



**TRANSPARENCY  
INTERNATIONAL  
ROMANIA**

***ASSET RECOVERY  
The Romanian Model***

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# *Legislation*

The Criminal Code of  
Romania

Code of Criminal Procedure

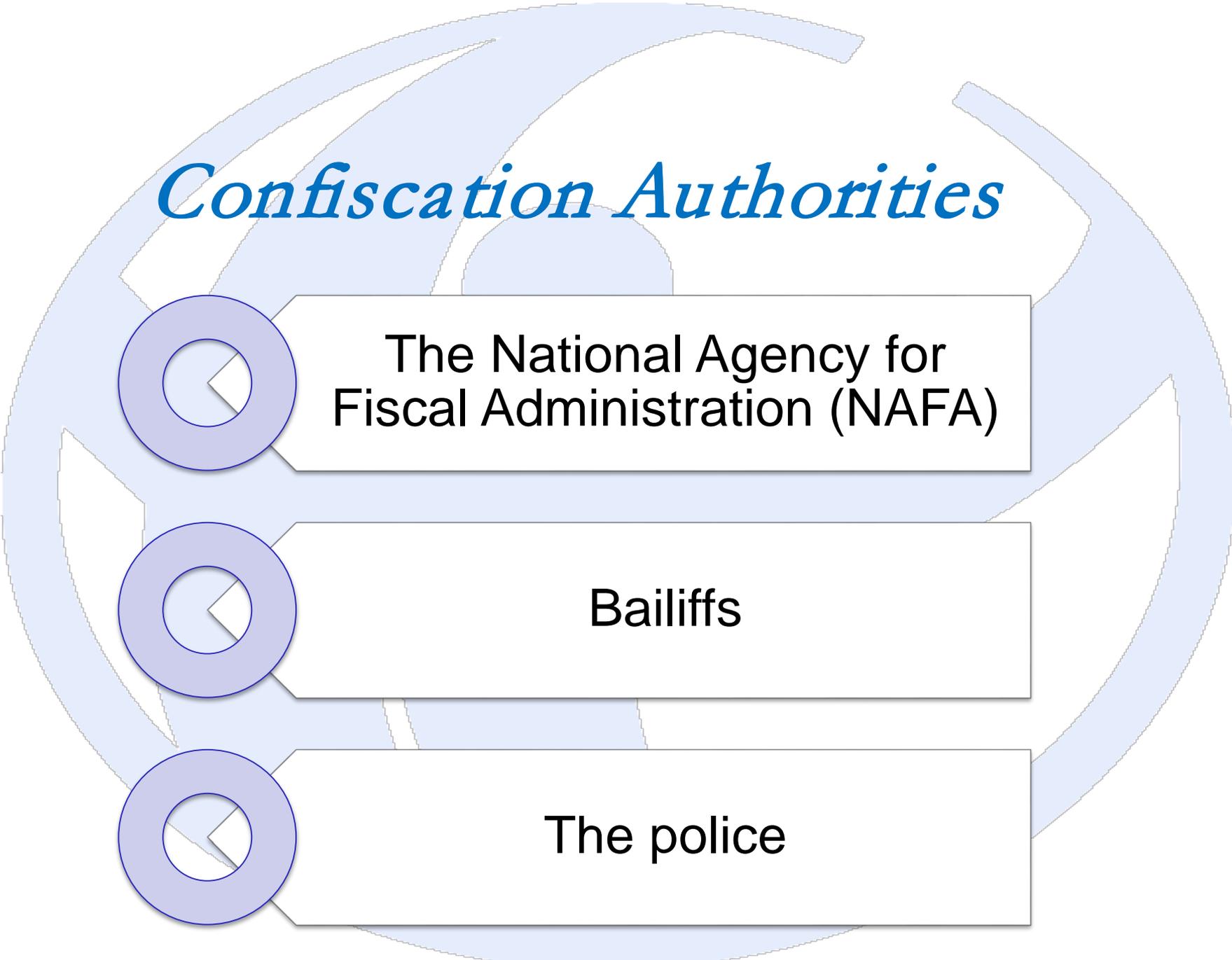
Government Ordinance no. 2/2001 on the legal framework of  
contraventions

