



ASSET RECOVERY BUREAU

M A L T A

72, Market Street,
Floriana, Malta

1ST ANNUAL REPORT 2018

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STATEMENT BY THE CHAIRPERSON

Judge Emeritus Joseph D. Camilleri

The establishment of the Asset Recovery Bureau

This is the first annual report of the Asset Recovery Bureau (ARB) and therefore it is a fitting occasion for me, as the current Chairman of the ARB Board, to give some salient information about the establishment of this new entity, what was achieved during the year under review, as well as to propose my vision for the future of the ARB.



The ARB was preceded by the Asset Management Unit (AMU), which was set up in 2012 within the court registry mainly to carry out the task of conducting inquiries to trace the assets of persons charged or accused of certain criminal offences, following a freezing order issued by the court. As from 20th August 2018, the AMU has stopped receiving new assignments from the court to trace the assets of such accused persons. The AMU's present remit is to finalise all the cases assigned to it prior to this date. As from the mentioned date 20th August 2018, the task of tracing the assets of the accused following court issued freezing orders has been taken over by the ARB.

The ARB targets illegally acquired assets of criminals involved in serious crime. The ARB's core duty is to identify the criminally acquired assets of persons and to take the appropriate action to deprive them of their ill-gotten wealth. That crime should not pay is an obvious principle of justice. Wealth acquired through crime should not be allowed to be enjoyed by the criminal who acquired it or by third parties, whether family members or friends. Confiscation of instrumentalities and proceeds of crime is of paramount importance in fighting organised crime. Better

results can be achieved by investigating and analysing financial trails of criminal activity. Indeed, the establishment of an effective ARB has been recognised as one of the key components of Malta's strategy to combat money laundering and terrorism financing.

The first reference in our Criminal Code to the ARB is to be found in article 700¹ of the Criminal Code. This article enabled the Minister responsible for Justice to set up the ARB by means of subsidiary legislation. The ARB was to be a dedicated entity empowered not only to trace and identify the assets of accused persons whose property was subject to a freezing order issued by the court, but additionally it was empowered to collect, store, preserve and manage these frozen assets, so that upon their confiscation by the court, either as instrumentalities or proceeds of crime, the ARB would proceed to their disposal in favour of the Government.

The Asset Recovery Bureau Regulations (S.L. 9.23) were promulgated by Legal Notice 357 of 2015. These Regulations, however, were not brought into force immediately and practically remained inoperative for about two years.

The appointment of the current ARB Board

The current ARB Board is currently composed of:

- Judge Emeritus Joseph David Camilleri, as Chairman,
- Mr Frankie Mercieca, in his capacity of the Director General (Law Courts),
- Assistant Commissioner Mr Ian Joseph Abdilla, as representative of the Commissioner of Police,
- Mr Marvin Gaerty, in his capacity as the Commissioner for Revenue,
- Mr Kenneth Farrugia in his capacity as the Director of the Financial Intelligence Analysis Unit.

¹ Article 700 of the Criminal Code, was **added by article 39 of ACT VIII of 2015**, gives a good foretaste of some of the salient features of the ARB.

The Board was appointed by the Minister responsible for Justice, Culture and Local Government on 13th September 2017 for a period of three years and work was immediately taken in hand to take all the necessary steps to effectively set up the ARB from scratch.

In consultation with the Minister responsible for Justice, Culture and Local Government, it was decided that it was not opportune or practical to immediately bring into force the whole provisions of the ARB Regulations. It was decided that at an initial stage, only those provisions needed for the setting up of the necessary structures of the ARB would be brought into force. With these enabling structures in place, the ARB would then have the necessary capacity to start its operations and therefore the remaining provisions of the ARB Regulations could then be brought into force.

Bringing into force the first set of ARB Regulations

A number of identified provisions contained in these Regulations were, in point of fact, brought into force on the 1st October 2017. During this initial stage, which was planned to be finalised by the end of June 2018, various milestones were achieved, including the engagement of the Director of the Bureau, the finding of the right premises from where the ARB was to operate, the furnishing of the premises with all furniture and other essential office resources, the recruitment of the first Officers of the Bureau, the provision of professional training both in Malta and abroad for ARB Board Members and the ARB Director and his team, the establishment of the necessary contacts with identified local authorities whose assistance and cooperation would be needed for the ARB to effectively perform its work, the establishment of contacts with foreign Asset Recovery Offices and their network, including the Camden Asset Recovery Inter-Agency Network (CARIN) and to establish many other necessary approaches to plan the way forward for the ARB.

Recruitment of the ARB Officers

The ARB Regulations expressly state that the Bureau Officers of the ARB shall be, as far as possible, members of the Executive Police and officers of the Commissioner for Revenue, to be nominated and designated by the respective Commissioner, as well as other public officers. The Chairman of the ARB Board raised this issue with the Commissioner of Police and the Commissioner for Revenue and both of them informed him that they were short of staff and therefore were not in a position to assign any of their Officers to work full-time with the ARB Directorate. However, they each accepted and appointed a Liaison Officer to assist the ARB when needed and a plan was agreed as to the way forward.

This development was quite a big set-back for the setting up of a well-functioning ARB equipped with already skilled officers, as envisaged by the ARB Regulations. It is a known fact that the ARB Regulations had foreseen that the Executive Police Officers nominated to work at the ARB would be pivotal for the investigative aspect of its work. It had also foreseen that the Officers from the Commissioner for Revenue would provide the ARB with the necessary auditing and accounting skills. The ARB Regulations had been modelled largely on the Irish Criminal Assets Bureau Act, 1996 and this unexpected development obviously represented a significant shift away from this legislative source. Accordingly, the ARB Board had to move ahead without the support of this expected readily available technical expertise and the ARB Board decided that ARB Officers were to be recruited from elsewhere and specialised training was to be provided for them. Every cloud has a silver lining and the above unexpected development did perhaps produce a positive effect, in so far as the independence of the ARB and its Board is concerned. This independence, highlighted in Regulations 4 and 11 (5) of S.L. 9.23, emerges even more enhanced by the current set up.

