 <p>17th St. &amp; Constitution Avenue N.W. Washington, D.C. 20006 Estados Unidos de América</p> <p><b>Organización de los Estados Americanos</b></p> <p>T. 202.458.3000 <a href="http://www.oas.org">www.oas.org</a></p>	<p><b>COMISION INTERAMERICANA PARA EL CONTROL DEL ABUSO DE DROGAS</b></p> <p><b>CICAD</b></p>
Secretaría de Seguridad Multidimensional	
<p><b>XLI MEETING OF THE GROUP OF EXPERTS FOR THE CONTROL OF MONEY LAUNDERING</b> <b>OCTOBER 1-2, 2015</b> <b>LIMA, PERU</b></p>	<p><b>OEA/Ser.L/XIV.4.41</b> <b>CICAD/LAVEX/doc.15/15</b> <b>30 setiembre 2015</b> <b>Original: Español</b></p>
<p><b>THE ANALYSIS OF THE APPLICATION AND EFFECTIVENESS OF MODERN JUDICIAL INSTRUMENTS FOR THE DISPOSAL OF SEIZED AND FORFEITED ASSETS</b></p>	

# The Analysis of the Application and Effectiveness of Modern Judicial Instruments for the Disposal of Seized and Forfeited Assets

The BIDL Project Subgroup on Forfeiture and International  
Cooperation



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## Objective

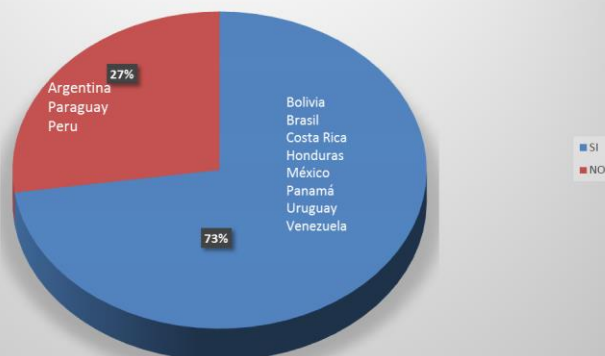
Identifying those countries which count with modern judicial instruments for the disposal of assets, to the end of analyzing the factual prepositions of their application, and measuring their efficiency and the problems associated with their effective application.

