



**Agence de gestion et de recouvrement
des avoirs saisis et confisqués**



Annual report for 2013

Agency for the Recovery and Management of Seized and Confiscated Assets



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Presentation of the annual report for 2013 of the Agency for the Recovery and Management of Seized and Confiscated Assets (AGRASC)



Three years have already gone by! The AGRASC has now become such a fixture of the French judicial landscape that the casual observer might think that it is an Agency with a wealth of diversified experience. This is however only the third annual report which I am now pleased to present. The figures given in this report offer a particularly convincing illustration of how in such a short space of time the Agency has managed to markedly increase the number of seizures: more than 31 000 matters corresponding to more than 56 000 managed assets (194 000 operations carried out according to the data base) amounting to more than a billion euros !

The Agency, under the dynamic and pragmatic direction of Elisabeth Pelsez, Director General, assisted by Hervé Brabant, Secretary General, has in 2013 once more gone beyond the mere attainment of its goals and performance of its tasks. It has ceaselessly enhanced its expertise and the effectiveness of its cooperation with courts of law to deal with ever more complex situations.

The first sales of definitively confiscated real estate entrusted to the Agency were a major new step in the development of the Agency's remit.

The evolution of the statutory and regulatory framework, to which the AGRASC has meaningfully contributed by the recommendations which it has proposed, has widened the scope of possibilities as regards seizure of property.

In addition to day to day assistance to courts of law in facilitating such seizures, in accordance with the tasks vested in the Agency by Parliament in 2011, the past year has seen the Agency continue to develop its international activity which has won general recognition, in particular by the European Commission.

The AGRASC is not only self-financing, but has also paid almost seven million euros over to the State, to the Drug Fund or to public creditors and other social security bodies.

Staff numbers at the Agency have needed to be increased to handle its ever-growing workload, and today stand at 22 agents, all of whom actively contribute to enhancing the reputation of the AGRASC, illustrating the multi-disciplinary and inter-ministerial nature of its work.

We have now reached the end of the first three-year cycle of the Agency. The time has come for us to say goodbye to Hervé Brabant, our Secretary General, who is leaving us after having most admirably assisted Elisabeth Pelsez to ensure a smooth development of the AGRASC. Three years is also the term of office of our external members of the Board of Administration who sit alongside ex officio members. We extend to all of them our warmest thanks for their enthusiasm, availability and their always relevant contribution to laying down the guidelines for the work of the AGRASC.

Lastly Romain STIFFEL, Major in the Gendarmerie and Head of the Operations Department, who has greatly contributed to the development and success of the Agency, will also leave us to take up other duties elsewhere still connected with the fight against the acquisition of crime-related assets.

Jean-Marie HUET
Chief Public Prosecutor at the Court of Appeal of Aix-en-Provence
President of the Board of Administration of AGRASC

Introduction



2013 has seen the maintaining and stepping up of the impetus of the two previous years. Since 2012 the volume of seizures and confiscations has risen by 49% and courts of law have diversified still further the nature of assets seized.

2013 has however been especially marked by three significant milestones in the performance by the AGRASC of the tasks assigned to it.

Firstly, the contribution of the Agency to the statute pertaining to tax evasion and major economic and financial offences passed by Parliament on December 6th 2013.

The day after the publication of the Agency's activity report in April 2013, all the recommendations for statutory changes made in 2011 and 2012 were taken up in the draft Bill tabled before Parliament.

The possibility of confiscating all the property of legal entities in the event of money laundering and the introduction of the principle of free disposal for value as regards seizures and confiscations have given judges significant new leeway to seize and confiscate unlawfully obtained property on a far greater scale.

These recommendations were the result of team work and based on the daily experience of implementing advice and guidelines given to those in the field in the framework of their investigations. Since the AGRASC team is composed of members drawn from different Ministerial Departments it is a strong source of recommendations and constant creativeness. Thanks to the analysis made possible by the database containing now centralised statistics, the Agency has at its disposal unrivalled expertise which should be used to devise ever more offensive strategies to successfully pursue investigations into property owned by offenders.

In 2013 the Agency chose to highlight an analysis focusing on the fight against tax evasion, following the previous year's concentrated efforts on drug trafficking.

The second milestone was reached by the first sales of confiscated real estate, the outcome of three years of careful planning : the setting up of the Agency in 2011, the formalising of the partnership with Notaries in 2012, the first sales in 2013. It is a source of great satisfaction to witness the effective enforcement of the additional penalty of confiscation in the form of payment of the proceeds of such sales into the Drug Fund (MILDT). It is moreover the first time in France that this Fund, set up by Decree in 1995, has been supplemented by proceeds from the sale of real estate.

The third milestone was reached in July 2013 when the Agency had auctioneers hold the first auction of non-standard vehicles. After six months of preparation, this exceptional sale by auction enabled the Agency to capitalise on unmatched expertise useful for the future and to put the same to good use for other sales prior to judgment.

This ability of the entire AGRASC team to act as trail blazers has won general recognition, with the European Commission asking the Agency to pilot a working group with the Netherlands and Belgium to encourage the USA to set up similar bodies. This action is perfectly in tune with the requirements of the Directive on the freezing and confiscation of the proceeds of crime which is shortly to be adopted and which in Article 10 expressly recommends the setting up of bodies dedicated to the management of seized and confiscated assets.

Reinforced cooperation between European management bodies will serve as a benchmark of the usefulness of such bodies in the fight against the acquisition of crime-related assets by criminal groups.

Elisabeth PELSEZ Director General

I) 2013 : a year of expansion following a year of consolidation

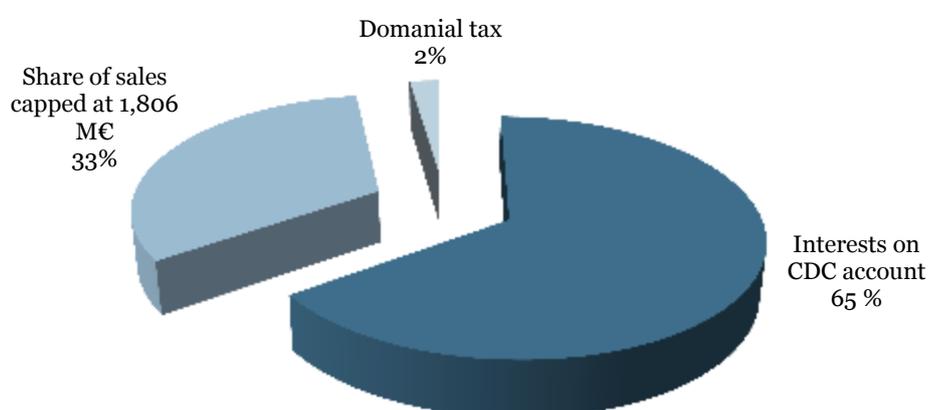
1) The budgetary and accounting processes of the AGRASC enable it to handle its expanding workload

The AGRASC has three main sources of self-financing, each of different origin:

- A provision of the Finance Act allows the AGRASC to retain an annual capped amount of 1.806 million euros from the proceeds of confiscated assets;
- Interest on the account opened with the Caisse des dépôts et consignations (CDC) which centralises all monies seized together with the proceeds of the sale of chattels prior to judgment. It should be pointed out that this financing increases in line with the increased activity of the Agency;
- The Domanial tax received by France Domaine in the framework of sold assets is paid over to the Agency.