Law no. 144/2007 on the establishment, organization and  
functioning of the National Integrity Agency

The Fiscal Procedure Code

Law no. 115/1996 for the declaration and control of assets of  
the officials, magistrates, of persons holding management and  
control positions and of public officials

# *Confiscation Authorities*

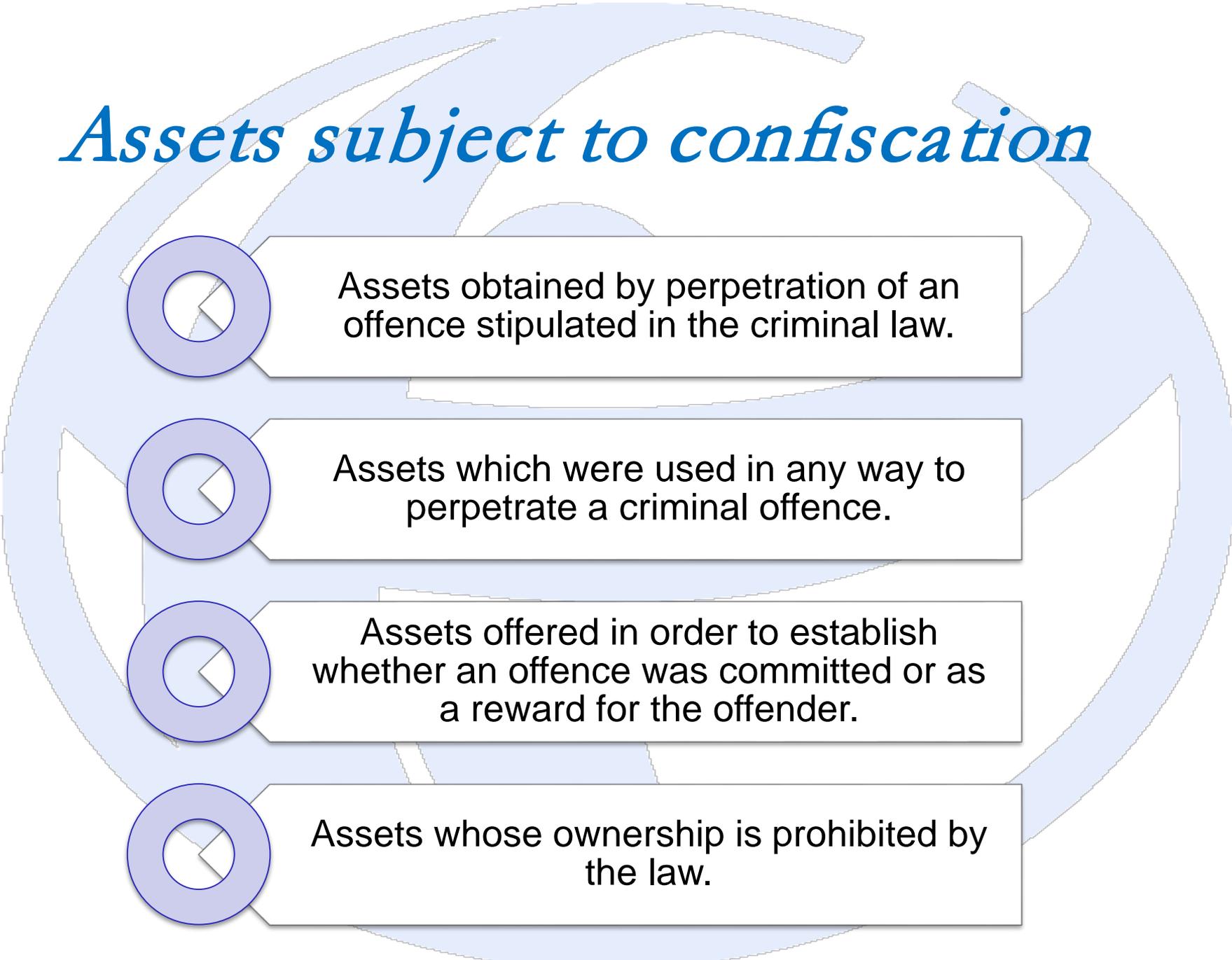


The National Agency for  
Fiscal Administration (NAFA)