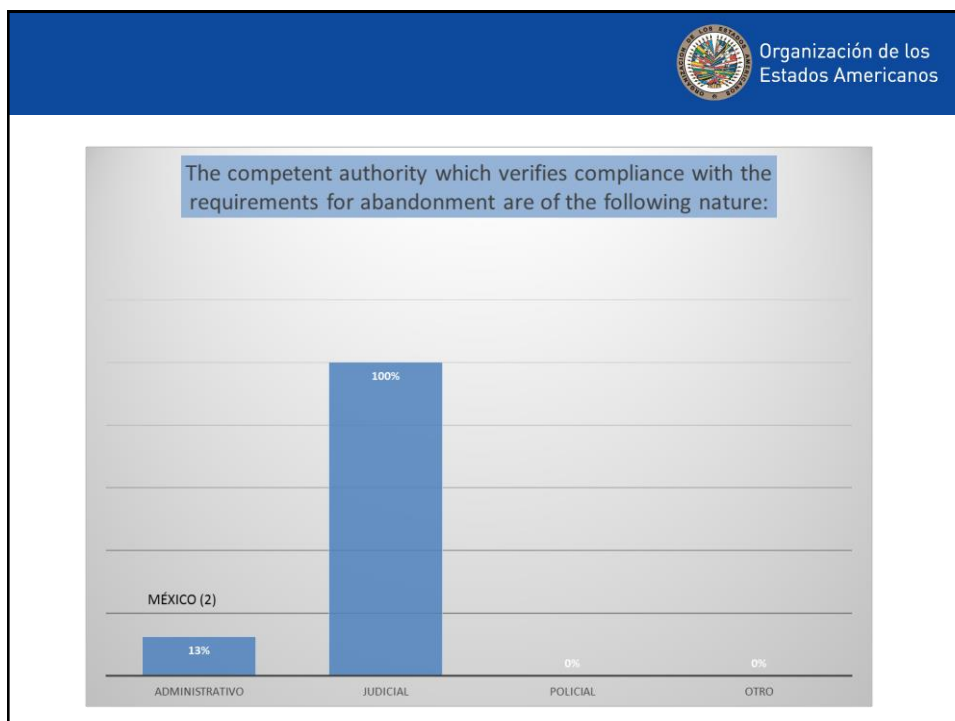
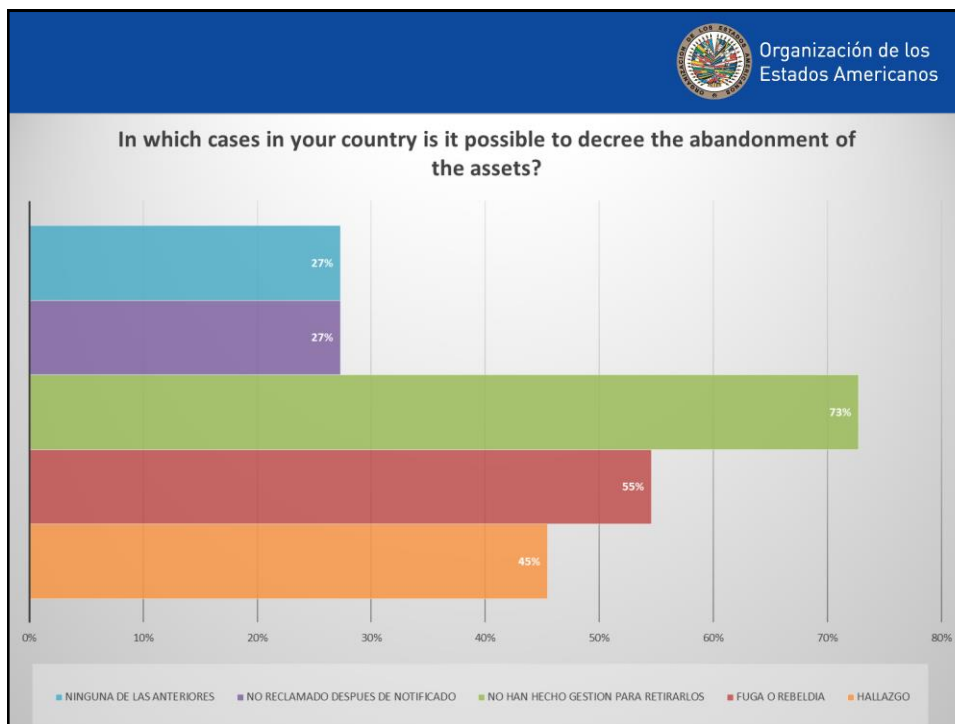
The study on the applicability and effectiveness of these modern instruments will provide the analysis for those countries which find themselves in the process of developing their internal proceedings to count with a reference document for the creation and improvement of internal proceedings for their effective application.



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The internal judicial order observes the figure for abandonment

