



The Mandate of an Effective Asset Management Office



The Mandate of an Effective Asset Management Office¹



BAMIN
БАМИН

Balkan Asset Management
Interagency Network

¹ For the purpose of this document, the term **Asset Management Office (AMO)** refers to either asset management offices located within an existing law enforcement agency or responsible ministry, asset management offices located within public service entities with additional property management-related functions, or self-standing asset management offices.

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Introduction

This document is the result of discussions between government asset management practitioners of the Balkan Asset Management Interagency Network (BAMIN)² network. It originates from the following recommendation made by the BAMIN members during the BAMIN Annual General Meeting held in 2021:

- BAMIN agrees that the mandate of an effective Asset Management Office or Department should be clarified and documented. International standards suggest that jurisdictions should establish centralised offices, specialised offices, or equivalent mechanisms to ensure adequate management of sequestered assets³, however suggested legal and procedural functions of an Asset Management Office have not yet been recorded. BAMIN will collect the documented mandates of those asset management offices that have this already with a view to producing a *guide on the mandate of an effective asset management office*.

² **The Balkan Asset Management Inter-Agency Network (BAMIN)** is an informal network of contacts and a cooperative group in all aspects of managing the proceeds of crime. The aim of BAMIN is to enhance the effectiveness of efforts in managing and eventually selling, returning or otherwise disposing of confiscated criminal benefits. The following 19 jurisdictions form the members and observers of BAMIN Albania, Belgium, Bosnia Herzegovina, Bulgaria, Croatia, Georgia, Ireland, Israel, Jersey, Kosovo, Republic of North Macedonia, Moldova, Montenegro, Romania, Slovenia, Ukraine, United Kingdom, United States of America.

³ **EU Directive 2014, article 10, 1:** Member States shall take the necessary measures, for example by establishing centralised offices, a set of specialised offices or equivalent mechanisms, to ensure the adequate management of property frozen with a view to possible subsequent confiscation

A number of international guidance papers exist elaborating what an effective asset management *system* should look like⁴, however, to date a short concise list of the mandate of an Asset Management Office or Department has not been compiled. The European Union has taken the first steps by including 4 ‘tasks’ of an Asset Management Office (hereafter referred to as AMO) in the recent Proposed Directive on Asset Recovery and Asset Management (Chapter IV)⁵. Drawing on the views and experiences of BAMIN members, this document provides a comprehensive guide to the mandate of an effective national asset management office or department.

During the BAMIN AGM 2022, BAMIN asset management practitioners discussed in detail the functions of an AMO. Discussions took place in a number of workshops, led by experienced workshop facilitators who are partitioners from the region directly involved in asset management. Asset Managers discussed the following points:

1. **What is the overall aim of an AMO or Department?**
2. **What tasks does it perform to meet its aims and objectives?** For example:
 - a. Pre-seizure planning
 - b. Physical seizure
 - c. Transport

⁴ For example **The UNODC Revised Draft Non-Binding Guidelines on the management of frozen, seized and confiscated assets**

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/12-14November2018/V1807476e.pdf>

⁵ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on asset recovery and confiscation

COM/2022/245 final <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2022:245:FIN>

- d. Inspection and valuation
- e. Maintenance
- f. Storage
- g. disposal: sale and destruction
- h. Re-use
- i. Guiding national laws and practice in asset management

3. What is essential for an AMO to allow it to function effectively?

The results from these discussions formed the basis of a list outlining the mandate of an effective BAMIN AMO. The list was further reviewed and refined by BAMIN members to produce the final mandate document. The document is intended to be used by BAMIN members when developing their own AMO capabilities.

The AMO Effectiveness Indicators

The EU has provided a list of 11 effectiveness indicators for an Asset Recovery Office (ARO). This list has greatly assisted jurisdictions worldwide in establishing their own AROs. BAMIN agreed that a similar list aimed at AMOs would be a useful tool for BAMIN members aiming to develop their own AMO capabilities. The Mandate of an Effective Asset Management Office document therefore also includes useful *effectiveness indicators* for BAMIN members to use as a measure of their own levels of effectiveness. These indicators are based on the outcomes of BAMIN workshop discussions and based on the agreed aim and responsibilities of an effective AMO.

The Mandate of an Effective Asset Management Office⁶

1. The Aim of an Asset Management Office (AMO)

The aim of an AMO is to preserve and maintain the value of an asset whilst under the control of government authorities, either on behalf of the State, the victim or victims of crime or the asset owner.

Effectiveness indicator 1: Ability of the AMO to preserve and maintain the value of an asset whilst under the control of government authorities, either on behalf of the State, the victim or victims of crime or the asset owner.

2. Responsibilities of an AMO

2.1. Guiding national laws and practice in asset management

The AMO performs a leading role at national and international level in all aspects of asset management, driving both policy and operational decisions. This is either by directly managing frozen, seized and confiscated assets or by providing support and expertise to other competent authorities also responsible for the management of frozen, seized and confiscated property.

