





EU LEGAL WORKFRAME

- 1. DM 2001/500/JAI on money laundering, asset freezing, seizing and forfeiting assets;
- 2. DM 2003/577/JAI on mutual recognition of attachment resolutions;
- 3. DM 2005/212/JAI on extension of forfeiture:
- 4. DM 2006/783/JAI on mutual recognition of seizing resolutions. (Ley 4/2010 23/2014)
- 5. Directive 2014/42/UE on attachment and seizure of instruments and proceeds of crime in the EU



Directive 2014/42/EU

ON ATTACHMENT AND SEIZURE OF INSTRUMENTS AND PROCEEDS OF CRIME IN THE EU

- Any asset although it has been transformed or converted, wholly or partially in another asset and it has been intermixed with other property legally acquired.
- Possibility final criminal judgment upon conviction to confiscate even in absentia proceedings.
- Forfeiture of not of assets associated with a particular crime, but also of additional assets that are proceeds of other crimes: extended forfeiture.



- The confiscation of property transferred to third parties is allowed.
- Adopting measures to ensure that assets seized preventively does not depreciate before final forfeiture.
- Offices specialized in the administration of seized assets with a view to possible forfeiture - Office of Recovery and Asset Management. (ORGA)



Organic Law 1/2015, modifies CP y LECr.

CP.- FORFEITURE.- art. 127 and following.

- Enhanced.- certain crimes, founded evidence
- Without conviction: in absentia
- Third bona fide parties and equivalent value: knowledge of illicit activity / hinder confiscation / free / lower transfer price.
- Evidence of prior criminal activity, 6 years (continuing offense, with 2 offenses)
- Presumption of assets illegally obtained on 6 previous years

Final Disposition 2 .- modification art 367 LECr

Final Disposition 4 – Mutual recognizing of third countries <u>Law 23/2014</u> Final Disposition 5.- Internal Procedures



SECRETARÍA DE ESTADO DE SEGURIDAD

Centro de Inteligencia contra el
Terrorismo y el Crimen Organizado
(CITCO)

INTERNATIONAL COOPERATION IB ASSET TRACKING AND RECOVERING

- _At European Level creation of AROs (Asset recovery Office) and AMOs (Asset management Office)
- In Latin America on the frame of GAFILAT it has been established the GAFILAT Asset Recovery Network RRAG (Argentina, Brazil, Bolivia, Colombia, Costa Rica, Cuba, Chile, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Uruguay and <u>SPAIN</u>)



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EU Asset Recovery Offices Source: The CARIN Network

- •Austrian EU presidency of the EU, supported by Belgium and Finland.
- •October 2002: Europol seminar on asset forfeiture
- •Professional police and the judiciary of 13 EU MS
- •Creating an informal network of experts = CARIN "Camden Asset Recovery Interagency Network"
- •Agency Network Camden Asset Recovery
- •Permanent Secretariat: Europol;
- •Permanent Observer of the Steering Group: Eurojust



Objectives of CARIN

Increase efficiency by working together to deprive criminals of their illicit profits.

To achieve its objective:

- · Network of contact points;
- · Proceeds of crime in an international environment;
- · Advisory Center in the fight against proceeds of crime;
- · Information exchange and best practices;
- Recommendations to the European Commission and the Council of the European Union.



Asset Recovery Offices of the EU Decision 2007/845 JAI: cooperation between AROs

- · Dec. 2007, inspired by CARIN
- Completes CARIN: legal base for information exchange
- · Objective: Creation / Designation of a ARO
 - Asset recovery office
 - National point of contact for forfeiture activities.
 - Enhanced cooperation to follow the illicit assets



ADDED VALUE

- UE Legal framework for CARIN informal network;
- Obligation to stablish an ARO
 - Possibility of the AROs / points of contact (Ex.: Judicial and Law Enforcement);
- Obligation to cooperation between AROs of different nature judicial – law enforcement;
- Obligation to exchange information and best practices;
- Legal Bases for the spontaneous exchange information.



Informal platform of AROs

Recommendation of the European Commission:

Periodic meetings of AROs:

- 11 meetings since January 2009 + 7 High Level Meetings
- Promotion of communication between contacts:
- Informal and formal information exchange previous to the official secure channels



SPAIN

Decision 2007/845/JAI - appointment of points of contact

- Obligation to stablish an ARO
 - Possibility of 2 AROs / points of contact
 (February 2009 General Secretariat Council):
- ✓ Judicial ARO: Special Narcotics Prosecutor
- ✓ Law Enforcement ARO: CITCO (Ministry of Interior)

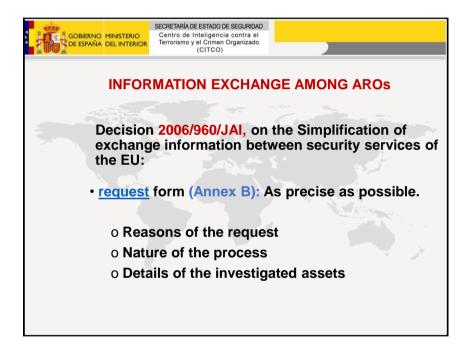


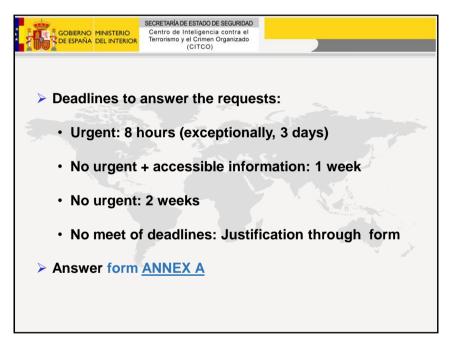
MATRIX: ARO POINTS OF CONTACT

· Appointment of contact points by the ME

(first informal platform meeting ARO- January 2009)

- · Creation of matrix with offices already constituted
 - > organisms, contact information,
 - > nature of the office,
 - > Information about sources.
- Periodic update







SECRETARÍA DE ESTADO DE SEGURIDAD Centro de Inteligencia contra el Terrorismo y el Crimen Organizado

INFORMATION EXCHANGE AT CITCO

CITCO distributes and assigns a Law Enforcement Agent

- 1. Request of information
- 2. Investigation Coordination System SCI Criteria
- 3. CNP / GC sends answer to CITCO
- 4. CITCO sends the information to the ARO that requested it



STATISTICS

Use of networks AROs / CARIN

- 2009, 117/46

- 2012, 340/6 - 2010, 245/28 - 2013, 377/3

- 2011, 311/9 - 2014, 396/ -

- · Majority of requests from United Kingdom, followed by The Netherlands, Belgic, France and Germany.
- · Offences: money laundering and drug trafficking.
- 2010.- Approximate value: € 25M
- 2011.- Approximate value: € 28M
- 2012.- Approximate value: € 56M
- 2013.- Approximate value: € 80M
- 2014.- Approximate value: € 53M