A staff capacity exercise was approved by the Board and the recruitment process was commenced during April 2018, with the publication of such key positions as those required for Asset Tracing, Asset Management and Disposal. The current staff of the ARB Directorate is made up of the Director, his three Managers, namely the Finance and Administration Officer, the Research and Data Management Officer and the Legal Affairs Officer. They are assisted by three Clerical Officers and a General Hands Duty Officer. All these employees work on a full time basis.

A Vision and Mission Statement for the ARB

It is to be noted that on 29th May 2018 the ARB Board adopted the following Vision and Mission Statements:

Our Vision - “Ensuring crime does not pay by denying and depriving persons of acquired criminal assets”.

Our Mission Statement - ‘Strengthening the rule of law by tracing and seizing illicit gains derived directly or indirectly from criminal activity. We aim to act fairly whilst respecting Human Rights, including those of bona fide third parties’.

Bringing into force the remaining ARB Regulations, with certain amendments

During July 2018, the ARB Board recommended some amendments *vis-à-vis* a number of ARB Regulations not yet in force. This recommendation was accepted and accordingly the remaining regulations were duly brought into force by the Minister responsible for Justice on 20th August 2018 by Legal Notice 283 of 2018. From this date the ARB became empowered to start implementing the remit

extended to it by the ARB Regulations. Of course, it will be the task of the ARB Director to give a detailed account of the operational work completed by the Directorate during the year under review.

ARB Board meetings

Regulation 12 (1) of S.L. 9.23 prescribes that the ARB Board *“shall meet at such regular intervals as may be necessary but shall meet at least once every two months”*. In the rather short time since the current ARB Board was constituted under the current chairmanship, it has met twenty seven (27) times. The last meeting was held on 12th December 2018. I am really grateful for the cooperation extended to me by all the Members of the Board, who notwithstanding their other most onerous responsibilities, did find the time to attend and actively participate during these Board meetings. I am also grateful for the cooperation I found from the Director ARB who attended these Board meetings in terms of Regulation 12 (5) of S.L. 9.23. Minutes of these meetings have been regularly kept and a good number of important and necessary decisions were taken during these meetings in order to build from scratch the foundations and other necessary operational capacity of the ARB.

Other meetings

During the year under review, the Chairman of the ARB Board participated in a number of important meetings in connection with the National Risk Assessment exercise being carried out, the National Coordinating Committee as well as the Fifth Evaluation Round of Malta being currently implemented by the Council of Europe MONEYVAL Committee. Participation during these meetings proved to be a fruitful and enlightening experience and confirmed, if there was any need of any such confirmation, that the ARB has a very important role to play in the context of Malta’s strategy to combat money laundering and terrorism financing.

The complexity of asset recovery

The Opinion dated 6th December 2017 (2016/0412 COD) published by the Committee on Legal Affairs of the European Parliament, gives this justification for criminal asset recovery: *“According to latest research data, illicit markets in the European Union generate about 110 billion EUR, namely approximately 1% of the EU’s GDP in 2010. Taking away the profit of criminal activity and making sure that “crime does not pay” is therefore a very effective mechanism to combat crime.”* It is a well-known fact however, that recovering the proceeds of crime is still an immense challenge everywhere. This fact is amply confirmed in the above mentioned Opinion, where it is further affirmed that *“.....although existing statistics are limited, the amount of money currently being recovered from proceeds of crime within the EU is only a small proportion: 98.9% of estimated criminal profits are not confiscated and remain at the disposal of criminals. A functioning asset recovery regime is a precondition if more criminal assets are to be seized. This includes an efficient mutual recognition framework for freezing and confiscation orders.”*

The way forward for ARB

ARB should continue to develop into an efficient tool for the tracing, management and recovery and disposal of criminal assets, supported by sufficient resources, both human and otherwise. Up to now asset tracing was mostly directed towards assets belonging to the suspect or the accused. Work in this area should be strengthened and even extended to capture criminal proceeds transferred to third parties (family members or friends) or to assets located abroad.

As I see it, our court judgments routinely order the confiscation of assets but in reality very little is actually recovered because our confiscation regime has some serious shortcomings which need to be addressed.

Our next step should be to make a thorough evaluation of the current ARB regulations and address any weak and ambiguous areas. Moreover, we need to make a thorough evaluation of the current confiscation regime and address any current weaknesses. Provided that the political will shown so far is sustained, this two pronged task needs pragmatic and innovative solutions, together with serious legislative effort, if it were to happen.

In conclusion, I would like to thank again fellow Board Members, Director ARB together with his team and the Permanent Secretaries MFIN and MJCL, whose assistance and support, was vital for the results achieved by the ARB to date.

Judge Emeritus Dr Joseph David Camilleri

Chairman

Asset Recovery Bureau Board

DIRECTOR'S REPORT

Mr Brian Farrugia

The identification, tracing, seizure and recovery of assets² is an effective way to tackle crime and prevent that its proceeds are re-invested in the licit economy and used for further criminal activities. Substantial efforts were made in this area over the span of a few months throughout 2018, resulting in the establishment of the Asset Recovery Bureau's Directorate.



Due to the nature and sensitivity in executing our operations, one of my primary objectives was to define a hierarchy within the Directorate that would enable us to identify each job, function and where it reports to within the organization. The functional structure is based on three principal management units and each unit has a manager who reports directly to the Director.

The three principal units as set up in 2018 include:

A. The Asset Tracing Unit - specializing on the identification and tracing of assets. Asset tracing requires constant communication with institutions, especially financial institutions holding registries of clients. This unit was instrumental throughout 2018 in the development of new standards of procedures for the collection of information and the provision of adequate implementation guidelines to our contributors.

B. The Finance and Administration Unit - as stipulated under regulation 4 of the ARB regulations, the independence and autonomy of the Bureau at least by 2019, required the setting up of a dedicated unit on finance and administration.

² The word 'Assets' is used interchangeable with the word 'property'.

C. The Legal Services Unit - taking the appropriate action in terms of law to deprive or to deny a person of proceeds of crime, and pursuing any investigation or doing any preparatory work in relation to any proceedings arising from a court order, led to the establishment of the legal services unit.

In the meantime, due consideration was given to the collection and management of data required or originating from our operations. A centralized data management system was set up, processing data in particular information related to investigated persons, frozen and confiscated property and assistance in enforcement of sentences involving the confiscation of property. All collated data is protected and only used when deemed required through a Court Order. A record is also kept of any officer having access to such data and may be made available to the Data Protection Commissioner.