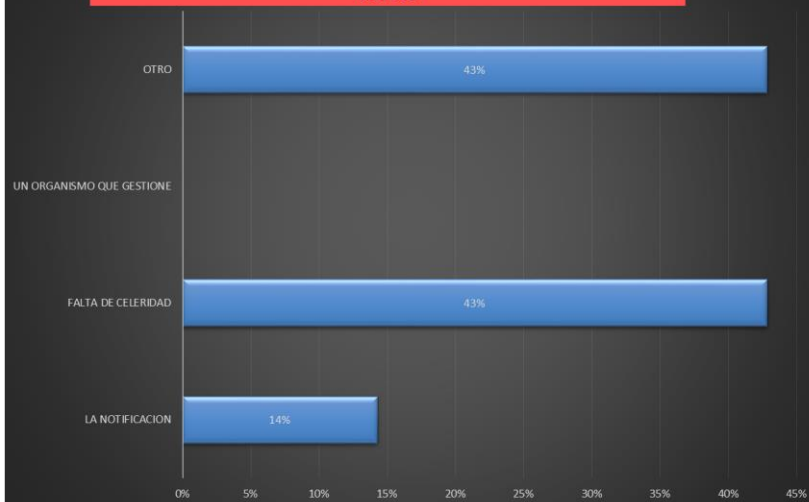






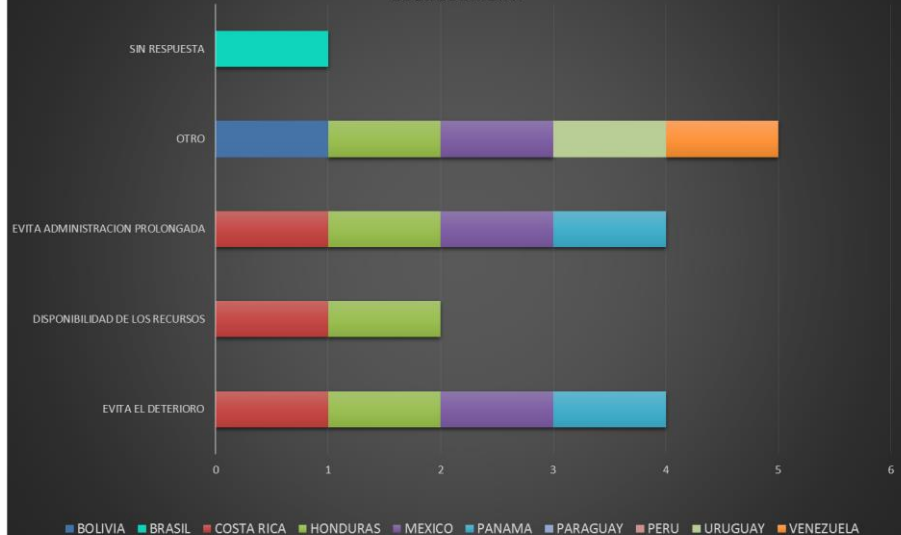
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### Difficulties associated with declaring the abandonment of assets



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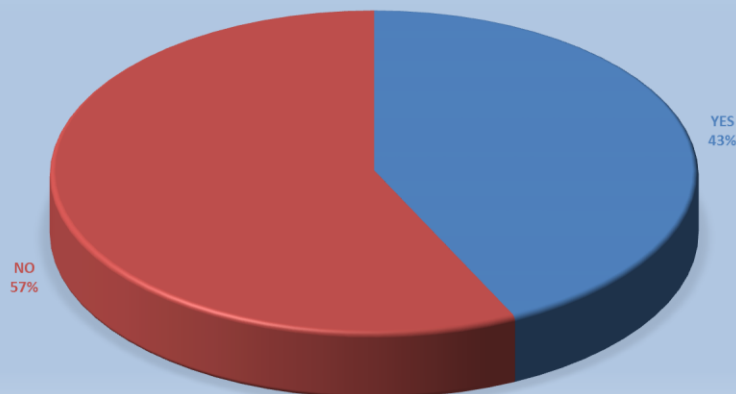
### Which have been the benefits of including into your legislation the figure for abandonment?





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CAN YOU QUANTIFY THE CASES IN YOUR COUNTRY WHICH HAVE APPLIED  
THE FIGURE FOR ABANDONMENT?