For the 2013 financial year, revenue exceeded 5,761 million euros, of which 5,555 million euros came from the direct activity of the Agency (Article 706-163 of the Code of Criminal Procedure)

Nature of revenue (cf Art 706.163)	2013 amount (M€)
Interest on CDC account	3 621
Share of sales capped at 1.806 M€	1 806
Domanial tax	128
Total revenue for 2013	5 555



-Breakdown of AGRASC revenue in 2013-

Expenditure is broken down into three sectors (staff, operation and investment) and stands at 4.991 million euros.

Expenditure on staff :

- In 2013 the AGRASC recorded a rise in overall payroll due to four new recruitments designed to respond at an increase in Agency activity;
- Two budget lines reflect the amount of staff expenditure :
 - Staff on secondment under contract;
 - Staff at the disposal of the Agency in return for payment.

In operating expenditure particular attention is given to one entry : expenditure connected with the management of seized and confiscated assets.

It should be pointed out that provisions amount to almost 40% of operating expenditure. The main provision is for litigation risks.

(in M€)	Total	Day to day operating	Management of assets
Operating costs <i>(exclusive of staff at disposal in return for payment)</i>	1.311	0.868	0.443
Staff expenditure			
Staff on secondment under contract	1.285	1.285	
At disposal in return for payment <i>(Gendarmes/Police officers)</i>	0.345	0.345	
Allocation to provisions	1.973		1.973
Total salaries and operating costs	4.914	2.498	2.416
Investments	0.076		
Total	4.991		

-Breakdown of expenditure in 2013.-

2) Preparing the repatriating of balances of court accounts

Since the setting up of the AGRASC and the centralisation in the single bank account of the Agency of monies seized, it has become clear that many courts were unable to identify the status of past cases and decide whether monies in their accounts were from seizures or confiscations, since the balance of court-held accounts stood at over 134 million euros as of December 31st 2013.

Section 24 of the Act of December 6th 2013 pertaining to tax evasion and major economic and financial offences provides that “ *In addition to the tasks laid down in Article 706-160 of the Code of Criminal Procedure, the Agency for the management and recovery of seized and confiscated assets, referred to in Article 706-159 of the same Code, shall be in charge of ensuring, on behalf of the State, the management of monies seized during criminal proceedings and the status of which, whether seized or confiscated, has not been ascertained at the date of the coming into effect hereof.* ”

At the end of the third month following the promulgation hereof, all monies referred to in paragraph one hereof shall be transferred in their entirety from the accounts with the Caisse des dépôts et consignations opened by the Head of each Court Registry to the account of the Agency for the management and recovery of seized and confiscated assets opened with the Caisse des dépôts et consignations.

The management of monies thus transferred shall be ensured by the Agency in an account distinct from the other operations of said Agency.

Upon receipt of such funds, the Agency shall pay 80% thereof over to the general budget of the State. The balance shall be retained by the Agency until January 1st 2016 for the purpose of executing possible court decisions concerning the restitution of said monies. In the event of such monies being exhausted or any decision of restitution after January 1st 2016, the State shall refund the Agency all monies due.

The proceeds of the investment of the monies credited to the account with the Caisse des dépôts et consignations pursuant to the provisions hereof shall be allocated to the Agency”.

At the initiative of the AGRASC, in order to implement the measures contained in this provision, several working meetings have been held, bringing together representatives of the Directorate of Legal Services (DSJ), Department of Criminal Matters and Pardons (DACG), Department of Public Finance (DGFIP), Gendarmerie (DGGN), Porganiolice (DGPN) and the Caisse des dépôts et consignations.

The balances of Tribunaux de grande instance with the CDC, those which may be found on accounts opened with the Bank of France and lastly the contents of court safes will be transferred to the Agency's single account at the end of March 2014.

This operation will make it possible the day after said transfer for 80% of these amounts to be paid into the general State budget, the remaining 20% making it possible to settle any claims for restitution which may be addressed to the Agency.

The Agency will be particularly vigilant to ensure that none of the stocks are replenished and that all monies seized conform to the provisions of the Act of July 9th 2010 and are effectively centralised on the Agency's single account.

II) The continuing expansion of operations during 2013

As in previous years the Agency organised numerous training sessions and continued to visit Courts of Appeal and Tribunaux de grande instance (TGI).

The Courts of Appeal of Besançon, Bastia, Colmar, Versailles, Orléans, Rouen, Grenoble, Bordeaux, Toulouse and Saint Denis de la Réunion (the latter by video conference) and the Financial Pole of the Paris TGI have hosted visits by the AGRASC, during which the latter drew their attention to the recent statutory developments in matters of seizure and confiscation.

Following such visits, numerous property reference registers have been set up following the recommendations of the Agency going back to 2011.



Training schools, foremost among which the National School for the Training of the Judiciary and the National School for the Training of Court Registry staff have also been visited by the AGRASC, as have Police and Gendarmerie training centres, together with the ENA, INHESJ, and Notaries in Nancy, Grenoble and Paris.

The AGRASC has also accentuated the specialised nature of its classes, targeting its audiences to achieve greater involvement on their part.

Several initiatives have been taken to this end, all of them successful, enabling audiences to gain a better grasp of the role and operation of the AGRASC.

In June 2013 the Domaines sales agents spent an entire day at the Agency, thus reinforcing the cooperation between these two bodies.

In December specialised assistants from eight inter-regional specialised courts were invited to the AGRASC in order to enhance their understanding of the procedural rules governing seizures and confiscations and the new opportunities opened up by statutory innovations in these fields.

Lastly, it should be also be mentioned that those in charge of the Audit and Ethics departments of a leading national insurance company invited the Head of the Legal Department to acquaint them with the provisions of the Act of July 9th 2010 pertaining to life insurance contracts and those of the Act of December 6th 2013 concerning the judicial termination of such contracts after confiscation.

Employees of the Caisse des dépôts et consignations have also had the benefit of a training session organised by the Secretary General, dealing in particular with the measure relating to the repatriating of the balance of court accounts.

1) Registration Department



This Department comprises two full-time members of staff under the direction of Christelle Nakache, Comptroller General of Public Finance (cf appended organisational structure chart) and is in charge of registering all data transmitted by courts after verification of the same. More than 1000 files are registered each month.

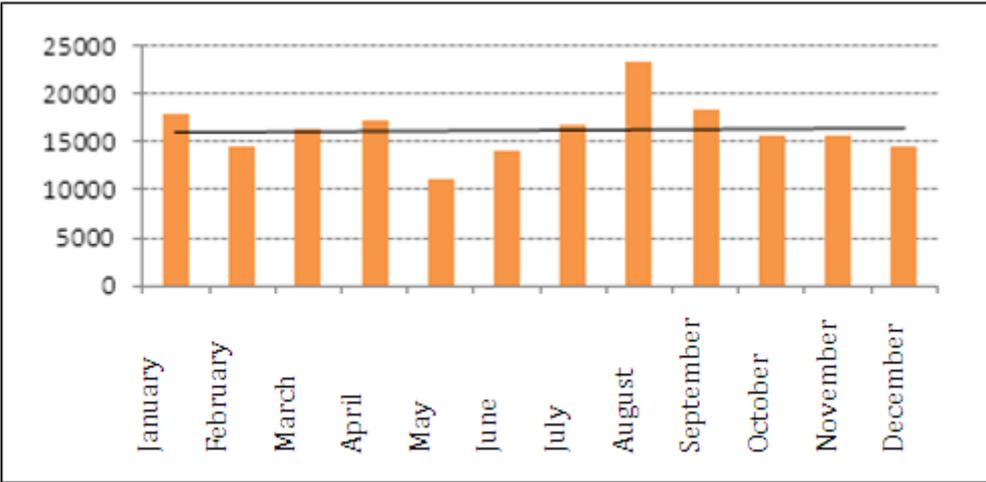
These registrations concern mainly seizures of cash and bank accounts.