2018 also marked the year in which ARB made its first contributions to the Fifth Evaluation Round of Malta by the Council of Europe MONEYVAL Committee, the AML/CFT Strategic Action Plan for Malta and the Malta Country Review Visit on the implementation of the United Nations Convention Against Corruption (UNCAC).

On an international level, the ARB joined other AROs in Europe and become an active member the ARO Platform; an initiative coordinated by the European Commission and Europol. The ARB is also represented in the CARIN Network, which is an informal network of law enforcement and judicial practitioners, specialised in the field of asset tracing, freezing, seizure and confiscation. The sharing of informal information and intelligence with other AROs is likewise significant and has strengthened the ARB's capabilities on asset tracing.

Just as challenges and threats continue to evolve, so too, must the ARB. The key to counteract this evolution is to increase the entity's staff capacity, training, and cooperation with other relevant competent authorities.

Beyond all this, we look forward to delivering an effective and efficient asset recovery office for Malta while sending out a strong message that 'crime does not pay.'



From left to right: Mr Ian Abdilla (Board Member), Mr Frank Mercieca (V. Chair), ret. Judge Joseph D. Camilleri (Chairperson), Mr Brian Farrugia (Director), Mr Marvin Gaerty (Board Member) and Mr Kenneth Farrugia (Board Member).

PART I: OVERVIEW OF THE ASSET RECOVERY BUREAU (MALTA)

Council Decision 2007/845/JHA mandated each European Union (EU) Member State to set up and designate an Asset Recovery Office (ARO), as a means to facilitate the tracing and identification of proceeds of crime and other crime-related property that may become the object of a freezing, seizure or confiscation order issued by a competent judicial authority in the course of a judicial proceeding.

Since then, the European Commission kept monitoring the establishment of AROs across the EU. As per EU Commission Progress Report addressed to the European Parliament and to the Council dated 12th April 2011, twenty-two EU Member States had an ARO in place and Malta notified the Commission that the National Fraud Squad³ was designated as the national ARO. Then in 2012, the Asset Management Unit (AMU), was set up within the court registry.

In 2015, however, the ARB Regulations were promulgated by Legal Notice 357 of 2015. They were enacted by the Minister responsible for Justice, by virtue of the powers conferred on him by article 700 of the Criminal Code. These regulations, however, were not brought into force immediately, as Regulation 1 (2) provided that “These regulations shall come into force on such date as the Minister may by Order in the Gazette establish and different dates may be so established in respect of different provisions and purposes of these regulations.” A number of the provisions contained in these Regulations were, in point of fact, brought into force by Subsidiary Legislation 9.23 on 1st October 2017. This was done to enable the setting up of the necessary structures of the ARB and to build its capacity to be able to start functioning.

3 https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/intro/docs/1_en_act_part1_v8.pdf
COM (2011) 176 - REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL based on Article 8 of the Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime

In principle, this legislation provides mainly for the:

- The functions of the ARB;
- The powers of the ARB;
- The establishment of the ARB Board;
- The establishment of the ARB Directorate.

1.1 Structure of the ARB

The structure of the Bureau, which draws together various skill sets from the personnel involved, has the benefit of enhancing investigative capabilities in pursuit of the ARB's statutory remit and it mainly consist of a Board and a Directorate.

1.2 A body corporate

The ARB exists as an independent corporate body and is capable, among others, to:

- enter into contracts, of concluding memoranda of understanding or other agreements with any local or foreign person, body authority or agency;
- acquire, hold and dispose of any kind of property for the purposes of its functions;
- doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions as established by the Subsidiary Legislation.

1.3 Functions and Powers

The functions and powers of the ARB may be summarized as follows:

- Identifying, tracing, collecting, storing, preserving, managing and disposing, in whole or in part, of the proceeds of crime or property in favour of the Government;

- Taking actions under the law to deny and deprive people of the benefits of the proceeds of crime by preserving and confiscating these proceeds of crime;
- Requesting information from any person to provide information on the proceeds of crime, their location, nature and identity.

These powers and functions shall be applied within the limits imposed by this Subsidiary Legislation, which makes a distinction in Maltese laws between instrumentalities and proceeds of crime.

The ARB, through its Directorate, shall only administer and manage proceeds of crime whereas instrumentalities are beyond its remit until they are confiscated upon court order.

1.4 The Board

The Chairperson, is appointed by the Minister from amongst the Members of the Board and the Board is independent and not subject to the direction or control of any other person or authority.

The first members of the Board were appointed for three years with effect from 1st November 2015 and a new Board was appointed in 2017.

The task of building the ARB from scratch fell on the shoulders of the current Board as composed and chaired. In fact, it set itself a time frame up to the end of mid-2018 to structure the ARB's required initial capacity in order that it would be in a position to be able to start exercising its functions and powers.

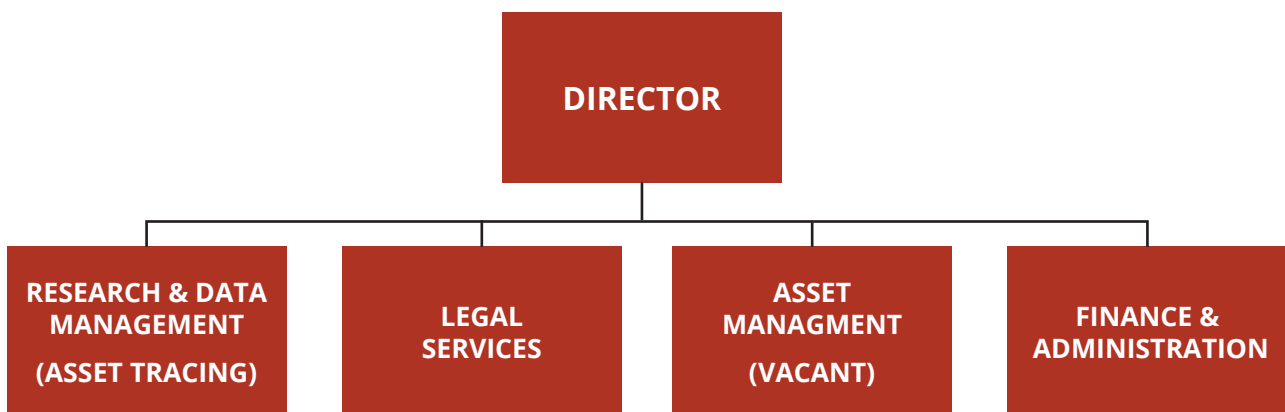
1.5 The Directorate

The ARB's Directorate is led by the Director. The Director is entitled to attend the meetings of the Board and to take part in the discussions, but is not entitled to vote.

