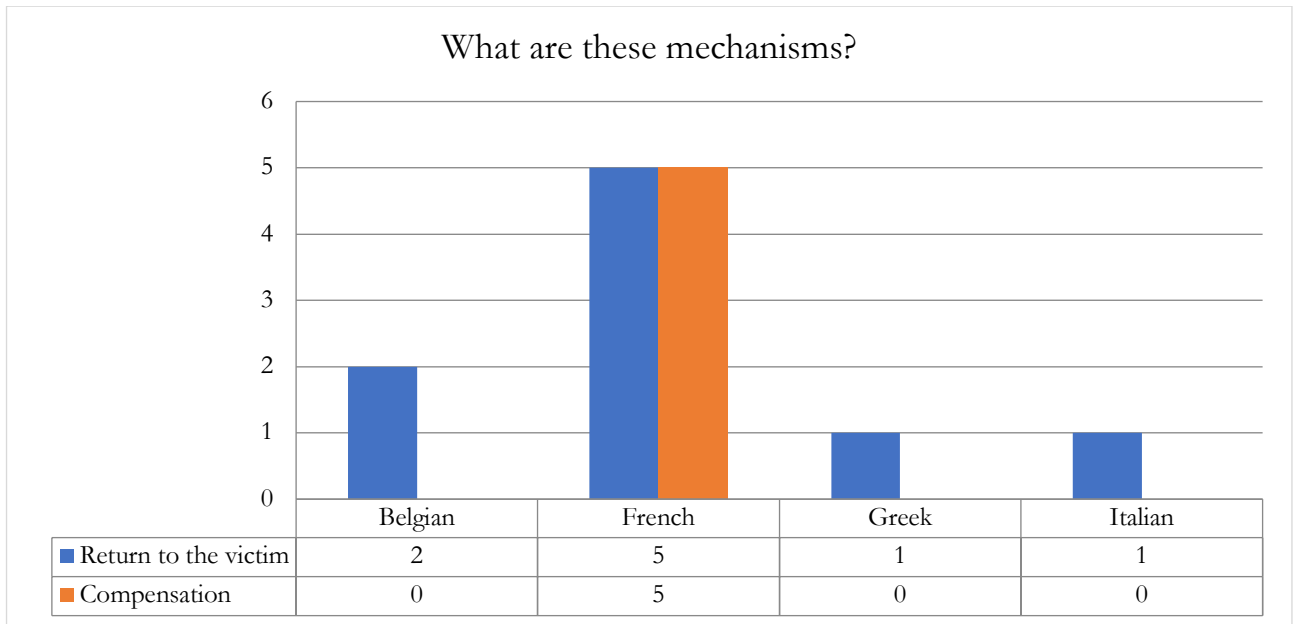
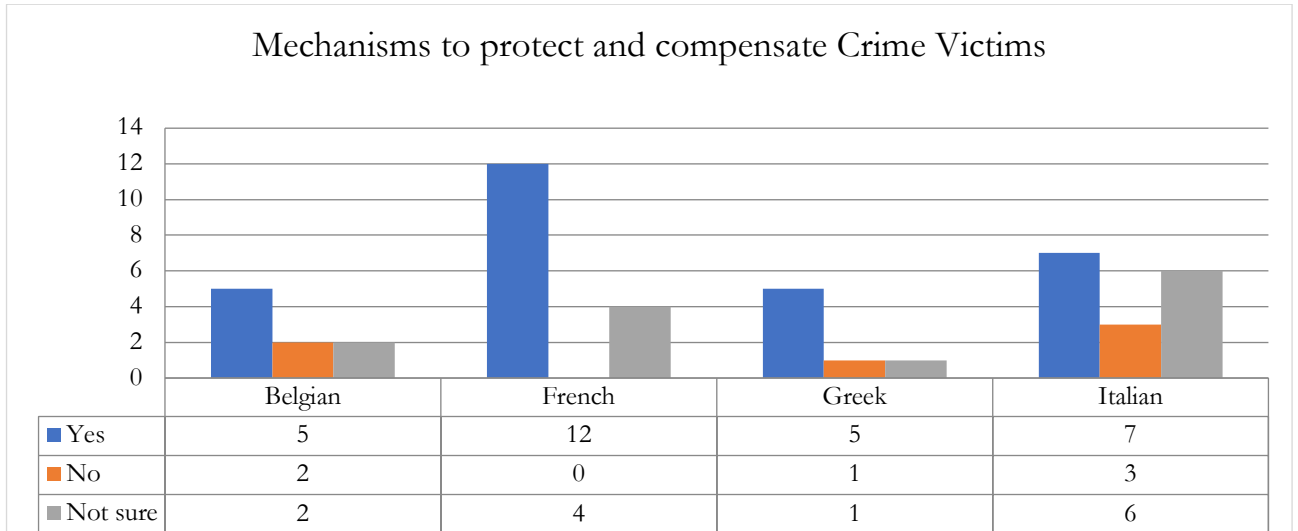