Dataflow	2011	2012	2013	Average
Receivables	14	27	41	27
Bank accounts	1,051	1,479	1,759	1,430
Cash	15,023	16,930	16,632	16,195
Life insurance	21	40	96	52

-Number of seizures registered-

This Department has introduced an internal quality control process in order to optimise the reliability of this registration system.

In 2013 194 322 operations were registered on the database.



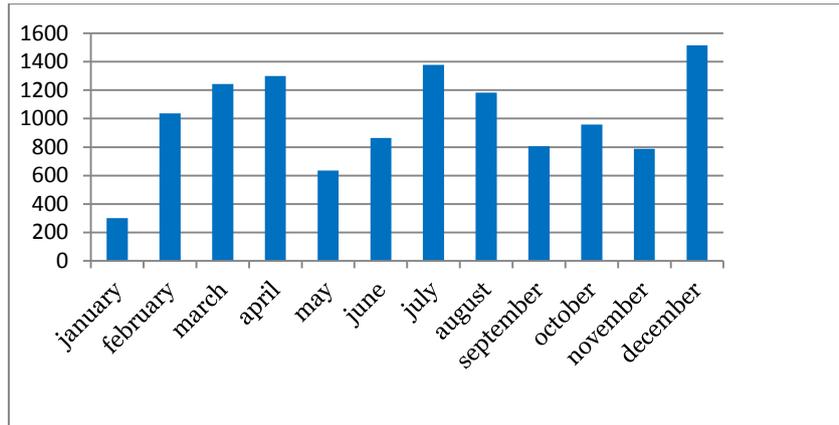
-Number of operations entered on the database per month of activity in 2013-

Thanks to real time consultation access of the Agency account with the Caisse des dépôts and coordination with the Accountant, each asset is registered after a systematic verification of the payment in of the corresponding amounts, which facilitates accounting adjustment.

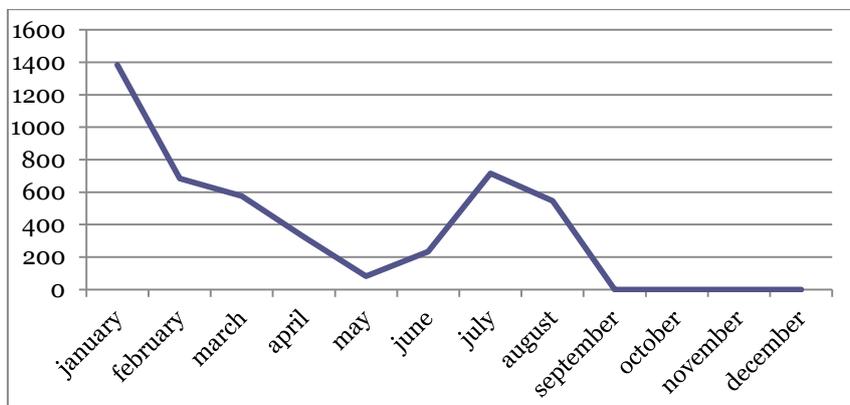
The Registration Department, which is in regular contact with the Court Registries of 160 courts, has implemented active collaboration in order to obtain in a regular and efficient manner the documents needed to identify monies seized, in particular monies from old matters paid to the Agency. A follow-up reminder operation regarding monies paid to the Agency in 2011, for which no identification documents had been transmitted, was moreover carried out at the end of 2013.

Each semester the Registration Department and Legal Department draw up a list of final decisions needed to be obtained from TGI.

During 2013, the Department managed to absorb the stock of back files and now strives to maintain its activity on real-time basis.



-Number of files registered per month in 2013-



-Stock of files for registration par month in 2013-

2) The Legal Department



The Legal Department is in charge of dealing with cash and bank accounts (restitutions, compensation of victims and confiscations), sales prior to judgment and public procurement contracts entered into by the Agency. The Legal Department also accompanies the Operations Department in giving assistance to members of the Judiciary and Investigators and in dealing with requests for international mutual legal assistance in criminal matters.

Under the authority of Judge Stephen Almaseanu, this Department now comprises 7 members of staff (see appended organisational structure chart).

Cash

More than 43 million euros in cash were received by the Agency in 2013 (as compared with 53 million in 2012, this diminution being due mainly to more transfers of long-held monies by courts in 2011 and 2012).

(in €)	Number	Amount
2011	15 027	81 452 691.83
2012	16 930	50 477 787.66
2013	16 632	43 182 187.83
	48 589	175 112 667.32

-Cash seizures registered-

The two difficulties indicated in 2011 and 2012 would now seem to be in the course of resolution.

The first concerned the substantial stock of cash still sitting in court accounts and not transferred to the Agency for want of identification and connection with ongoing or terminated proceedings. Section 24 of the Act of December 6th 2013 pertaining to the fight against tax evasion and major financial offences, has provided for the repatriating of such monies at the end of March 2014 in the manner indicated above.

The second difficulty stemmed from the processing of very small amounts, entailing for the Agency a handling cost out of all proportion to the amounts at stake. The meetings of the working group mentioned in the 2012 report and composed of the AGRASC, the Directorate of Criminal Matters and Pardons (DACG), the National Directorate of the Gendarmerie nationale (DGGN) and that of the Police (DGPN) resulted in the publication of a letter by the Director of Criminal Matters and Pardons on June 10th 2013. This document recommended that cash which is not the proceeds of offences be dealt with by investigators as part of the body search process of individuals and returned to such persons at the end of the period of remand in police custody for questioning. Failing this, in addition to the difficulties of handling small amounts referred to above, the keeping of such amounts may constitute an infringement of the rights of such persons, since neither the pursuit of truth nor the possibility of future confiscation validates such seizures.

Figures for 2013 would seem to show a fall in the seizure of amounts under 100 euros following the publication of the letter. This welcome trend still awaits confirmation in the longer term.

Segments in euros	2011	2012	2013	Overall total	Difference 2012/2013
From 0 to 10€	282	446	377	1 105	-15%
From – 10 to 50€	1 337	2 103	1 976	5 416	-6%
From – 50 to 100€	1 389	1 928	1 859	5 176	-4%
From -100 to 500€	5 152	6 088	6 154	17 394	1%
From 500 to 1000€	2 123	2 184	2 266	6 573	4%
More than 1000€	4 744	4 181	4 000	12 925	-4%
Overall total	10 027	16 930	16 632	48 589	-2%

-Cash seizures registered by the Agency broken down into segments-

Entering into an agreement with a bank under the “Guinchard” Act

Section 58 of Act n° 2011-1862 of December 13th 2011, known as the “Guinchard” Act pertaining to the allocation of litigation and the simplification of certain legal proceedings competes Articles 56 and 97 of the Criminal Code by providing that the Public Prosecutor (investigation phase) or the Examining Magistrate (opening of a preliminary criminal investigation) may henceforth authorize the deposit of cash, gold bars, negotiable instruments or securities into an account opened by the Agency with a banking institution.