Bailiffs

The police

# *Assets subject to confiscation*



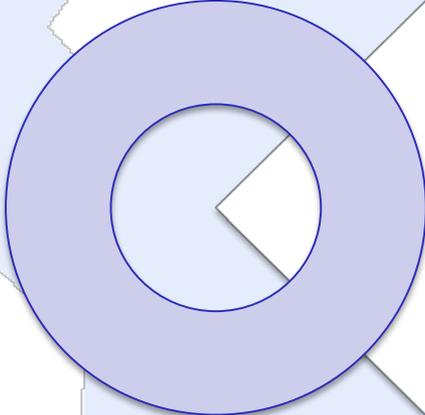
Assets obtained by perpetration of an offence stipulated in the criminal law.

Assets which were used in any way to perpetrate a criminal offence.

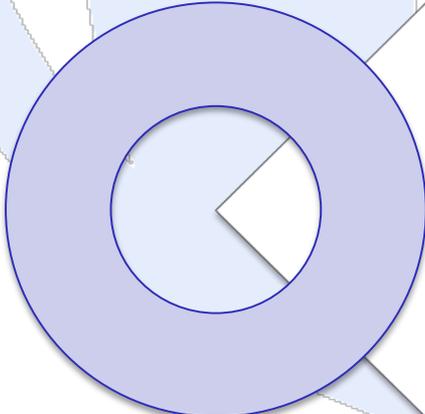
Assets offered in order to establish whether an offence was committed or as a reward for the offender.

Assets whose ownership is prohibited by the law.

# *Extended confiscation conditions*



The assessment of the amount of assets obtained during a period of 5 years before or after the offence was committed. If the amount noticeably exceeds the offender's lawful income, the competent bodies are authorized to take measures.



The court must be convinced that the assets resulted from the perpetration of the types of criminal offenses that confiscation applies to.