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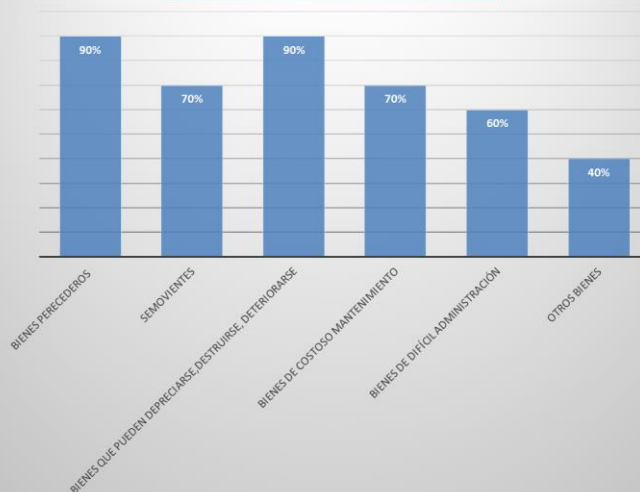
### ADVANCED SALE





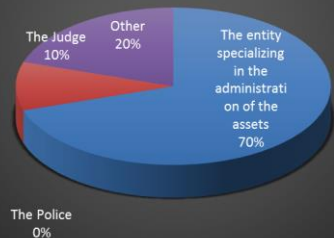
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Cases which Merit Advanced Sale

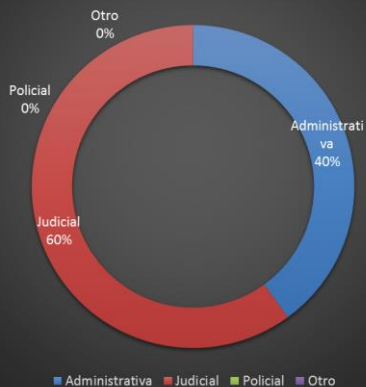


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The competent authority which manages or handles the authorization of the advanced sale is:



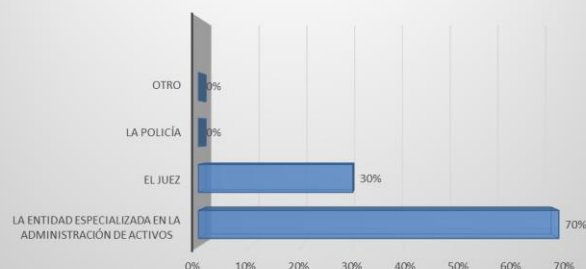
Tipo de autoridad competente que verifica el cumplimiento de los supuestos y autoriza la venta anticipada





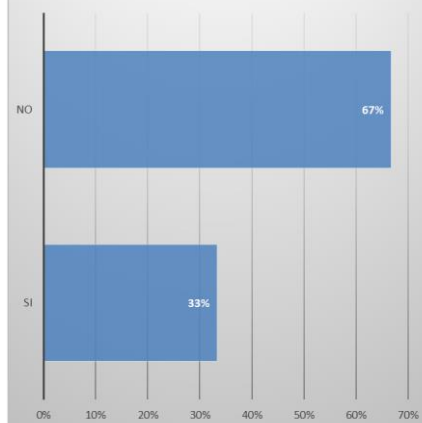
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Which authority carries out the process of advanced sale?

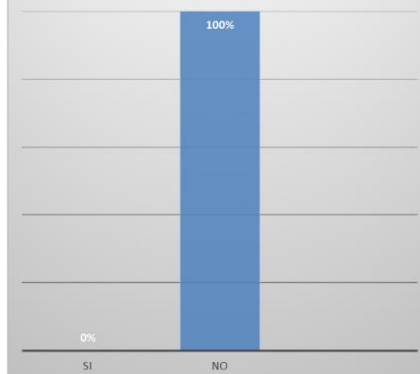


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Is the owner or affected party notified of the advanced sale of the assets?



Es necesario el consentimiento del afectado para proceder a la venta anticipada?