As announced in the Report for 2012 the AGRASC put out a tender in early 2013 to select a bank or network of banks with which it will open an account making it possible to deposit cash in euros and foreign currencies. This tender procedure was unsuccessful and requires fresh thought as how best to implement the provisions of the Guinchard Act.

Bank accounts



The Agency continues to receive substantial amounts of money from seized bank accounts (just over 58 million euros corresponding to more than 1750 seizures) The situation is improving as regards orders of continued retention or release issued by Freedom and Detention Judges (JLD) after seizures carried out by CID Police officers under Article 706-154 paragraph 1 of the Code of Criminal Procedure, the vast majority of which are now transferred to the AGRASC, which makes it possible to proceed to the accounting adjustment of monies seized and the follow-up of the latter.

Restitutions

Restitutions of cash and bank accounts in 2013 amounted to more than 23 million euros, to which should be added the amount of almost 77 million euros of a life insurance contract transferred to the AGRASC when it should have remained in the hands of the Insurance company. (Crim. October 30th 2012).

In addition to the heavy workload represented by those restitutions (the Agency has taken over the work of 160 courts in this field), the Agency still encounters difficulties in carrying out its task when courts have transferred amounts without accompanying the same with the necessary relevant information. The Agency can only return amounts adjusted with the movements recorded on the CDC account and so has to obtain the relevant information once restitution has been ordered, thus leading to delays detrimental to those awaiting the return of such amounts.

	Number	Amounts (in €)
Net restitutions	778	22 750 280.58
Transfer of funds seized on a life insurance contract	1	77 211 886.47
Public creditors	62	1 229 219.38
Civil claimants in criminal proceedings	51	1 117 456.72
	892	102 308 843.15

-Amounts paid in 2013 –
(exclusive of the General State Budget and the Drug Fund)

The agreement signed between the AGRASC and all public creditors on July 21st 2011 pursuant to Article 706-161 4° of the Code of Criminal Procedure enabling the Agency, before making restitutions, to inform public creditors so that the latter may enter opposition or proceed to third party notification

regarding monies held by the Agency, has proved to be highly effective, making it possible to secure almost 1.3 million euros. This measure was extended in 2013 to releases of real estate seizures.

Sale of chattels prior to judgment (articles 41-5 and 99-2 of the Code of Criminal Procedure)

2013 saw the full implementation of the agreement of March 21st 2012 with the National Chamber of Court accredited Auctioneers, enabling the AGRASC, pursuant to Article R 54-9 of the Code of Criminal Procedure, to entrust chattels handed over to it for sale prior to judgment to Court accredited Auctioneers or Domaines auctioneers.

In 2013 the AGRASC had almost 1 900 chattels put up for sale by auction. 1670 chattels were sold for a total of 6.63 million euros (an increase of 400% compared with 2012).

As in previous years the breakdown of these sales shows the complementarity of the networks used by the Agency:

- The Domaines auctioneers sold almost 1 180 chattels (compared with 560 in 2012) through more than 85 sales, for an aggregate of 1.29 million euros. Overall 227 chattels (as compared with 198 in 2012) were sold for an amount greater than or equal to 1000 euros, 102 chattels for a unit price of 4 500 euros or more;
- The Court accredited Auctioneers sold around 490 chattels bringing in an aggregate of 5.34 million euros (as compared with 430 000 euros in 2012) with 212 chattels sold for an amount equal to or over 1000 euros, 158 chattels sold for a unit price of 4 500 euros – and 15 chattels , all motor vehicles, exceeding a sale price of 50 000 euros).



It should be noted that these figures, markedly greater than those of 2012, reflect the sale of nine exceptional vehicles (Bugatti, Ferrari, Maserati, Mercedes, Porsche, Rolls Royce et Bentley) entrusted to the President and other members of the Paris Chamber of Court accredited Auctioneers, the proceeds of which amounted to 2.8 million euros at auction on July 8th 2013. The members of the Judiciary who had decided to entrust these vehicles to the AGRASC were kept informed of every stage of the sale.

This exceptional sale gave the AGRASC the opportunity to develop its expertise in order to showcase these chattels at their best. It saw to the putting into good working order of these vehicles which had not been maintained since seizure and undertook an advertising campaign and potential buyer welcoming service adapted to the market for such exceptional goods (advertising them in Chinese for instance), while limiting the cost of such operations under the principle of proper and effective use of public funds (by choosing for instance to carry out solely those repairs indispensable for the sale of the vehicles).

Confiscations

The AGRASC is still encountering difficulties in obtaining final decisions of confiscation from courts and Appeal courts. The Agency thus regularly contacts every court to obtain such decisions in order to proceed to their enforcement.

The AGRASC now pays over money to the Drug Fund (MILDT) and the General State Budget on a quarterly basis (eight payments in all over the year). In 2013 the AGRASC thus paid over more than 4.3 million euros to the Drug Fund.

3) The Operations Department

The Operations Department is particularly in charge of real estate (seizures, confiscations, sales), businesses and certain specialized seizures (receivables from the sale of real estate, seizure of shares, seizure of aircraft.) The Operations Department also participates with the Legal Department in providing real time assistance to Judges and Investigators and in matters of international judicial assistance in criminal matters.

Under the authority of Romain STIFFEL, Major in the Gendarmerie, this Department comprises five members of staff (cf appended organisational chart) .

Real time assistance for courts in matters of seizure and confiscation of real estate

The Operations Department has continued to provide assistance to all courts and Police and Gendarmerie units in the form of advice, technical assistance and practical back-up for judges and investigators who have expressed a need for such assistance in carrying out seizures or confiscations. The rules introduced by the Act of July 9th 2010 in the Code of Criminal Procedure regarding “special” seizures, which most professionals in the field applaud, nevertheless require a certain grounding in the field and an awareness of pitfalls which may be encountered. Although all special seizures under new title XXIX of the Code of Criminal Procedure require sound knowledge of the legal mechanics of confiscations (Article 131-21 of the Criminal Code), certain seizures may nevertheless pose problems in particular as regards their technical aspect. This is mainly the case with seizures of real estate and to a lesser extent of businesses and shares.



The Operations Department is particularly specialized in real estate and business operations, and as such has received many requests for assistance from members of the Judiciary confronted with upcoming seizures and confiscations. Whether contacted by the AGRASC e-mail address, by phone or directly during meetings held at the various Courts of Appeal, the Department has done its utmost to handle all requests as quickly as possible. However, given the constant rise in the number of requests for assistance, some twenty a day on average, and the need for sustained follow-up of certain projected seizures, it is inevitable that some requests have taken longer to respond to than others.

Progress has been made in improving the practical aspects of seizures of crime-related real estate, a process which quite legitimately gives greater cause for concern in view of the stringent requirements of land registration and publication. Although few seizures of real estate have been ordered without prior consultation of the Agency, it should be pointed out that wide-spread use of the Agency templates, regularly updated and down-loadable from the AGRASC internet site, has greatly helped courts of law to improve their projected seizure process.