**Q: If you answered YES to the previous question, in what cases is it possible to apply a confiscation measure in the absence of a conviction?**

- Illness or flight of the suspect or defendant
- Extinction of the offense due to prescription/expiry of the limitation period



**Q: Does the national legislation provide for mechanisms to protect and satisfy the victim of the crime through the return of the frozen (Art. 29 Regulation) or confiscated (Art. 30 Regulation) property, or compensation for the damage suffered?**



**Q: If you answered YES to the previous question, what are these mechanisms?**

Belgium	Art. 43 bis, penal code. For example, recourse by a party before the CMA to have what has been seized returned to them; possibility to allocate confiscated assets to the victim by judicial decision. In terms of seizure, assets belonging to the victim can be returned to them. Possibility for the victim to appeal to lift a seizure; forfeiture with allocation to the civil party.
France	<p>Article 706-164 of the Code of Criminal Procedure: Paragraph 1: “Any person who, having joined as a civil party, has benefited from a final decision granting damages for the harm suffered due to a criminal offense, as well as expenses under Articles 375 or 475-1 and who has not obtained compensation or redress under Articles 706-3 or 706-14, or assistance in recovery under Article 706-15-1, may obtain from the Agency for the Management and Recovery of Seized and Confiscated Assets that these amounts be paid to them by deducting them from the funds or the net asset value of the assets of their debtor, whose confiscation has been decided by a final decision and of which the agency is the custodian under Articles 706-160 or 707-1.”</p> <p>Article 2.XI of Law No. 2021-1031 of August 4, 2021, on Solidarity Development and the Fight Against Global Inequalities: the victim’s right to compensation allows them to disclaim interest in the confiscated asset(s) in the procedure.</p> <p>Restitution to the victim: The owner of the property must submit a restitution request through a petition.</p> <p>Possibility, under certain conditions, to proceed with victim compensation: the request is made to AGRASC (French Central Agency for the Recovery of Criminal Assets).</p>
Greece	When there is a person who suffered direct financial damage from the crime, the court has the powers to release the frozen property for his/her satisfaction. Specific provisions of the CCP (art. 373)
Italy	Italian law does not allow the transfer of confiscated property to the victim, unless it is the direct product of the crime. In all other cases the victim is entitled to compensation for the damage caused by the offence and this right can be satisfied on the proceeds of the forced selling of the assets seized and then foreclosed.

## V Section - Assets Subject to Freezing and Confiscation Orders

In this section, the questions were primarily addressed to those involved in confiscating assets, namely judges/prosecutors. The goal was to highlight the differences in each country to understand where confiscations have a broader scope of application and to comprehend the practices of the member states regarding assets subject to forfeiture. In fact, money derived from illicit activities is often invested and transformed into assets. European policies frequently emphasize the importance of intercepting these assets to deprive them of criminal control.