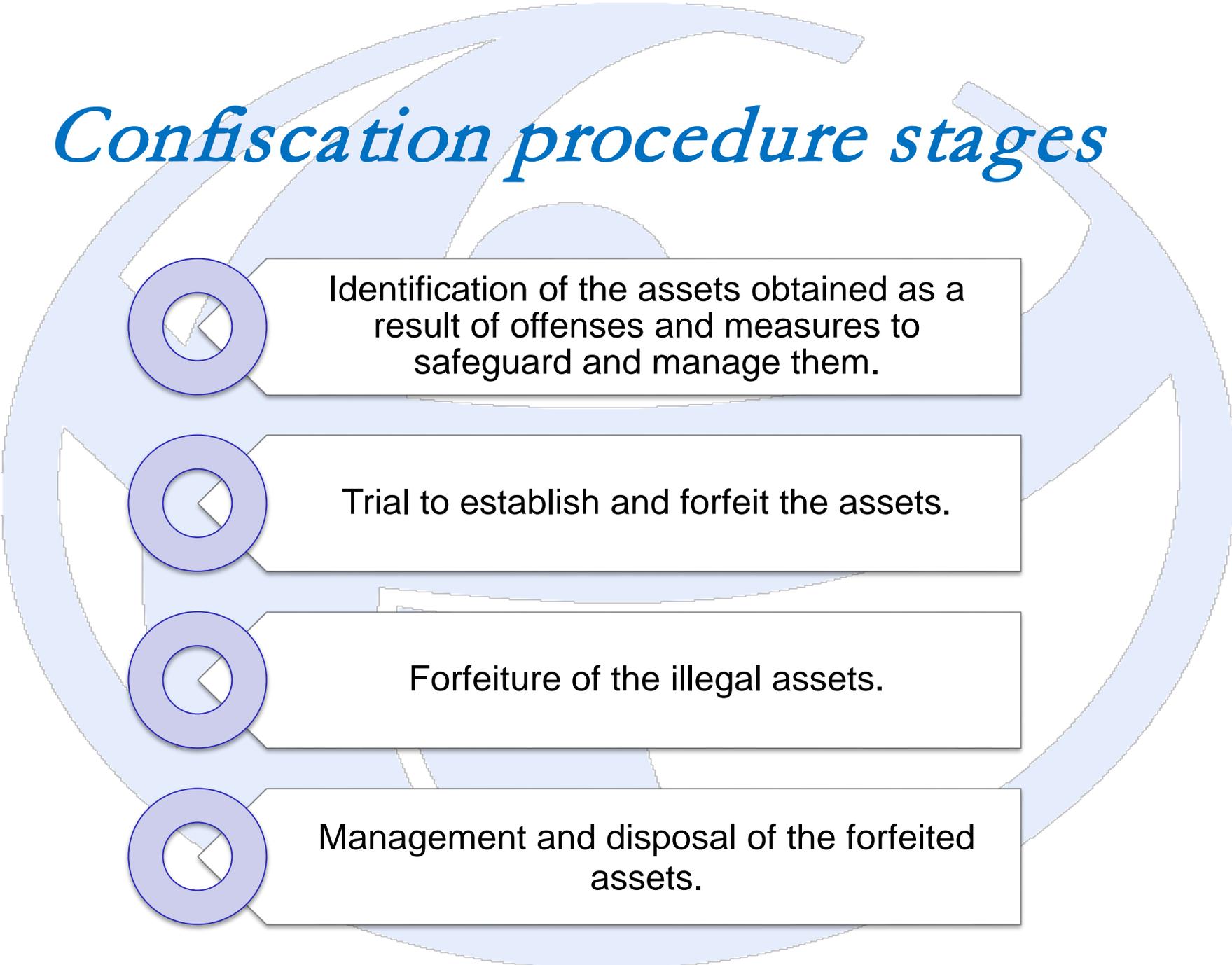
# *Persons subject to the confiscation procedure*

The convicted offender, a person upon whom a sanction for contraventions is enforced and persons who fall under Law no. 144/2007 on the establishment, organization and functioning of the National Integrity Agency.

Another person (third party) if:

1. They were aware of the unlawful origins of the asset.
2. They were aware of the purpose of the assets subject to confiscation (i.e. committing an offence).
3. The production, modification or adaptation of the asset subject to confiscation was performed by the owner or by the offender with the owner's knowledge.

# *Confiscation procedure stages*



Identification of the assets obtained as a result of offenses and measures to safeguard and manage them.

Trial to establish and forfeit the assets.

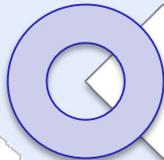
Forfeiture of the illegal assets.

Management and disposal of the forfeited assets.

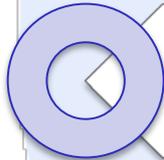
# *Non-Conviction based Confiscation Procedure Stages*



Assessing wealth statements, data, information regarding wealth, patrimonial changes.



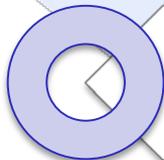
Identification of a difference which exceeds 10,000 EUR between the wealth obtained and the earned revenues.



Refer the matter to the Asset Investigation Committee attached to the Court of Appeal.



Asset Investigation Committee investigate the matter and decide referring the case to the Court of Appeal, classifying the cause or suspending it if there is evidence of a criminal act.