At the same time the Operations Department has also taken all the necessary steps for publication of court-ordered seizures of real estate, in accordance with the monopoly in such matters vested in it by statute. Following up the initiative commenced at the end of 2012, the Department has taken charge of drafting all publication notices in order to relieve judges of the task of undertaking this computerized process which was a source of numerous difficulties. Ensuring registration with the Land Registry (“SPF” – the new French name for this service since January 1st 2013) the Department has dealt with all refusals to publish by formalizing corrective attestations (a procedure normally handled by the SPF

when a discrepancy is noted between the registered seizure and the Land Registry). At the end of each publication procedure each judge ordering the real estate seizure involved has been personally informed of the completion of the publication process. The number of real estate seizures ordered in 2013 stood at 404, compared with 320 in 2012 (i.e an increase of 26% over a year).

The constant increase in the number of seizures of real estate in criminal matters since 2011 has demonstrated the ongoing willingness of judges to place property of substantial value in the hands of the law. Real estate seized has been seized because it is the proceeds of offences, either of money-laundering or because it has served to facilitate the commission of offences (premises used to transform narcotic substances, used for procuring etc).

It should also be noted that more and more pieces of real estate have been seized because their value corresponds to the proceeds of offences without it being necessary to prove that this property is itself the proceeds of an offence (value based seizures/confiscations). In numerous cases where the proceeds of the offence have been spent or transferred abroad this alternative of confiscating real estate has proved to be particularly effective. Inspired by methods used by foreign jurisdictions, this seizure by equivalence met with real success in 2013, in particular in matters of misappropriation of funds or obtaining property by deception, offences which normally are such as to generate substantial rapid profits (and also cause significant losses for the victims). This rise in value based seizures has indisputably been facilitated by the relaxing of the conditions governing the carrying out of such seizures by the Act of March 27th 2012.

Unfortunately, at the confiscation stage, the judgment template for ordering such measures has been rarely used, despite its availability on the AGRASC website throughout 2013. The vast majority of confiscations of real estate are still being ordered without the help of this template, a fact which leads to major problems at the publication stage, even requiring the penalty enforcement services to refer the matter back to the court in order to resolve a problem of enforcement or rectify a material error. This recurrent difficulty caused by inaccurate or incomplete description of the real estate involved, although now overcome at the seizure stage, has far more harmful consequences where confiscation is concerned insofar as this measure is intended not merely to freeze any disposal of such real estate but rather to definitively transfer the ownership thereof to the State. In cases where no criminal asset seizure has been ordered (in particular in long-standing cases) convicted offenders have often taken advantage of the difficulty in enforcing this measure to sell the real estate involved as soon as possible and thus render the penalty handed down devoid of all substance. Insofar as this occurrence is not rare, several Public Prosecutor's Offices have not hesitated to launch a fresh prosecution on the grounds of deliberate misappropriation of confiscated property. It should moreover be noted that, on the recommendation of the AGRASC, the offence provided for by Article 434-41 of the Criminal Code has been clarified in the framework of the Act of December 6th 2013 pertaining to the fight against tax evasion and major financial offences.



In the same vein, courts have only infrequently availed themselves of the provisions allowing for immediate seizure at the court hearing under Article 484-1 and 373-1 of the Code of Criminal Procedure. Recourse to such provisions is however indispensable to secure the confiscations ordered by the court in cases where no seizure has been ordered at the investigation stage (which often happens in long-standing cases). In such circumstances it is not rare for the offender to profit from the time required for an appeal to be heard to sell his property and thus prevent any future enforcement of the penalty.

Lastly, one of the innovations of 2013 in the field of real estate seizure is to be found in the greater use of the provisions permitting the sale of real estate, notwithstanding the seizure thereof, on authorization by the judge ordering the latter (Articles 706-144 and 706-152 of the Code of Criminal procedure). In order to avoid unnecessarily freezing all conveyancing in connection with seized real estate for a long period during which the value of the real estate may fall or outstanding creditor claims

increase, it has been deemed appropriate in several cases to permit the sale of said real estate, provided of course that the seizure be enforced on the proceeds of this sale after settlement of outstanding creditor claims. The process is quite simple : the owner whose property has been seized, or sometimes the latter accompanied by a potential buyer, applies to the judge hearing the criminal case for authorization to proceed with the sale notwithstanding the seizure of the real estate. If the conditions of the sale (terms, price proposed) do not seem fraudulent, the judge may authorize this sale and order the Notary formalizing the sale to transfer the proceeds thereof to the AGRASC. Once the relevant amount has been duly transferred, the AGRASC deals with the formalities governing the release of the seizure. This procedure has been implemented on numerous occasions in 2013, in particular in cases of requests for international mutual assistance in criminal matters (in two cases requested by BOOM, the counterpart of the AGRASC in the Netherlands).

The first sales of confiscated real estate



The Operations Department is also in charge of enforcing confiscations of real estate on behalf of Public Prosecutor's Offices at first instance and appellate level. This involves publishing the title of the State in which ownership now vests, then entering into possession of the confiscated real estate and lastly in selling this real estate while carrying out the various requisite management tasks throughout the sale process.

This process is relatively lengthy and the first sales of confiscated real estate only took place in 2013, notwithstanding the signing in 2012 of the partnership agreement with the High Council of Notaries.

In 2013 the AGRASC thus oversaw the sale of ten confiscated pieces of real estate, composed of houses, apartments or even garages. Four of these pieces of real estate are situated in the Paris region, the sixth others being found in South East France, the Lyon region, Lorraine and the Central region of France. Almost all this real estate was sold at public auction, the remainder sold under the "immo interactif" system (sale by tender on the internet, a sort of E-Bay in the real estate field). One sale involved a house in Grasse confiscated by the English Crown Prosecution Service which applied for mutual international judicial assistance from the French Authorities. The proceeds of this sale were shared equally between the United Kingdom and France.

For each sale the AGRASC appoints a Notary from amongst those on a list of volunteers under the partnership agreement between the Agency and the High Council of Notaries. The outcome of this partnership, as viewed through the first ten sales, is most encouraging. The AGRASC has greatly appreciated the implication of the various Notaries involved and their willingness to overcome the various hurdles attached to the sale of confiscated real estate (property with occupants, furniture, property held in joint tenancy ..etc). Mention should also be made of the attentive back-up which the various notarial bodies (High Council / CSN), Regional Councils; Department Chambers etc) contribute on a daily basis to the work of the AGRASC in this field. Regular meetings are held at the Head Office of the High Council or at the Agency in the presence of representatives of the Min.not company or the Paris Chamber of Notaries. These opportunities for exchanging ideas are most welcome and enable all those concerned to examine all ongoing sale files.

As for forthcoming sales, the list of which was drawn up on December 31st 2013, the Operations Department had 32 sales on its books. To these sales which are already in the pipeline, should be added thirty or so confiscated pieces of real estate which have recently been entrusted to the AGRASC and for which publication formalities are underway. It should be noted that more and more of the cases recently referred to the AGRASC concern confiscated real estate seized in 2011 and thus already known to the Agency. These encouraging prospects, set against long-standing cases involving

encumbered property, should ensure greater profitability of sales insofar as the real estate in question has already been seized from the outset.