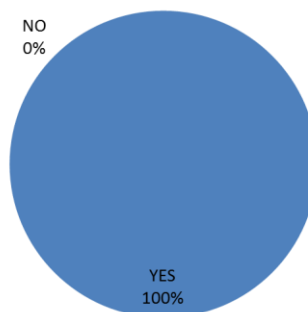
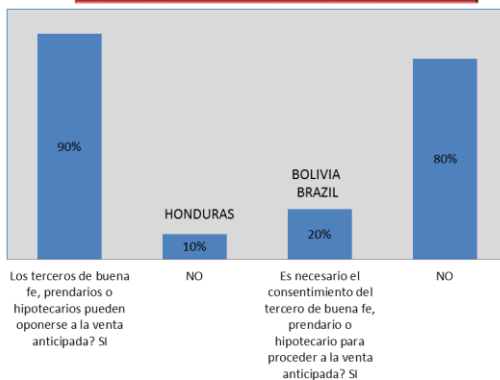




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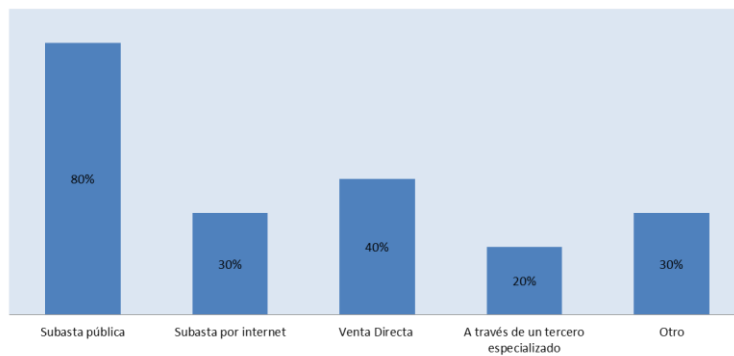
### Bona Fide third parties, credit lenders, and mortgage lenders

Can mortgages or loans be paid on  
seized goods subject to advanced sale?



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### How is the advanced sale carried out?



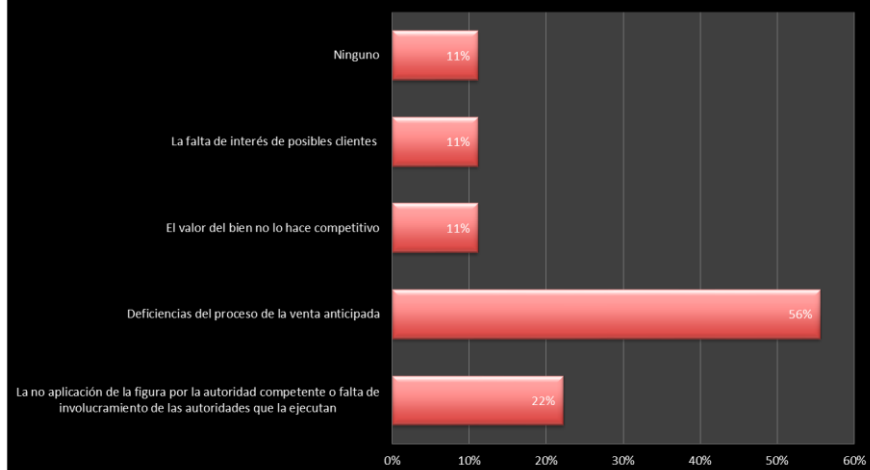
Destination of the  
proceeds





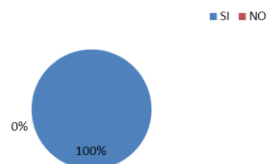
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### Which Specific problems can be identified with the process of advanced sale?

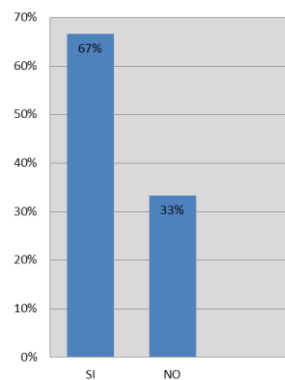


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Has the implementation of advanced sale contributed to the administration of seized assets?



Can you quantify the number of assets which have been sold in advanced in your country?