The ARB Regulations envisage that the ARB Bureau Officers shall be, as far as possible, members of the Executive Police and officers of the Commissioner of Revenue, to be nominated and designated by the respective Commissioner, as well as other Public Officers.

A staff capacity exercise was approved by the Board and the recruitment process commenced in April 2018, with the publication of key positions as required for the Directorate.

The Directorate's Internal Staff Capacity structured was set as follows:



Each unit is led by a Manager who is assisted by Bureau Officers at Executive and Clerical grades. There are also other staff namely General Duty Officers and Handlers. The ARB's salaries and grade structure was approved by the International Relations Unit, as the central regulatory body with regard to industrial relations in the Public Service

By end of 2018, the Asset Recovery Bureau recruited:

- 1 Manager (Finance and Administration)
- 1 Manager (Research and Data Management)
- 1 Manager (Legal Services)
- 3 Bureau Officer I (Clerical)
- 1 General Duty Hands

1.6 Training

Combatting corruption, money laundering and organised financial crime by recovering the proceeds of crime, necessitates the acquisition of specialized skills relating to legal, financial accounting, analysts and asset management.

Training and development for Bureau Officers is continuous and supported by the ARB. Bureau Officers are exposed to meetings and training at national and international level on a variety of related subjects, such as the seizure, storage and disposal of virtual currencies, the identification and tracing of assets pertaining to the accused, public procurement, report writing, managing and preserving high value assets and other themes relating to asset recovery. Bureau Officers do also participate in the on the job exposure sessions organised in agreement with other competent authorities, established both locally and abroad.

In effect, in 2018, ARB delegations did actually participate in one important visit abroad upon an invitation by the Criminal Asset Bureau (CAB) in Dublin, Ireland. This visit, together with a previous orientation visit held at the end of 2017 in the Netherlands, proved to be instrumental for the setting up of the ARB structure and its modus operandi.

PART II – OPERATIONS

The ARB commenced its duties on August 2018 and launched a simplified way in retrieving information as requested by court. This included:

- The set-up of a dedicated and updated contact list of registered financial institutions with the MFSA other relevant entities. All the contacted institutions were invited to nominate a contact person who was recorded within the above-mentioned dedicated list.
- Introducing new standards of procedures and guidelines for all ARB officers to simplify and fasten communication with all contact persons.
- ARB officers established communications with all contact persons wherein these were provided with clear instructions on the format and timelines to adhere to when submitting their replies.

The ARB contact list lengthens with time. On average, ARB officers process one (1) request for information per week. Each request is monitored closely by the Asset Tracing Team. Replies from each institution are listed separately on a case by case basis. If any further delays are encountered, in excess of the court approved thirty (30)-day period, the necessary follow up is carried out by ARB Officers. Overall, the majority of the contact persons are cooperative in providing prompt replies, as well as feedback on how communications can be enhanced to obtain faster and more efficient results.

2.1 The Identification and Tracing of Illicit Assets

Upon the issuance of a freezing order, the ARB uses its powers to obtain all the necessary information on the proceeds of crime, their location, nature and entity

within a 30-day period. Upon receiving the required information, the ARB may seize this property as proceeds of crime and shall store, preserve and manage this property until the court case against the accused becomes res judicata, which shall become final and cannot be further appealed from.

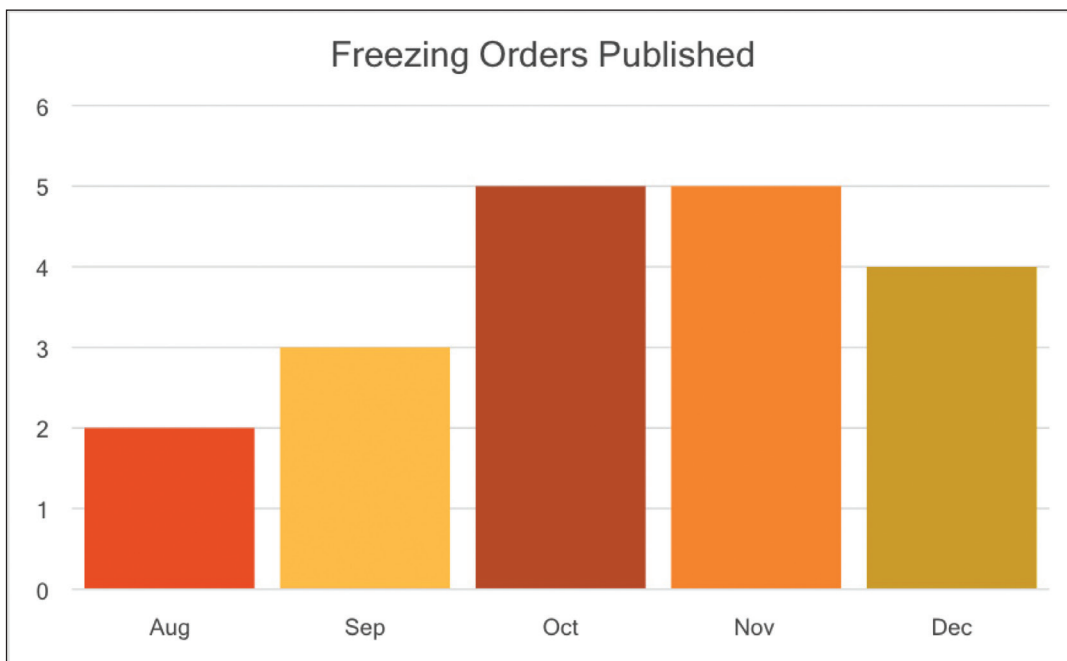
2.2 Inventory of Assets

The ARB draws up an inventory of assets, which lists all the property of the accused, to be presented to the courts, as part of the criminal court case against the accused. Upon judgment delivered by the courts, a confiscation order may be issued and the ARB may dispose of the seized property which is the result of the proceeds of crime. The value of this property shall be disposed in favour of the Government.