It should however be borne in mind that managing real estate during the various stages of the sale process, which may last up to a year, poses real problems. One example will serve as a good illustration. The AGRASC was entrusted with the task of selling a piece of real estate in the South of France, confiscated in proceedings for procuring. At that time proceedings had already been instituted against the previous owner because of major water damage. The Agency in its capacity as owner on behalf of the State is thus party to this litigation. Yet another illustration : the AGRASC was asked to deal with a case of confiscation in the Paris Region, concerning real estate in which spare parts of slot machines were stored. After checking that the machines were unusable, the Agency then had to arrange for their removal.

Assistance to courts for seizures of businesses, shares and securities

Following the ascertainment in 2012 of the difficulties encountered in seizing such specific assets, the AGRASC and the National Council of Clerks of Commercial Courts recommended to the Minister of Justice the introduction of a special Register for the entry of registrations of seizures of businesses, shares and securities ordered in criminal matters.

Such a Register would make it possible to register such seizures taking into account the nature thereof and the ensuing legal consequences, especially in terms of assertability of other claims. Third parties could be informed with a maximum of efficiency without risks for the validity of entries registered. Registration could also be carried out by electronic means in order to facilitate registration and speed up and improve the effectiveness of the enforcement of court decisions.

At national level such a Register would allow for centralization of all court ordered seizures of businesses, shares and securities in criminal matters and enable the Authorities to have a global view of such seizures accompanied by relevant statistics.

In order to provide third parties with relevant information the National Council of Court Clerks has agreed that information regarding seizure be entered on notices pertaining to liens and sureties. Such an entry would indicate the absence of any criminal-asset seizure of such businesses or, as the case may be, the possibility of such a seizure.

The necessary expenditure on equipment, computer processing and financial outlay could be borne by the National Council.

The Council has moreover recommended that the statutory provision indicating that the cost of such entries shall be borne by the State be amended (with a tariff on a sliding scale depending on the amounts involved). The registration of such seizures would therefore be made at no cost.

Implementation of such a measure would entail amending certain provisions of the Code of Criminal Procedure and certain Articles of the Commercial Code.

4) Developing the international activity of the Agency



The international activity of the Agency has continued to expand during 2013. The participation of the AGRASC in the Platform for the identification of crime-related assets (PIAC), in two international cooperation networks, ARO-Platform for the 28 EU Member States and CARIN (Camden Asset Recovery Inter-Agency Network) which counts some 53 members, and its presence at five meetings of these bodies has made it possible to exchange

operational information on seizure and confiscation of assets in ongoing cases.

At France's initiative, the 53 States were asked to combine their efforts to gather together best practice methods for assessing confiscation for value. The existence of "guidelines" in certain countries may serve as a reference for French courts.

At the request of the European Commission the AGRASC has taken the initiative of setting up, together with its Dutch (BOOM) and Belgian (OCSC) counterparts a working group on the management of seized and confiscated assets to encourage other States, which as yet do not have bodies like the AGRASC, to follow their example. Two meetings were held in June and October of 2013. The working group is 100% in tune with the requirements of the new Directive on the Freezing and Confiscation of crime-related assets which was adopted by the European Parliament in February 2014.

The AGRASC has also participated in the TRANSCRIME research project piloted by the Catholic University of Milan into the infiltration of the legal economy by unlawful means, by contributing a set of data dealing with confiscation of real estate in order to allow for a comparative analysis with the six other participating States.

The French Ministry of Justice has also invited the AGRASC, together with the DACG, to attend two working meetings devoted to the E.CODEX project, which regroups 14 EU States and which deals with encrypted exchanges between States of sensitive data. This project now also covers the practical implementation of the Directive on the European Investigation Order

The AGRASC has implemented three asset-sharing agreements which have resulted in the payment into the Drug Fund (MILDT) of two amounts of 90 000 euros and 75 000 euros (France-Luxembourg), and 200 000 euros into the State budget coming from the sale of confiscated real estate at the request of the British Authorities.

In 2013 the AGRASC welcomed numerous visiting foreign delegations (from Morocco, Egypt, Australia, Sweden, Russia, the Netherlands and Brazil) demonstrating yet again the interest generated by the setting up of the Agency in France.

Lastly, numbers of requests from judges for help in responding to mutual international judicial assistance requests dealing with seizures and confiscations have continued to rise.

5) The Accounts Department



Under the direction of Yves Touboulic, Divisional Inspector of Public Finance, the Accounts Department took on an additional member of staff on September 1st 2013 (cf appended organisational chart).

Main figures for 2013

Income statement

A net profit of 846 740.63 euros was recorded for the 2013 financial year.

BUDGET EXPENDITURE 2013					
Operating Expenditure	Actual 2013	Forecast 2013 +DM	Available balance	Actual 2011	Actual 2012
60 Purchases	17 243.36€	17 500.00€	256.64€	5 609.04€	38 305.44€
61 Other external outgoings	354 956.88€	355 500.00€	543.12€	37 634.46€	263 320.91€
62 Other external services	846 191.22€	1 113 700.00€	267 508.78€	235 445.05€	570 302.96€
63 Taxes and assimilated payments	136 769.63€	153 400.00€	16 630.37€	36 831.31€	80 374.07€
64 Staff costs	1 285 924.62€	1 316 000.00€	30 075.38€	614 361.32€	957 803.50€
65 Other day to day management costs	0.00€	0.00€	0.00€	0.00€	0.00€
66 Financial outgoings	0.00€	0.00€	0.00€	0.00€	0.00€
67 Exceptional outgoings	300 000.00€	300 000.0€	0.00€	0.00€	400 000.00€
68 Allocations for depreciation and provisions	1 973 578.40€	73 000.00€	- 1 900 578.40€	216 248€	18 603.67€
Sub-total operating expenditure	4 914 664.11€	3 329 100.00€	-1 585 564.11€	1 146 309.68€	2 328 710.55€
Investment Expenditure					
20 Intangible fixed assets	6 041.65€	200 000.00€	193 958.35€	36 886.00€	15 438.27€
21 Tangible fixed assets	70 528.66€	15 000.00€	-55 528.66€	31 456.34€	31 455.16€
Sub-total Investment Expenditure	76 570.31€	215 000.00€	138 429.69€	68 342.34€	46 893.43€
Total Expenditure	4 991 234.42€	3 544 100.00€	- 1 447 134.42€		

BUDGET REVENUE 2013					
Revenue	Actual 2013	Forecast 2013	Difference	Actual 2011	Actual 2012
7061 CDC Interest	3 620 880.14€	2 000 000.00€	1 620 880.14€	475 958.89€	2 373 636.17€
7062 Shares of sales Art 706-163 (capped LF)	1 806 000.00€	1 806 000.00€	0.00€	50 291.32€	1 806 000.00€
7063 Domanial Tax DNID	127 834.09€	32 000.00€	95 834.09€	0.00	134 996.15€
72 Capitalised production	0.00€	0.00€	0.00€	20 000.00€	0.00€
74 Subsidies	0.00€	0.00€	0.00€	1 200 000.00€	0.00€
75 Miscellaneous	0.00€	0.00€	0.00€	62.50€	20.00€
77 Extraordinary income	6 690.51€	0.00€	6 690.51€	0.00€	0.01€
78 Cancellation of provisions	200 000.00€				
Total Revenue	5 761 404€	3 838 000.00€	1 723 404.47€	1 746 312.71€	4 314 652.33€

Net result 2013	846 740.63€	508 900.00€		600 003.03€	1 985 941.78€
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Revenue for 2013 stood at 5 761 404.74 euros, i.e an increase of 33% compared with 2012, due mainly to the level of the CDC account in 2013 (higher than in 2012) which carries interest at 1%.