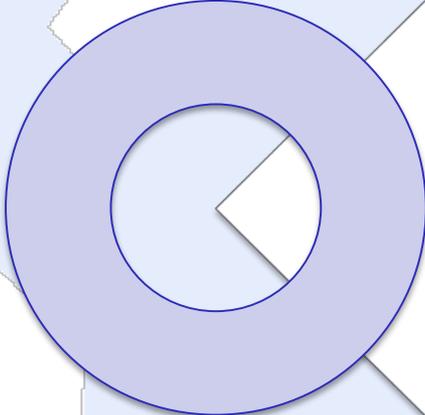


The Competent Court may issue an order to confiscate the assets or the part of the assets which were unjustifiably obtained, while enforcing the complementary prohibition to exercise any public office or dignity except for the elective ones for a period of 3 years.

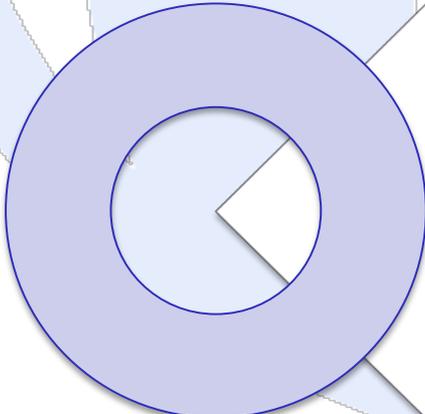
# *Management of Assets*

The criminal prosecution authority/the court is entitled (via a writ, or an injunction respectively), to order the immediate capitalization of the attached assets upon request from the owner of the assets or with their consent even before a conviction is delivered.