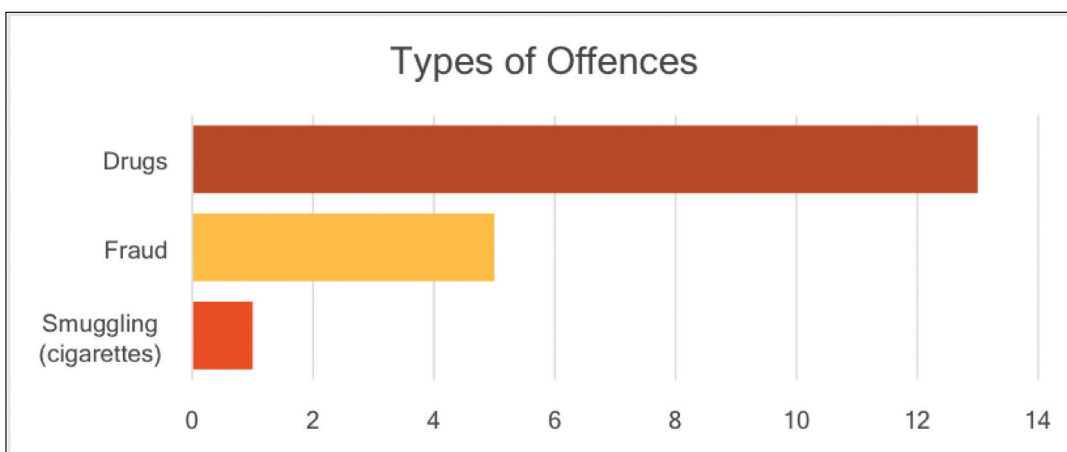
PART III – STATISTICS

The ARB made public a total of nineteen (19) new Freezing Orders as at end 2018. All Freezing orders were published in Government Gazette and on the FIAU Website.

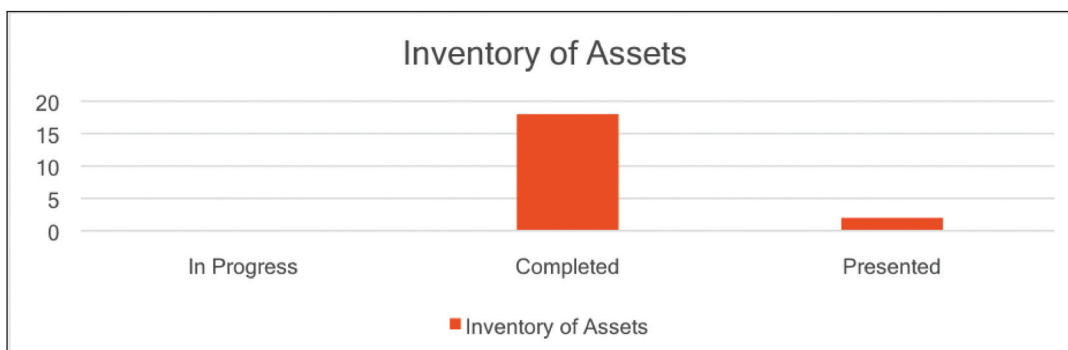
The following graphical illustration depicts the volume of new freezing orders made public per month from August until December 2018. On average there was the publication of one (1) new Freezing Order each week throughout this reporting period.



The most common offences related to drugs and fraud as seen hereunder:



The ARB also carried out tracing exercises for the compilation of inventories of assets for onwards submission to court. The number of inventories, in progress, drafted and compiled is being presented hereunder:



As per data above, in total there were 20 inventories carried out.

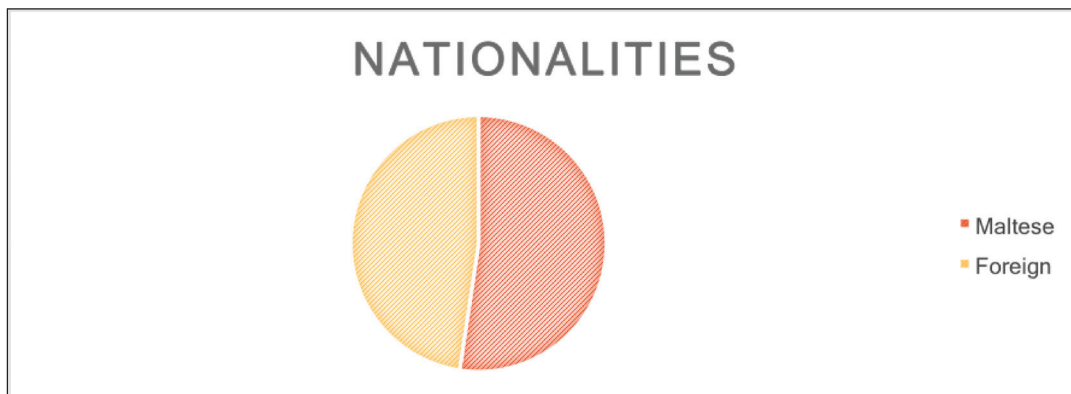
In 2018, two (2) cases were submitted to court and eighteen (18) cases were still awaiting presentation.

Lastly, since one of the cases included an aggregate of three individuals within the same order; three separate inventories were drawn up, as is being reproduced in the data shown above.