Effectiveness indicator 2: Involvement at national level in setting asset management legislation, policy and procedures

Effectiveness indicator 3: Involvement at national level in the operational management of all assets.

Effectiveness indicator 4: Involvement at international level in operational asset management and setting asset management legislation, policy, and procedures.

Effectiveness indicator 5: Level of involvement in international asset management networks, for example BAMIN.

2.2. Pre-seizure planning

The AMO should be consulted by law enforcement, the prosecution service and the courts, at the pre-seizure stage of an investigation, to allow the AMO to provide advice regarding any action to be taken in relation to an asset. This may include valuation of the asset, an estimation of potential management costs and alternatives to asset seizure.

Effectiveness Indicator 6. Level of involvement of the AMO in asset management decisions at the pre-seizure phase.

2.3. Access to Databases and Registers

The AMO is responsible for locating and evaluating assets subject to management through the timely exchange of information with government and non-government bodies holding relevant databases and registers.

Effectiveness indicator 7: Level and ease of access to existing national and international databases or registers (with or without a court order).

Effectiveness indicator 8: Access to a secure system of information exchange.

2.4. Physical seizure and transport

The AMO has overall responsibility for the enforcement of orders to seize and confiscate assets. This may involve both direct physical seizure and transport by the AMO or indirect physical seizure and transportation by a contracted company.

***Effectiveness Indicator 9:** Level of involvement in the enforcement process.*

***Effectiveness Indicator 10:** Ability to procure companies for transport through established policies and procedures.*

***Effectiveness Indicator 11:** In cases whereby the AMO is involved in the direct physical asset seizure, level of support offered by law enforcement to the AMO during the seizure.*

2.5. Inspection and valuation

The AMO has overall responsibility for the inspection and valuation of assets both at the stage of initial seizure and at the final stage of confiscation. This may involve both direct inspection and valuation by staff employed by the AMO or inspection and valuation by a private sector company contracted by the AMO.

***Effectiveness indicator 12:** Level of involvement in inspection and valuation at the stage of initial seizure.*

***Effectiveness indicator 13:** Level of involvement in inspection and valuation at the stage of final confiscation.*

***Effectiveness Indicator 14:** Ability to procure companies for valuation through established policies and procedures.*

2.6. Maintenance and storage

The AMO is responsible for maintaining the asset from initial seizure, on an ongoing basis, to final confiscation or return to its owner, in order to preserve its initial seizure value. This may involve storage and ongoing maintenance by staff employed by the AMO at AMO premises. Alternatively, external storage

premises may be procured with ongoing maintenance provided by an external body contracted by the AMO.

Effectiveness indicator 15: Level of involvement in storage and maintenance from initial seizure to final disposal.

Effectiveness Indicator 16: Ability to effectively store and maintain all types of assets, either directly at state premises and by state employed staff or using external storage premises and bodies.

2.7. Disposal of assets through sale, use, destruction or return to the owner

2.7.1. Preservation of value through sale at the pre-judgement / interim stage

The AMO is responsible for ensuring the pre-judgement sale of the asset in order to preserve its value. This may either be by guiding the court, or advising the prosecutor or law enforcement agency, negotiation with the owner or at the discretion of the AMO itself.

Effectiveness indicator 17: AMO involvement in decisions to sell assets at the pre-judgement stage, in order to preserve their value.

2.7.2. Use of assets at the pre-judgement / interim stage

The AMO is responsible for managing the transfer of assets for use at the pre-judgement stage, where legal systems permit, through transparent, accountable procedures. When placing the asset in the custody of a third party, including the State and its institutions, the AMO is responsible for ensuring its productive use.

Effectiveness indicator 18: Level of AMO oversight in the transparency and accountability for the use of assets at the pre-judgement/interim stage by third parties, including the State and its institutions.

2.7.3. Post confiscation sale of assets

The AMO is responsible for the sale of assets on confiscation. The AMO should ensure that the asset obtains a value as close as possible to the estimated value on seizure, on behalf of the state or any victims due compensation. This should be achieved either through the use of in-house or external auctions, in house or external online sales platforms, specialised dealers or international sale, and at the discretion of the AMO.

Effectiveness indicator 19: The level of legal and/or procedural possibility and discretion, for the AMO to sell assets either through the use of in-house or external auctions, in house or external online sales platforms, specialised dealers or international sale, in order to obtain a value as close to the estimated value at the time of seizure.

2.7.4. Use of Assets following final confiscation (state and social re-use)

The AMO is responsible for overseeing any legal and procedural possibilities for physical assets or the funds from the sale of physical assets to be transferred into use by a third party, including the State and its institutions.