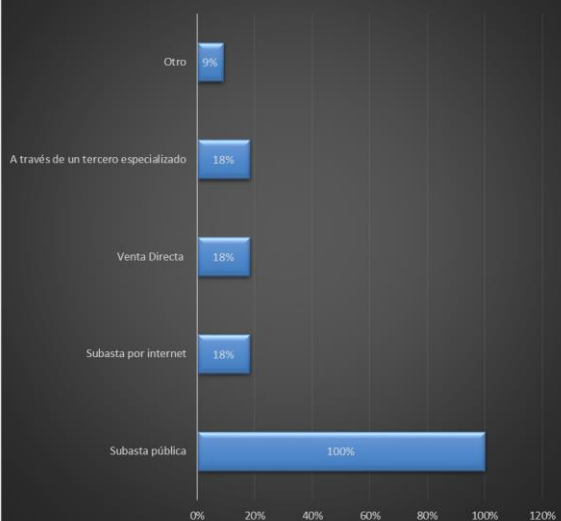


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### SALE OF FORFEITED ASSETS

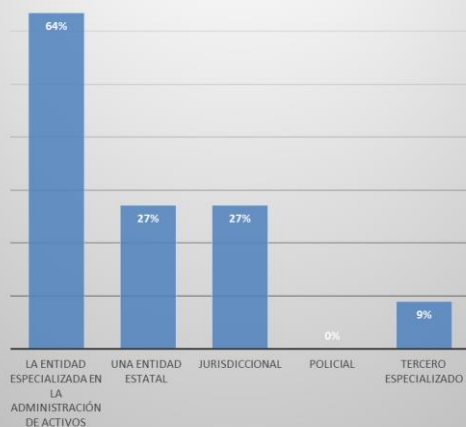


Which of the following proceedings is used  
for the sale of forfeited assets?

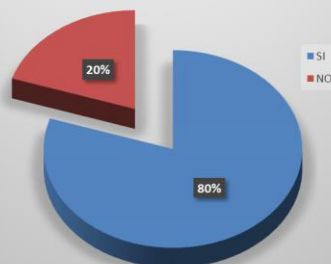


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Which authority carries out the sale of  
the forfeited assets?



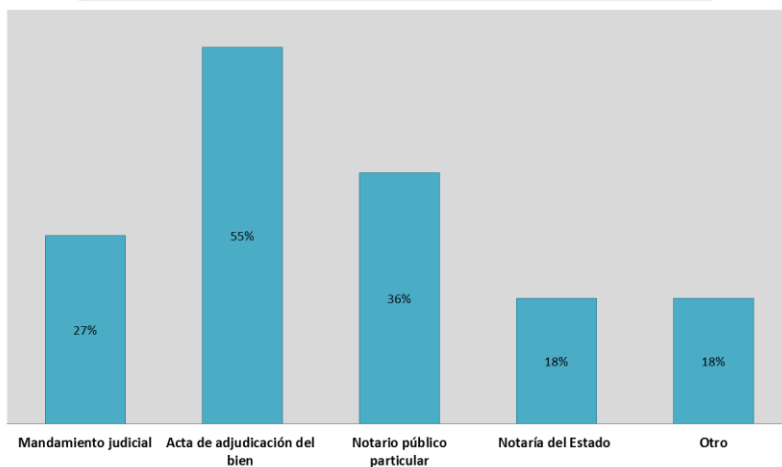
Can loans and mortgages over  
the property be paid off?