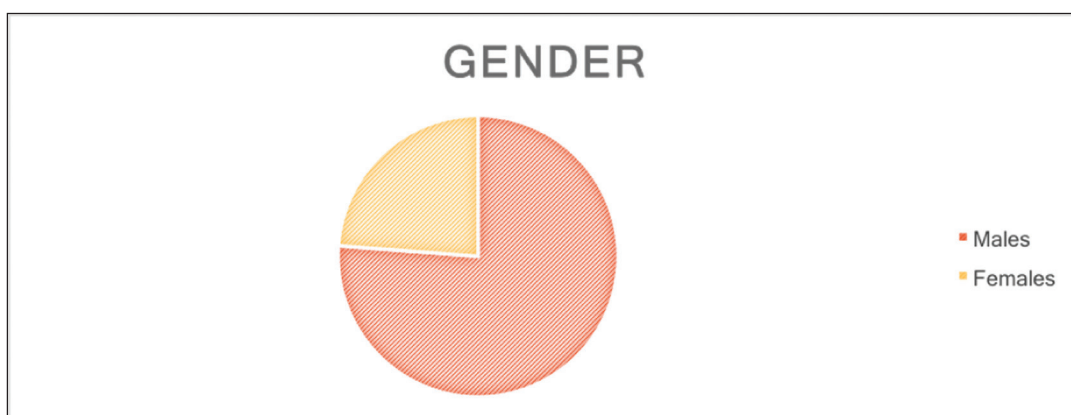
3.1 Investigated Persons

All cases processed by the ARB are following one or more investigated persons. These are identified through the ARB Regulations as any natural or legal person who is under investigation by the Executive Police, a foreign investigative authority or by the ARB itself and they are not required to have a previous conviction or any direct or indirect relation to a criminal offence.

In this regard, for 2018 there were twenty-one (21) individuals investigated comprising of nineteen (19) different cases. The nationalities for these individuals covered by the above-mentioned cases is distributed as eleven (11) Maltese nationals; and ten (10) foreign nationals, of which five (5) were Italian.



Moreover, as for the gender distribution over all the above-mentioned cases, the majority of the investigated persons were males (16) as opposed to females (5).



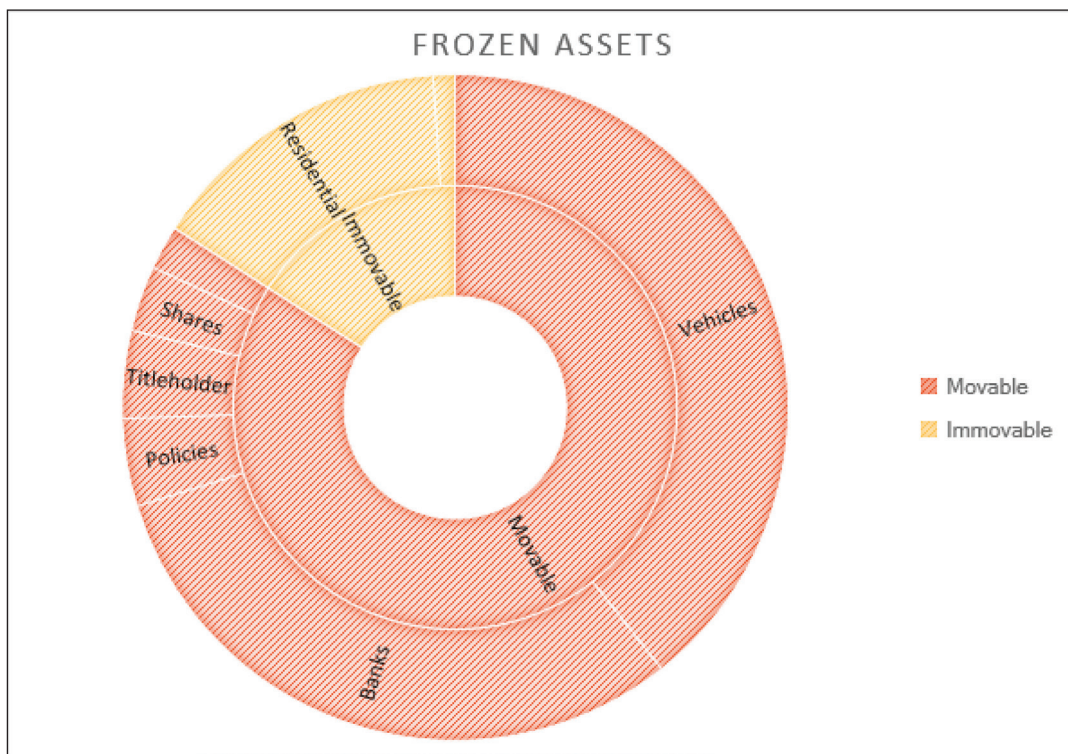
3.2 Frozen and Seized Assets

Court orders entrust ARB with the necessary authority required to carry out its tracing and identification of illicit assets and ascertain that any assets identified are no longer used by the accused.

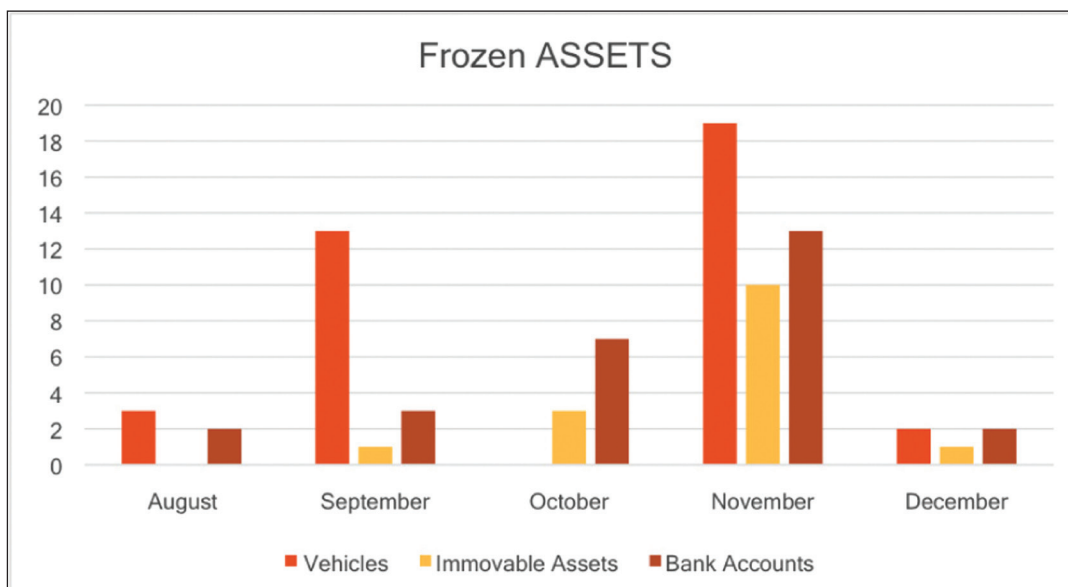
Throughout 2018, most of the assets frozen by the ARB were movable assets, making up 83% of all registered frozen assets. This category included bank accounts, vehicles, marine vessels, shares and bonds.