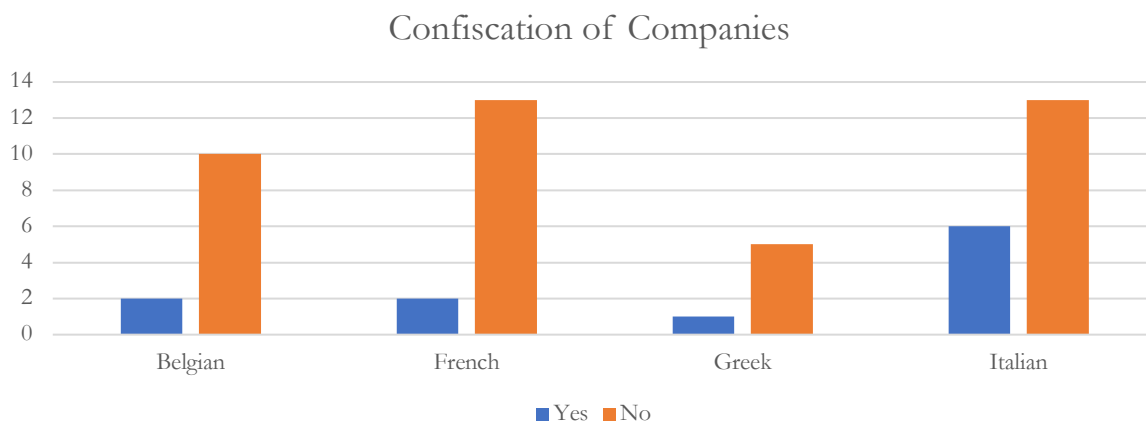
The art market appears to be one of the most convenient ways to invest funds from illicit activities. Are member states ready to confiscate artworks? Is it being done? Companies are also assets that can serve as vehicles for laundering illicit funds. However, managing a company is a delicate matter as it has various implications for employment levels.

Based on the responses gathered, it becomes evident that state authorities are not consistently keeping up with criminal activities related to the reinvestment of proceeds from illicit activities. This is demonstrated by data showing that there are still few instances of confiscation of assets other than “classic” ones, such as bank accounts, cash, and real estate.

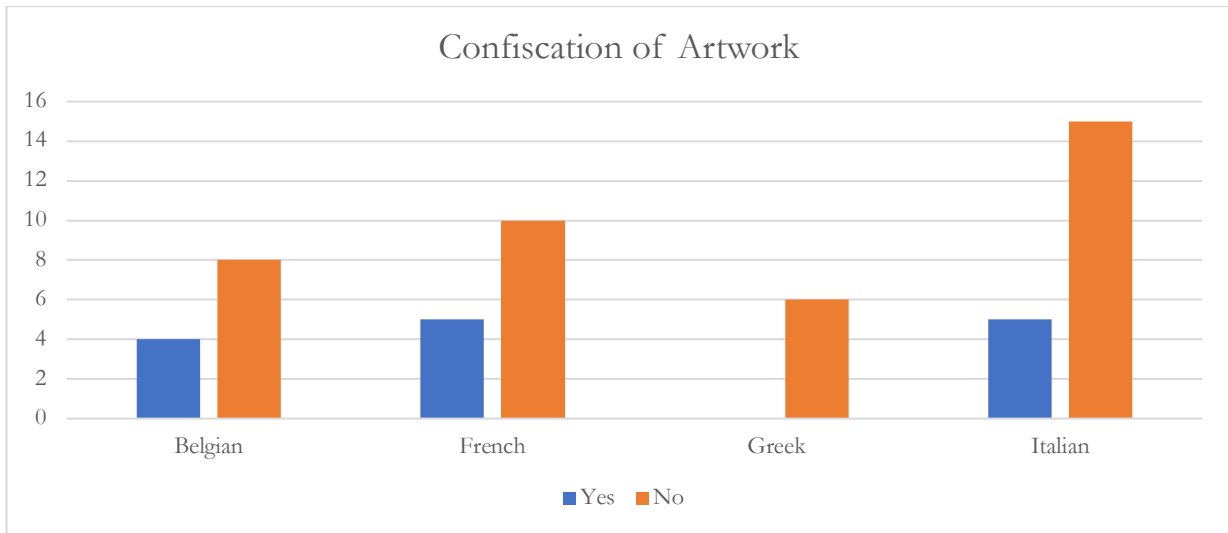
In particular, there is no evidence of the confiscation of companies in either Greece or France, while cryptocurrencies are only considered in Belgium and France.