Effectiveness indicator 20: Level of AMO involvement in the State and social reuse of finally confiscated assets.

2.7.5. Destruction of Assets

The AMO is responsible for ensuring the destruction of unsafe property, hazardous property or property that has no commercial value.

Effectiveness indicator 21: Level of AMO involvement in the destruction of unsafe, hazardous property or property that has no commercial value.

2.8. Registration of assets, record keeping and statistics

2.8.1. Registration of assets and record keeping

The AMO is responsible for the effective registration and monitoring of location, maintenance, costs incurred, and payments made of all assets under management. This information should be recorded at all phases of asset management including the pre-seizure phase, the interim phase, on final confiscation and the disposal phase. The information should be accessible to all relevant stakeholders including law enforcement, prosecution service, the courts and civil society for the purpose of social reuse.

Effectiveness indicator 22: Ability to effectively register, monitor the location, maintenance, costs incurred, and payments made of all assets under management.

Effectiveness indicator 23: Access to an electronic register of all assets under management, containing comprehensive information on the location and value of assets and costs incurred for maintenance, accessible to all relevant stakeholders.

2.8.2. Statistics

The AMO is responsible for ensuring the upkeep of national statistics on frozen, seized, sequestrated and confiscated assets, and their value.

Effectiveness indicator 24: Level of AMO involvement in the upkeep of national statistics on temporarily frozen and seized assets and finally confiscated assets, and their value.

2.9. Training

The AMO should play a leading role nationally in asset management training to all stakeholders involved in the asset management process including law enforcement, the prosecution service, the national asset recovery office, courts and the judiciary.

Effectiveness indicator 25: Level of participation in the delivery of asset management training to relevant stakeholders.

List of Indicators to Measure the Effectiveness of BAMIN Asset Management
Offices

1. Effectiveness indicator 1: Ability of the Asset Management Office to preserve and maintain the value of an asset whilst under the control of government authorities, either on behalf of the State, the victim or victims of crime or the asset owner.
2. Effectiveness indicator 2: Involvement at national level in setting asset management legislation, policy, and procedures
3. Effectiveness indicator 3: Involvement at national level in the operational management of all assets.
4. Effectiveness indicator 4: Involvement at international level in operational asset management and setting asset management legislation, policy and procedures.
5. Effectiveness indicator 5: Level of involvement in international asset management networks, for example BAMIN.
6. Effectiveness Indicator 6. Level of involvement of the AMO in asset management decisions at the pre-seizure phase.
7. Effectiveness indicator 7: Level and ease of access to existing national and international databases or registers (with or without a court order).
8. Effectiveness indicator 8: Access to a secure system of information exchange.
9. Effectiveness Indicator 9: Level of involvement in the enforcement process.
10. Effectiveness Indicator 10: Ability to procure companies for transport through established policies and procedures.
11. Effectiveness Indicator 11: In cases whereby the AMO is involved in the direct physical asset seizure, level of support offered by law enforcement to the AMO during the seizure.

12. Effectiveness indicator 12: Level of involvement in inspection and valuation at the stage of initial seizure.
13. Effectiveness indicator 13: Level of involvement in inspection and valuation at the stage of final confiscation.
14. Effectiveness Indicator 14. Ability to procure companies for valuation through established policies and procedures.
15. Effectiveness indicator 15: Level of involvement in storage and maintenance from initial seizure to final disposal.
16. Effectiveness Indicator 16. Ability to effectively store and maintain all types of assets, either directly at state premises and by state employed staff or using external storage premises and bodies.
17. Effectiveness indicator 17: AMO involvement in decisions to sell assets at the pre-judgement stage, in order to preserve their value.
18. Effectiveness indicator 18: Level of AMO oversight in the transparency and accountability for the use of assets at the pre-judgement/interim stage by third parties, including the State and its institutions.
19. Effectiveness indicator 19: The level of legal and/or procedural possibility and discretion, for the AMO to sell assets either through the use of in-house or external auctions, in house or external online sales platforms, specialised dealers or international sale, in order to obtain a value as close to the estimated value at the time of seizure.
20. Effectiveness indicator 20: Level of AMO involvement in the State and social reuse of finally confiscated assets.
21. Effectiveness indicator 21: Level of AMO involvement in the destruction of unsafe, hazardous property or property that has no commercial value.

22. Effectiveness indicator 22: Ability to effectively register, monitor the location, maintenance, costs incurred, and payments made of all assets under management.
23. Effectiveness indicator 23: Access to an electronic register of all assets under management, containing comprehensive information on the location and value of assets and costs incurred for maintenance, accessible to all relevant stakeholders.
24. Effectiveness indicator 24: Level of AMO involvement in the upkeep of national statistics on temporarily frozen and seized assets and finally confiscated assets, and their value.
25. Effectiveness indicator 25: Level of participation in the delivery of asset management training to relevant stakeholders.