The remaining 17% were related to immovable assets, including both residential and non-residential types within this category.

Overall, the largest category of assets frozen by the ARB is that of vehicles, including marine and followed by bank accounts. This is illustrated in the graphical representation below.



Distribution of Frozen Assets per Month



3.3 Confiscated Assets

The submission of the inventory of assets, listing all the assets held by the accused, will assist the courts with the identification of assets held by the accused and will thus, enable the Courts to be in a better position to specify what assets need to be confiscated when delivering judgements. Following the final judgement, the ARB would then be in a position to initiate confiscation proceedings and dispose of the proceeds of crime in favour of the government.

During the year 2018 two final judgments were delivered, wherein both included an order of confiscation. In this regard, the ultimate result was of €2,760 and the confiscation of one vehicle. Although the confiscated monies were for cases managed by the ARB, the mentioned monies were recorded by the courts since the deposit was carried out on their end.

3.4 Assistance to and by Foreign Law Enforcement Agencies

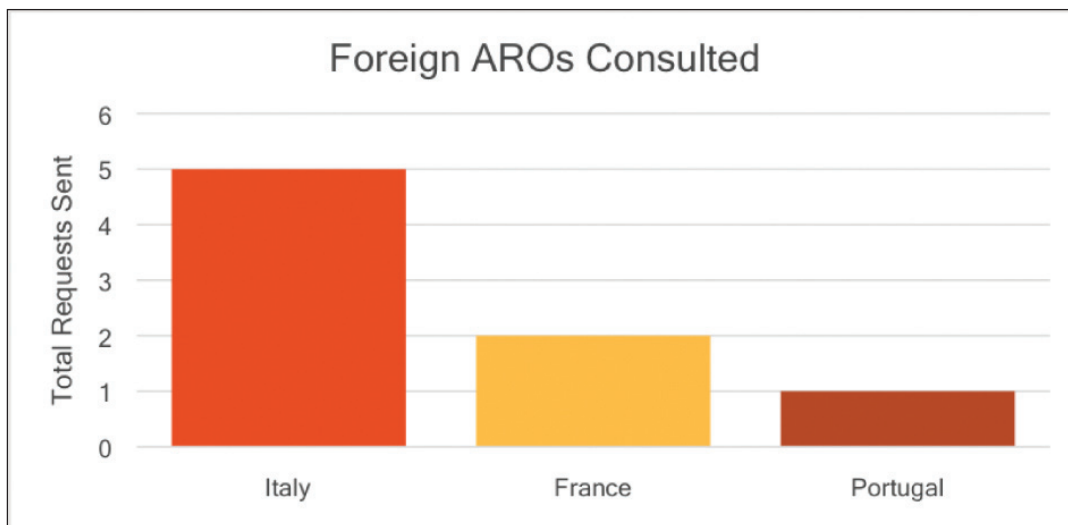
The ARB seeks to establish and maintain professional cooperation with equivalent institutions abroad and collaborate with them in such regulatory frameworks as are established by international treaties, conventions or statutes.

The ARB is also responsible for the handling of requests for assistance or for information from a foreign recognised ARO (asset recovery offices).

Given that 48% of the cases managed throughout 2018 were of foreign nationals, cross-border cooperation was vital to trace assets located in foreign jurisdictions.

The ARB has requested assistance from other foreign law enforcement agencies in order to collect data that is more comprehensive on the accused persons being investigated. As per data compiled up until the end of December 2018, eight (8)

foreign request for information has been sent to other AROs, as depicted in the below case study.



Case Study

A foreign national with no connection to Malta was arraigned in court, and the prosecution requested for the freezing of the assets. Given that the accused had no ties in Malta and preliminary assessment from the ARB indicated that same had no assets locally, assistance from foreign AROs was requested to identify assets held in other jurisdictions.

Foreign asset recovery offices on behalf of the Maltese asset recovery office, identified and located a number of assets in these foreign jurisdictions, following which the process for the freezing of these assets was initiated. The case is still sub-judice in the time of writing of this report.

Nonetheless, it shall be noted that during 2018 the ARB did not receive any requests for assistance from any asset recovery offices or other third country law enforcement agencies.

PART IV: PARTICIPATION AT EU & INTERNATIONAL LEVEL

4.1. The International Perspective

As a front line agency in the fight against crime, the ARB's capacity to monitor and implement international commitments was reviewed on the 28th and the 29th of November 2018, during the UNCAC Country Review in Malta. The ARB was invited to discuss Chapter II and Chapter V of the United Nations Convention against Corruption. The reviewers asked for hands on examples on how the above Chapters were being implemented in Malta and took note of the progress made by Malta with the establishment of the ARB and its functions, notably the cross border cooperation with other asset recovery offices.

Furthermore, ARB was actively involved with the preparations of technical feedback in view of the 5th Moneyval Review for Malta, in particular on recommendation thirty-eight (38) relating to mutual legal assistance, together with the freezing and confiscation regime.

4.2 The CARIN Network Group

ARB joined Carin (Camden Asset Recovery Inter-Agency Network) in 2018 which enabled it to discuss and exchange good practices with other law enforcement and judicial practitioners in the field of asset tracing, freezing, seizure and confiscation. The ARB's Director and a representative from the Malta Police Force attended the CARIN Annual General Meeting held in Warsaw, Poland. Certain recommendations⁴ were adopted to enhance cooperation with jurisdictions outside of the Asset Recovery Networks and to make use of better asset recovery techniques to identify various kinds of criminal offences.

4 <https://www.carin.network/documents>

4.3 The ARO Platform⁵

ARB became an active member of the ARO platform, as initiated by the European Commission and Europol, and participated in all plenary sessions set in June and November 2018. In this platform, ARB takes note of EU Legislation in relation to asset recovery. This platform also serves as a one-stop shop



for all EU AROs to exchange ideas and discuss common difficulties encountered during the day-to-day operations.

ARB has also contributed to the development of a common EU ARO website⁶ that serves as an online platform for information to the public and for AROs to facilitate communication amongst them.