Such limitations in the practical application of freezing and confiscation measures could have repercussions on the general preventive function of the measure itself.

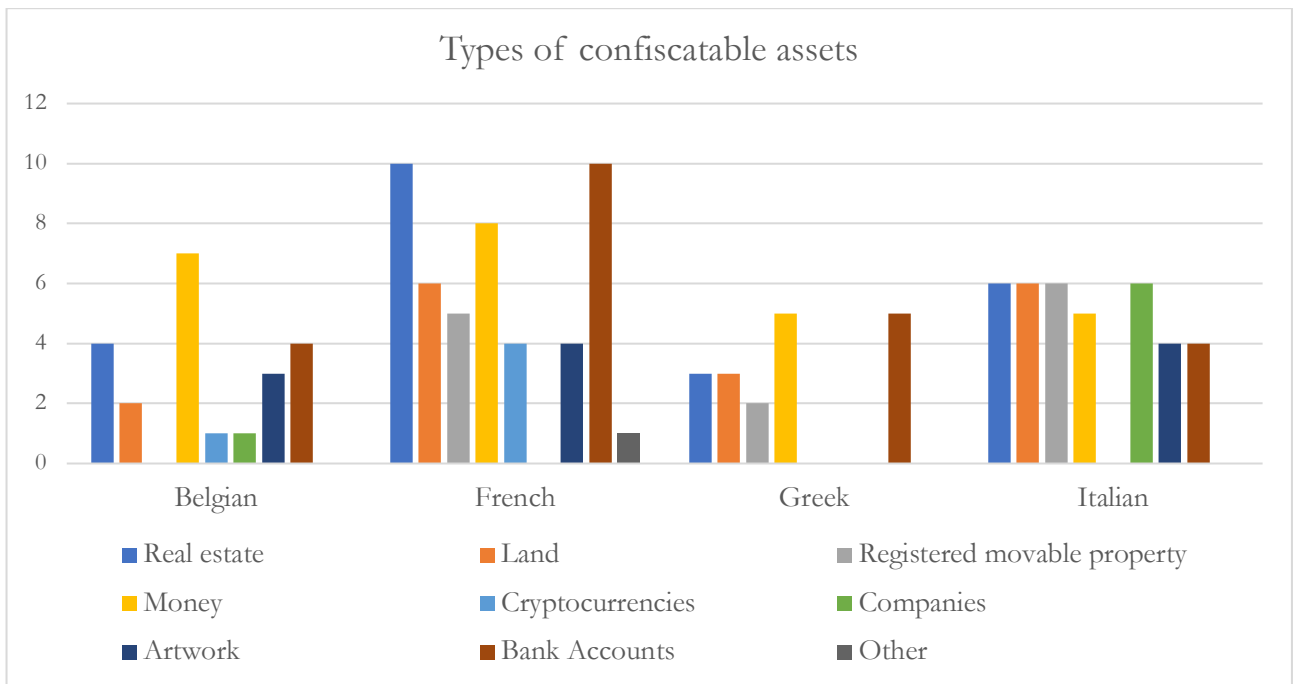
### Q: Have you ever carried out the freezing or confiscation of a company?