# *Management of Assets*

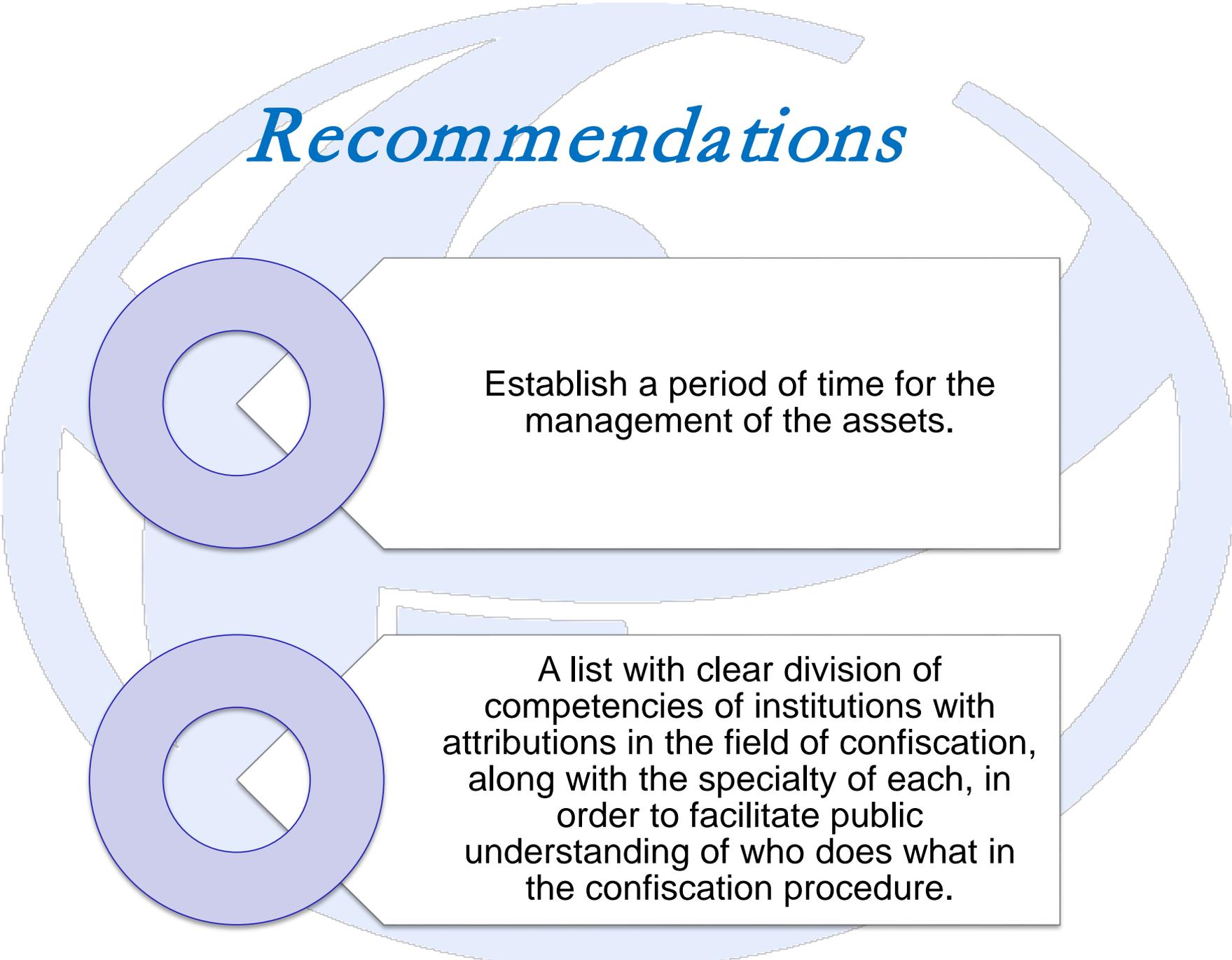


In the case of some assets, if there is no agreement on the part of the owner, the assets may be capitalized prior to the injunction being delivered only provided that their value has decreased with at least 40% compared to the value they had at the time the attachment was instituted



The amounts obtained following the capitalization of the assets are registered on the name of the accused or of the person liable in accordance with the civil law on a special account at the disposal of the judicial authority which enforced the attachment.

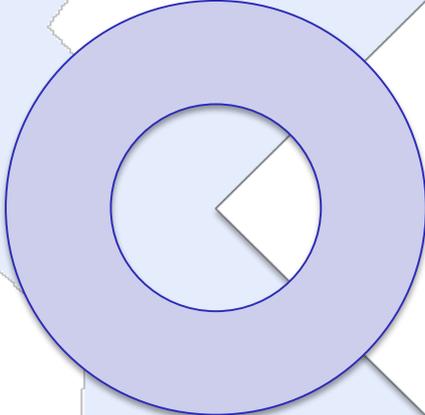
# *Recommendations*



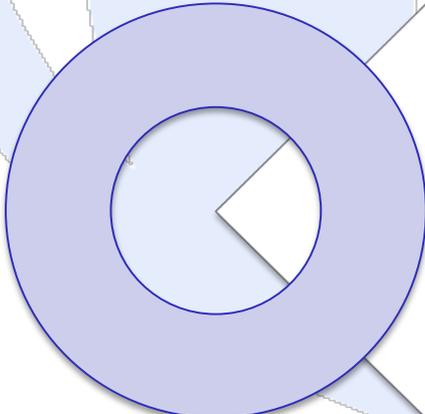
Establish a period of time for the management of the assets.

A list with clear division of competencies of institutions with attributions in the field of confiscation, along with the specialty of each, in order to facilitate public understanding of who does what in the confiscation procedure.

# *New Developments*



The Government has initiated a legislative proposal to establish a new authority in this area, a proposal written according to recommendations received from French, Dutch and American experts. Thus, the National Office of Management of Seized/Confiscated Assets will be established and accumulates different roles regarding the maintenance of clear records of seized and confiscated assets, and exploitation of certain categories of goods until the final decision is given.



The National Agency for Fiscal Administration has been addressed an Emergency Ordinance on the 15<sup>th</sup> of April 2015 stating that all confiscated real estate property, which becomes state propriety, can be transferred to the state's public administration and central authorities, and also to other public institutions of national interest, autonomous administrations as beneficiaries of this Ordinance. The proposal affects the regulatory framework of the institution by granting it more powers to deal with seized assets.