Operating expenditure for 2013 stands at 4 914 664.11 euros. It has doubled in comparison with 2012 mainly due to allocations to provisions recorded in the accounts at the end of the year. It breaks down as follows:

Purchase of supplies (account 60) has fallen by half in comparison with 2012.

Other external outgoing (account 61) which include basically rent and rental charges for the premises at 98-102 rue de Richelieu have increased since 2012 mainly due to the extension of the premises occupied by the AGRASC.

Other external outgoing (account 62) include two major items of expenditure : the reimbursement of the salaries of agents on secondment to the AGRASC (344 603.77 euros) and the expenses incurred in managing seized or confiscated assets.

Outgoings – asset management expenses			
6141	Condominium charges of confiscated real estate	13 264.84€	Disbursed
6222	Charges without disbursement CPJ and CAV	291 133.73€	Not disbursed
62262	Fees sale Non standard motor vehicles	67 191.28€	Disbursed
6227	Deed fees and litigation	795.00€	Disbursed
6228	Miscellaneous	627.00€	Disbursed
62284	Management-diagnosis charges real estate	1 337.00€	Disbursed
62312	Announces sale Non-standard motor vehicles	23 049.91€	Disbursed
62431	Transport sale Motor vehicles	1 772.75€	Disbursed
62432	Transport sale Non-standard motor vehicles	19 902.67€	Disbursed
62781	Foreign currency processing fees	24 549.36€	Disbursed
62881	Making motor vehicles roadworthy	358.80€	Disbursed
62885	Storage fees motor vehicles	974.17€	Disbursed
62888	Other outgoing	4 772.98€	Disbursed
63512	Property taxes	26 831.00€	Disbursed
Total management expenses		476 561.15€	

Staffing costs (item 64) have risen by 34% in comparison with 2012 (due to the hiring of four new members of staff) but have now stabilized.

Exceptional outgoing (item 67) represent the reimbursement of the subsidy given by the Ministry of Justice in 2011.

Allocations to depreciation and provisions (item 68) stand at 1 973 578.40 euros (21 876 .31 euros for depreciation and 1 951 702.09 euros for provisions).

Allocations to provisions break down as follows :

- Allocation to provisions for litigation to an amount of 1 825 440.55 in an exceptional case;
- Allocation to provisions for liabilities and charges to an amount of 101 041.67 euros pertaining to expenses which the AGRASC will have to pay the auctioneer in the event of the confiscation of the non-standard vehicles sold in 2013;
- Allocation to provisions for charges to an amount of 25 219.87 euros for property taxes (6 391 euros) and condominium charges which the AGRASC will have to pay in 2014 for confiscated real estate in the process of being sold.

The self-financing capacity for 2013 stands at 2 620 319 .03 euros, a rise of 42% compared with 2012 (obtained by adding to the result for the financial year allocations for depreciation and provisions and deducting write-backs of provisions).

The contribution to the working capital stands at 2 425 674.32 euros in 2013.

The balance sheet

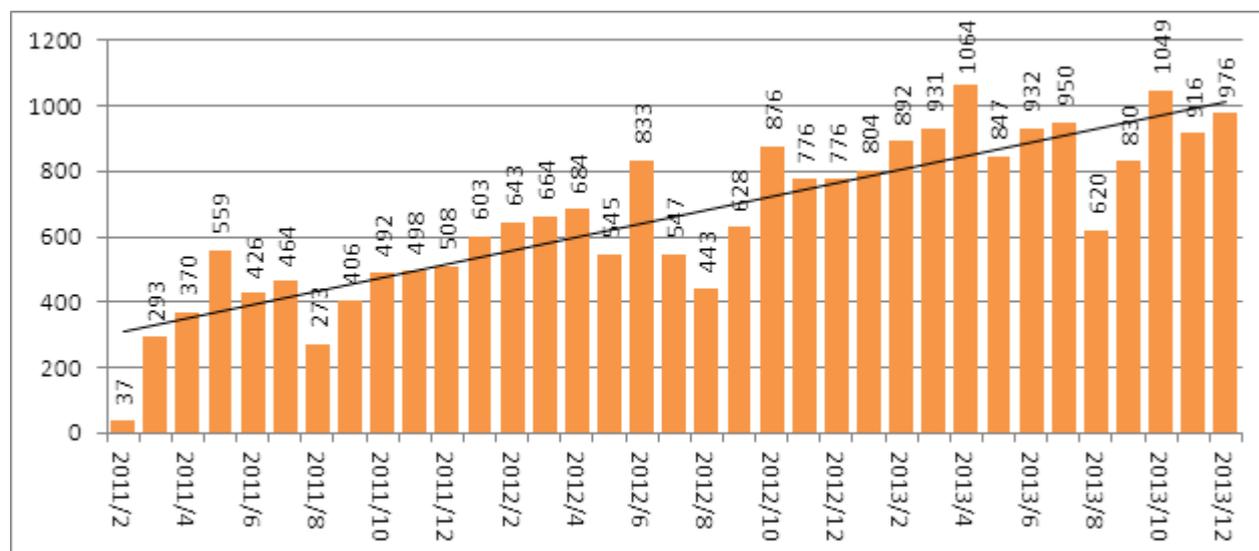
Overall balance stands at 384 039 719.75 euros.

ASSETS		LIABILITIES	
Net fixed assets	76 570.30€	Carry forward	2 585 944.81€
		Result 2013	846 740.63€
		Provisions	1 951 702.09€
Client accounts (CDC interest 4 th quarter)	981 567.75€	Suppliers' accounts (charges payable)	738 839.84€
Accounts 42/43	1 364.56€	Accounts 43/44	328.06€
47/48	15.00€	Accounts 42/45/46	23 000.00€
5151 Treasury account	5 869 324.88€	4671 – CDC Identified	349 799 696.44€
517 CDC account	377 110 291.68€	4672 – CDC awaiting identification	27 681 698.88€
53 Cash	285.57€	Revenue to be transferred (sale of real estate)	411 769.00€
54 Imprest account	300.00€		
Total assets	384 039 719.75€	Total liabilities	384 039 719.75€

Operations recorded on the CDC account in 2013

Since the setting up of the AGRASC more than 500 million euros have gone through the CDC account.

In 2013 the Accounts Department of the Agency was confronted with a marked rise in its activity on the CDC account. Almost 11 000 transfers were received in 2013 (i.e an increase of 38% on 2012) to a total amount of 167 880 347.73 euros.



-Number of transactions recorded on the account by month of activity-

As of December 31st 2013 the overall balance of the AGRASC CDC accounts stood at 377 110 291.68 euros (the balance of the euro account alone stands at 375 844 139.34 euros).

Adjustment

Adjustment consists in correlating the monies transferred to the CDC account with matters and assets registered on the AGRASC data base.