**Q: Have you ever carried out the freezing or confiscation of an artwork?**



**Q: Of which type of assets have you ordered freezing or confiscation?**

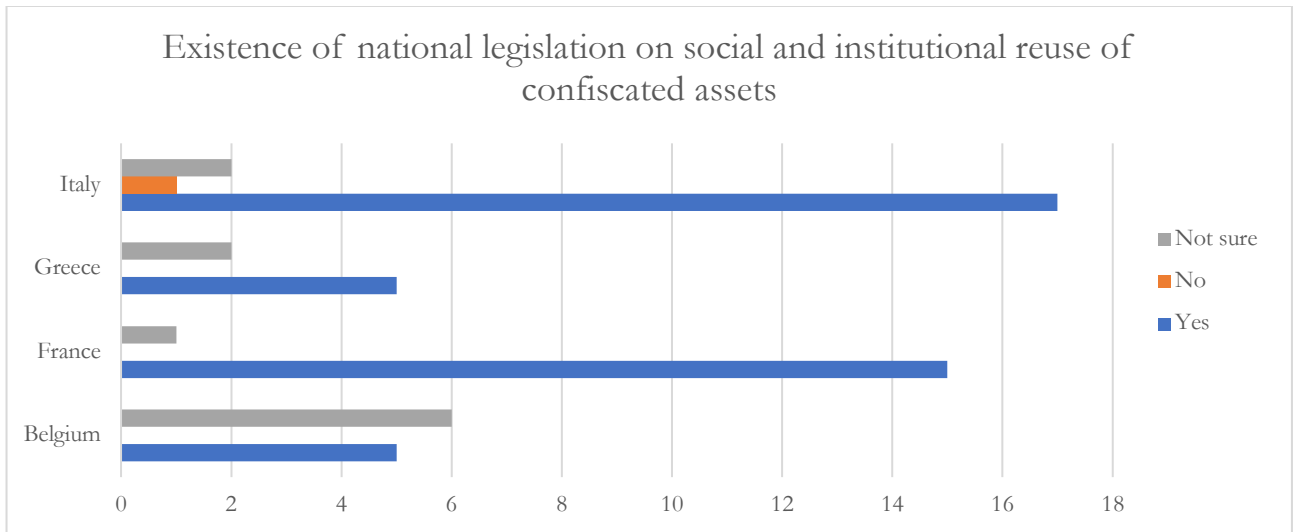


## VI Section - Management and reuse of frozen and confiscated assets

The questions in this section are primarily addressed to non judicial professionals involved in various capacities in the management of frozen and confiscated assets. This includes associations of the third sector, NGOs, local authorities, municipalities, and law enforcement agencies dealing with the reuse of assets for social and institutional purposes. The preliminary question pertains to the existence of national regulations governing the allocation of seized or confiscated assets for institutional and social use. Therefore, it is requested to provide a description of the regulations, indicating their source requirements, in order to compare the experiences of different states.

The management of frozen and confiscated assets is a crucial stage of the asset recovery process. Asset Management Offices in MSs, indeed, are very important.