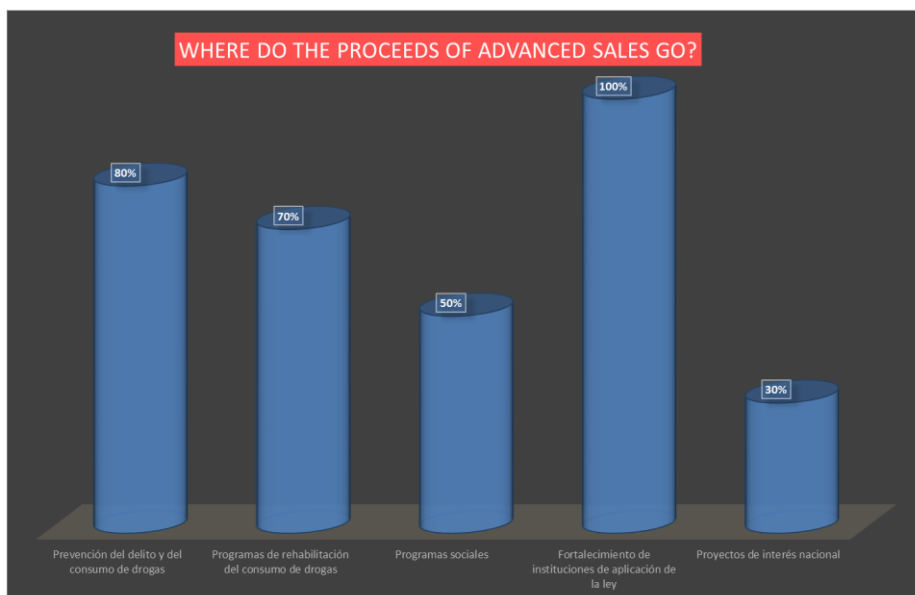
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Once the sale of the asset is carried out, how is the change in ownership registered?



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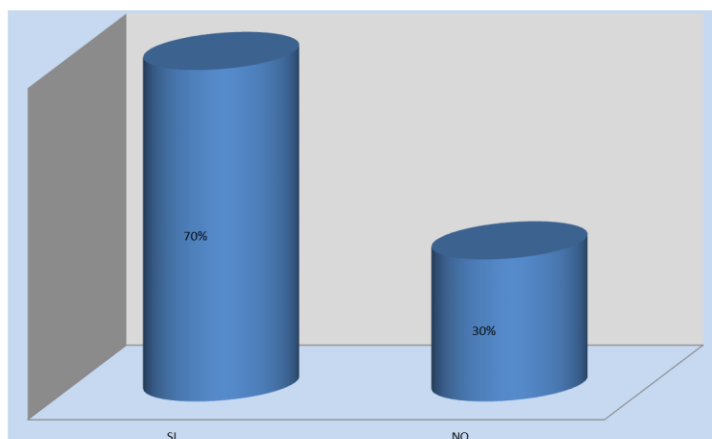
WHERE DO THE PROCEEDS OF ADVANCED SALES GO?





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Can you quantify the number of forfeited assets that  
have been sold in your country?



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## Conclusions

- The study on the applicability and effectiveness of these modern instruments has allowed us to reaffirm the need to count with said judicial figures within the internal judicial orders to the effect of giving efficiency and effectivity to the countries' systems of asset administration.
- The application of figures such as the abandonment and advanced sale of seized assets contribute a great deal to the optimization of the asset administration system, allowing for a reduction in administrative costs and in prolonged proceedings of the assets; in all, this avoids the deterioration of the assets. Even so the identification of diverse problems associated with the swiftness, notification, communication with third parties, and with the deficiencies of the very system, among other factors, prevent the effective application of said instruments.
- The disposal of forfeited assets through an entity specialized in the administration of seized and forfeited assets, the organism tasked with the process of public auction as the preferred form of sale for reasons of transparency and legality, appears to be the constant in the majority of the polled countries. The proceeds of the sales and the forfeited money appear to lead to the strengthening of law enforcement institutions in the countries, followed by the prevention of substance consumption, treatment programs, the rehabilitation of individuals suffering from corresponding drug dependency, and, to a lesser extent, to social programs and the national interest.
- We highlight the importance of the creation of an entity specialized in the administration of seized and forfeited assets that keeps track and controls the assets lent to its supervision. This organism can be the cornerstone upon which the application of these modern judicial instruments can be made more efficient and effective. It would be at the same time responsible for pushing and executing before the competent authorities the application of and adherence to such instruments, becoming an indispensable organism in the process of forfeiting and allocating assets.

# Thank You!!!

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