⁵ Council Decision 2007/845/JHA
⁶ www.assetrecoveryoffice.eu

PART V: INITIATIVES

5.1 Meetings

ARB held various introductory meetings with different stakeholders involved in its operations. Preliminary meetings were held with the courts, specifically the Registrar of the Courts of Criminal Jurisdiction (Malta), to establish a standard *modus operandi* between the two institutions and the distribution of new cases.

Other Governmental departments and entities were similarly contacted allowing both bodies to reach agreements on the level of data sharing required for the ARB to conduct its operations and due diligence.

Throughout these meetings the ARB introduced its new functions and responsibilities, together with the new strategy implemented with the intention of improving the data collection and asset tracing procedures. These requirements were examined in consideration with the different information which could be accessible through the various stakeholders and as a result our requests were adjusted accordingly. The ARB also carried out informal information sessions to comprehend the current practices used by other agencies whilst carrying out their due diligence and investigatory exercises.

4.2 Memoranda of Understanding (MoUs)

The ARB signed its first MOU with Court (Malta & Gozo) wherein both parties agreed upon the communication channels to be used, the workflow process to be applied between them as well as the type of assistance to be provided between the two parties.

Consultations with other competent authorities was underway on the importance of sharing of information and exchange of expertise.

Asset Recovery Bureau
Income Statement
for the year ended 31st December 2018

	€
Income	
Government Subvention (note 3)	208,277
	<hr/>
Expenditure	
Personal Emoluments (note 4)	152,373
Administrative and other expenses (note 5)	55,904
	<hr/>
Total Comprehensive Surplus / (Deficit) for the year	<hr/> NIL

NOTES TO THE FINANCIAL STATEMENTS

1 Legal Status

Established under Legal Notice 357 of 2015, as an independent Public Entity falling under the remit of the Ministry for Justice, Culture and Local Government (MJCL), the ARB is entrusted with the proper tracing and efficient management of proceeds of crime which have been seized, frozen or confiscated in terms of law and the value of which is disposed in favour of the Government.

The Asset Recovery Bureau is governed by a Board led by a Chairperson responsible for policy making, and a Directorate headed by a Director, responsible for the execution of policy.

The Bureau commenced its operations on the 20th of August 2018 with the coming into effect of the ARB regulations through Legal Notices 283 and 284 of the same year; thereby managing all new cases referred for freezing and confiscation.

2 Basis of Preparation

An audit was conducted by NAO in line with generally accepted auditing standards. Audit procedures were planned and performed in order to obtain reasonable assurance on whether internal control structure at the ARB is adequate.

Testing was primarily directed towards ensuring that adequate controls are being exercised by ARB over its expenditure which, during 2018, mainly entailed personal emoluments, rent and travel expenses. A detailed reconciliation was also carried out between the amounts as inputted in the Departmental Accounting System (DAS) against underlying figures as included in the ARB's nominal ledger for the financial year ending 31st December 2018.

3 Income **2018**
€

Government Subvention 208,277

4 Personal Emoluments

Board Remuneration 39,000

Wages and Salaries 113,373

152,373

Schedule

5 Administrative and other expenses

2018

€

Utilities 2,494

Materials and Supplies 818

Repair and Upkeep 450

Rent 24,000

Office Services 2,077

Transport costs 912

Travelling costs 13,775

Information Services 1,011

Contractual Services 751

Training Expenses 721

Hospitality 312

Incidental Expenditure 20

Equipment 8,563

55,904

REPORT OF THE AUDITOR GENERAL

To the Asset Recovery Bureau

Report on the Statement of Account

We have audited the accompanying Statement of Account of the Asset Recovery Bureau (ARB) which comprises a summary of the cash transactions effected during the year ending 31 December 2018.

Respective Responsibilities of the Asset Recovery Bureau

As determined by the ARB Regulations (Subsidiary Legislation 9.23), the Bureau is responsible for maintaining proper books of account in such a manner as the Minister may, from time to time, direct and for instituting internal controls to enable the preparation of annual accounts to be free from material misstatement, whether due to fraud or error. Such accounts shall be audited by auditors appointed by the Board with the concurrence of the Minister from among persons qualified to be appointed as auditors of a company under the law for the time being in force in Malta, as if the Bureau were such a company, and shall moreover be subject to audit by the Auditor General.

Auditor's Responsibility

The National Audit Office's (NAO) responsibility was to obtain reasonable assurance¹ as to whether the Statement of Account as presented by the ARB for audit purposes was free from material misstatement, whether due to fraud or error, in line with International Standards on Auditing (ISAs).

¹ Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in line with ISAs will always detect a material misstatement when it exists.

Basis for Opinion

We conducted our audit in accordance with the relevant ISAs, the applicable public perspective provisions, and in line with the NAO's auditing practices. An audit of a statement of account involves performing procedures to enhance the degree of confidence that intended users have in the statement under review.

The procedures selected depend on our professional judgement as well as professional scepticism, which entails the assessment of risk, evaluation of internal controls, consideration of sensitivity of particular areas and other qualitative factors, as well as the assessment of materiality in terms of value, nature or context in which it occurs.

We have complied with independence requirements in accordance with the International Standard of Supreme Audit Institutions (ISSAI) 30 'Code of Ethics' and the NAO 'Code of Professional Conduct' and have fulfilled our ethical responsibilities in accordance with such codes. We have also adhered to avoidance of conflict of interest regulations as stipulated by Article 108(3c) of the Constitution of Malta and fulfilled the independence requirement in accordance with Article 108(12) of the aforementioned constitution.

We believe that the audit evidence we have obtained is sufficient and appropriate to form a basis for our audit opinion, which only draws conclusions upon areas that have been examined.

Opinion

Clean Opinion

In our opinion, the Statement of Account presented for audit purposes gives a true and fair view of the cash transactions effected by the ARB during the year ending 31 December 2018.

Issues of a compliance nature, requiring Management's attention, are being reported separately further down in this report.

A handwritten signature in blue ink, appearing to read 'C. Deguara', with a long horizontal stroke extending to the right.

C. Deguara

Auditor General

24 April 2019

On behalf of the Asset Recovery Bureau, the Director ARB would like to express his appreciation to the personal commitment and dedication of all Bureau Officers serving at the ARB Directorate.

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Floriana, Malta.

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Enquiries relating to this report should be addressed to:

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