### Q: Is there any national legislation governing the institutional and social use of a frozen/confiscated asset?



**Q: If you answered YES to the previous question, could you please provide the details of the legislation?**

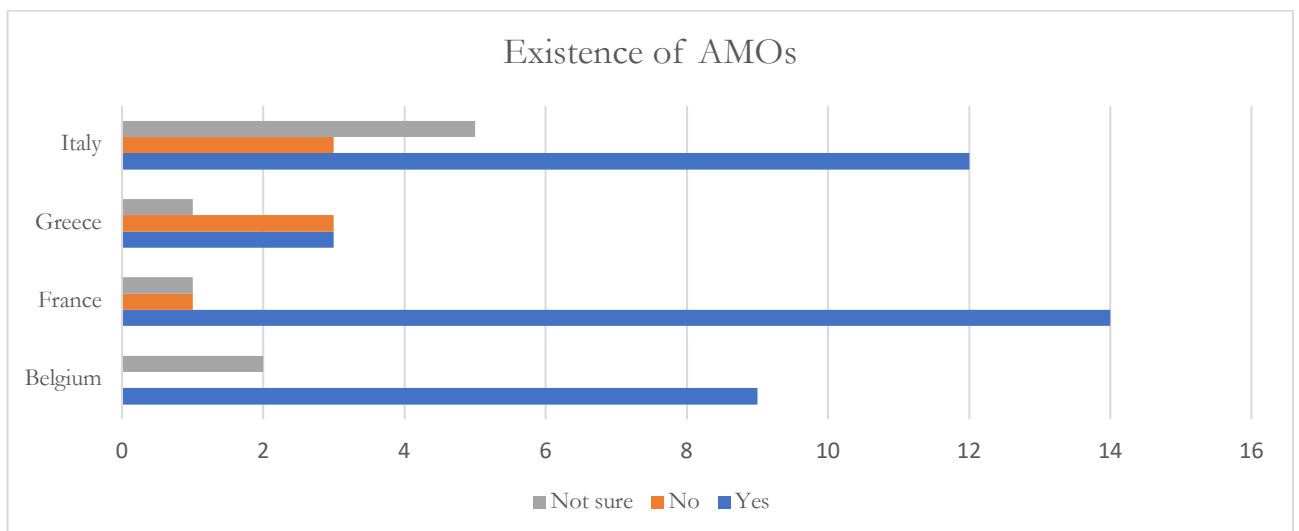
Belgium	Possibility of making seized goods available to the police (very limited). Confiscated property is made available to the federal public finance service. Police use of seized vehicles
France	<a href="https://www.associations.gouv.fr/bien-mal-acquis-ne-profitent-jamais-quoique.html">https://www.associations.gouv.fr/bien-mal-acquis-ne-profitent-jamais-quoique.html</a> Law of April 8, 2021 improving the efficiency of local justice and criminal response; decree of November 2, 2021. Possibility of assigning movable (non-recoverable) or real estate assets to associations. Existence of procedures for making them available before judgment and procedures for attributing items seized/confiscated definitively at the end of the judgment. Sale before judgment. Assignment of the property to an investigation service Possibilities under French law: - reallocation of seized property to the police and gendarmerie services or to the courts under certain conditions. - reuse of real estate for social purposes under certain restrictive conditions. The code of criminal procedure provides for an allocation before judgment of movable property seized (vehicles for example) which benefits the investigating services (police, gendarmerie, customs).
Greece	Article 68 par. 6 of the Greek Criminal Code. Art. 14 par. 5 Law 5042/2023: Confiscated movable assets may be provided, subject to the conditions set out in art. 14 par. 4 of Law 5042/2023, either free of charge or in return for compensation, to bodies of the public sector, security forces, organizations, or for the benefit of public entities to cover their operational needs.
Italy	Legislative decree 159/2011. Law no. 109/1996

It was then requested information on the existence of Asset Management Offices (AMOs), namely offices responsible for the recovery of assets. The management of assets is a crucial aspect for the functioning of mutual recognition, as also emphasized in the proposal for a directive on the freezing and confiscation of the proceeds of crime <https://www.europarl.europa.eu/legislative-train/carriage/revision-of-the-directive-on-the-freezing-and-confiscation-of-proceeds-of-crime/report?sid=7401>.

Confiscated assets that are subsequently abandoned do not allow the return to the community of what has been deprived due to crime, and the state does not benefit from it. There is also a risk of asset deterioration before allocation or sale. This phase is sometimes managed by public authorities but can also be entrusted to private entities. In this phase, it would also be necessary to establish tools to ensure transparency and accessibility of data related to the management of assets subject to measures. The right to know is a fundamental prerequisite for the mechanism of preventing corruption and crime. Accessibility to data regarding the management of seized and confiscated assets serves as a safeguard against forms of mismanagement that could adversely affect the community and the individuals involved in the criminal proceedings. Therefore, additional information is requested regarding any tools or institutions through which national regulations ensure members ‘full visibility of data related to asset management after the adoption of confiscatory measures. We have asked if this occurs in the concerned states.

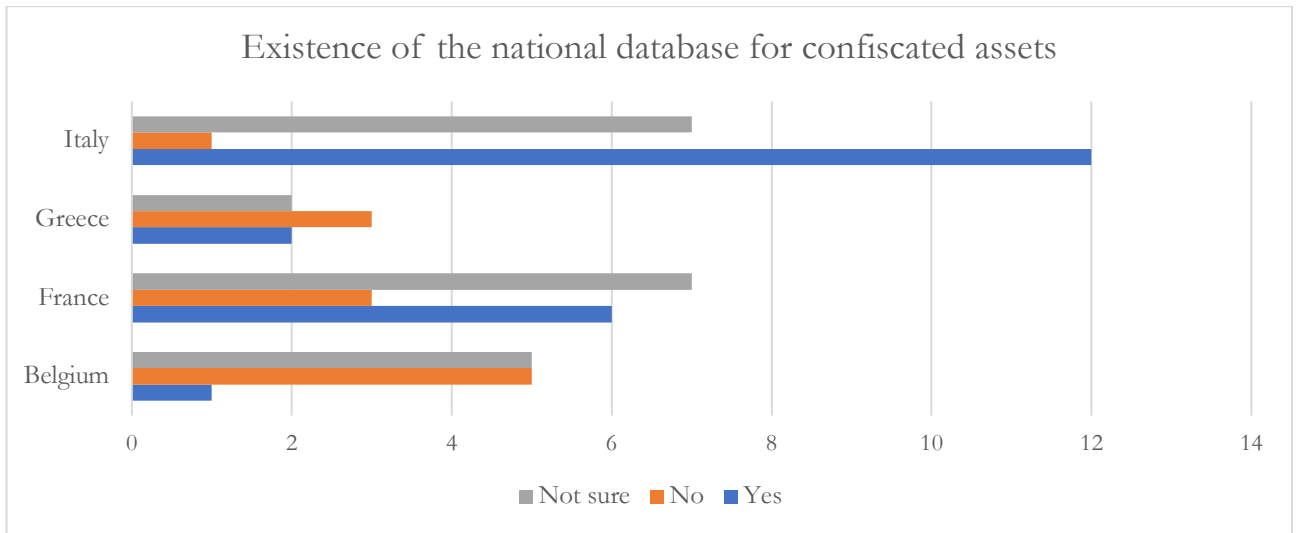
The absence of central bank registers and public registers for property and companies raises some issues; discussions are underway in the Member States and at European level to adopt such a register.

**Q: Is there any central authority designated as responsible for managing frozen/confiscated assets to prevent deterioration before allocation or sale (Asset Management Offices - AMOs)?**





**Q: Is there any database that includes data on confiscated assets?**



**Q: If a database exists, could you please share its name and website?**

Belgium	It's not a database, but we do have a listing, every item of confiscated property is listed.
France	The AGRASC database has data (which is internal to AGRASC), as well as the Cassiopée software in the jurisdictions. This is a subject that was debated in the Senate, particularly with the idea of simplifying the confiscation procedure. More details: <a href="https://crimhalt.org/2023/07/21/rapport-dactivite-de-lagrasc-2022-un-an-dusage-social-des-biens-confisques/">https://crimhalt.org/2023/07/21/rapport-dactivite-de-lagrasc-2022-un-an-dusage-social-des-biens-confisques/</a>
Greece	A ministerial decree is expected to be issued on this matter. Art. 7 of Law 5042/2023: Central Registry of seized and confiscated assets (Κεντρικό Μητρώο Δεσμευμένων και Δημευμένων Περιουσιακών Στοιχείων - Κε.Μη.Δ.Δ.Π.Σ.)
Italy	For real estate: openRegio; Copernico; benisequestraticonfiscati.it.

	It is the database of the National Agency for the administration and destination of confiscated assets.
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It is important to understand whether funds are allocated in individual member states for the enhancement of confiscated and seized assets, and thus, whether there is a corresponding local interest to the effort being made at the European level. The Next Generation EU funding represents a great opportunity to boost legislative initiatives.

In response to this question, only Italy provided a positive answer.

**Q: Do you know if the Next Generation EU/Recovery and Resilience Fund have allocated funds for the valorization of confiscated assets in your Member State?**