Taking as reference the total amount of monies to be adjusted (transfers received) the rate of adjustment as of December 31st 2013 stood at 92.5%, an increase of 1.6 points compared with 2012 (90.94%).

The improvement in adjustment is explained by the arrival of a new agent in September, thus enabling the Accounts Department to catch up with the volume of outstanding cash adjustments and to focus efforts on adjusting seizures of bank accounts.

On December 31st 2013 66% of unadjusted transfers were from transfers of sealed cash amounts by courts of law. These transfers cannot be adjusted in the absence of transmission to the AGRASC of relevant documents identifying the cases involved.

Other unadjusted transfers pose problems and require clarification by courts for identification purposes: the Registration Department and the Accounts Department launched a reminder operation for courts involved to raise awareness of the need to identify transfers dating from 2011. After this operation in agreement with the Director General of Public Finance monies transferred in 2011 still awaiting adjustment in 2014 will be placed on a third party account pending their future clearance.

Where adjustment of seized bank accounts is concerned, since the quarterly investigations carried out with banks in 2012 and early 2013 had not met with the hoped for success the Accounts Department had to contact – either by phone or e-mail – each of the banks whose transfers were unadjustable (for instance when the amount transferred differed from that indicated in the court order for seizure, or when the bank made one single transfer of the proceeds of several seizures) to match transfers and accounts and identify the relevant court orders (when the latter had not been transmitted to the AGRASC). This method was effective and also provided an opportunity to explain to bank representatives the need to correctly reference transfers.

All these measures have markedly reduced the number of bank transfers awaiting adjustment.

Referral to the Public Sector Accounting Standards Board (CNoCP)

On October 18th 2013 the AGRASC, on the recommendation of Mr Alain Dorison, Inspector General of Finance and a member of the Board of Administration of the Agency, contacted the CNoCP.

After a first presentation meeting, the CNoCP decided to set up a working group comprising all interested parties : the supervisory Authorities of the AGRASC (Minister for the Budget and Minister of Justice), the National Court of Auditors and the members of the colleges of the CNoCP.

The main problems submitted to the CNoCP are the following:

- The entering in the accounts of charges without disbursements: these are provisions constituted to cover possible restitutions of expenses incurred in the sale of assets before judgment. This is designed to make it possible to return the gross proceeds of the sale to the owner to whom the court orders the final restitution of the seized assets;
- The entering in the accounts of seized or confiscated tangible assets (chattels and real estate) : the identification of the entity which controls the asset and the date on which such control may be deemed to be effective;

- The overall entry in terms of thousands of euros of monies seized and which cannot be specifically assigned to a case despite the measures taken to obtain information from courts of law and/or banking institutions;
- Pre-paid management costs: designed to impute management and maintenance costs to the proceeds of the future sale of confiscated goods

The Board of Administration will be informed when the CNoCP gives its opinion on these issues.

III) Prospects for 2014

Recruitments

Since its creation the Agency has registered a very substantial amount of seizures, totaling today more than one billion euros.

In 2014 still more staff will be required due to the rise in the number of cases with international implications, the introduction of a budgetary-accounting system of management of structural costs and expenses connected with the management of confiscated real estate and to ensure real-time processing of judgments transmitted by courts of law.

The Agency has been authorized by its supervisory Authorities to recruit 4 new agents in 2014:

- A member of the Judiciary for assistance to courts and international relations;
- A Public Finance Inspector to develop and pilot the budgetary and accounting aspect of human resources;
- An agent to complete the team in charge of restitutions and judgments in the Legal Department;
- An agent to assist the Operations Department for the management of confiscated real estate.

Future contracts

At the end of 2013 a contract for the setting up of a photographic image bank and an audiovisual reporting bank to enhance the AGRASC's communication and training actions was published on the site *marches-publics.gouv.fr*. Desirous of giving an original twist to developing and diversifying its initial mission, the Agency will design innovative and modern teaching tools intended to illustrate in a practical manner the services which it provides for judges and investigators.



2014 will see the launching of a tender for a new AGRASC data bank. The Agency today possesses a tool designed in-house which has attained a sufficient level of maturity to be able to stabilize the formulation of needs. This existing data base will be replaced by a new base the same functionalities and operated in the "Justice" environment for reasons of data security.

It should be stressed that during 2013 the Secretary general who designed the data bank drafted a user guide making it possible to have at one's disposal the essential elements of its operation. This guide will be most useful for the re-writing of the future data base.

Managing assets : a new partnership with Receivers

The AGRASC and the National Council of Receivers (CNAJMJ) have collaborated in 2013 on setting up a partnership to allow for the appointment of interim Receivers when companies, and more generally businesses, need to be administered and this task is entrusted by the court to the AGRASC. The Agency thus attended the annual National Congress of Receivers on June 20th 2013 to present its work. A draft protocol of agreement and terms of reference have been drawn up. The agreement is expected to be finalized during the first quarter of 2014.

Participation in the financing of the mechanism concerning persons collaborating with the Judicial authorities (repentant offenders who assist the prosecution)

After inter-departmental work sessions under the authority of the Prime Minister, the Agency has offered to participate in the financing of the repentant offender programme set out in the Perben II Act of 2004. This measure will take effect once statute law has widened the scope of expenditure to be borne by the Agency after decisions to this effect by the Board of Administration. It is with this in mind that the Act pertaining to geo-localisation passed on February 24th 2014 provides in section 3 that “*The Agency may also pay over to the State contributions designed to participate in the fight against crime*”. The Conseil Constitutionnel however invalidated this provision in its decision of March 25th 2014 as being outside the scope of the statute in which it was found.

Access to CASSIOPEE

For the third consecutive year the Agency has asked the Ministry of Justice to allow it to have access to the software application in criminal matters known as CASSIOPEE, available to all French courts. This request has still not been granted. A Decree dated May 7th 2012 however granted access to numerous bodies, including the national representative of Eurojust or delegates of Public Prosecutors.

The Agency has continued to stress the need for such access in order to expedite the performance of its various tasks. Such access would avoid the need, on a daily basis, to duplicate on the Agency database information supplied by courts to ensure the traceability of cases and make the connection between the latter and seizures carried out.

Lack of access to CASSIOPEE mechanically leads to diminished efficiency in paying monies over to the general budget of the State or the Drug Fund (MILDT).

The numerous requests which the Agency is obliged to make to Court clerks to obtain missing information delays the processing of case files and increases the workload of Court clerks who transmit to the Agency information on their own database.

Lastly, other bodies such as the Central Office for Seizures and Confiscations in Belgium and BOOM in the Netherlands have access to court software applications in criminal matters in their own countries, access which they say has enhanced the efficiency of their own operations.

The AGRASC therefore reiterates its request, and alerts its supervisory Authorities of the risk of its own services being bogged down if it continues to meet with refusal.

In order to dispel any legal uncertainty in this matter, the Code of Criminal Procedure should provide for access to CASSIOPEE by all justice staff in post at the AGRASC. A general statutory provision, which could take its inspiration from Article 695-8-1 of the Code of Criminal Procedure concerning the national member of Eurojust could thus be introduced and completed by a regulatory provision of the type of those found in Decree n° 2012-680 of May 7th 2012 referred to above.

The final paragraph of Article 706-160 of the Code of Criminal Procedure, which already allows the AGRASC to obtain all useful information from all natural persons and legal entities, could be completed by the following sentence :

“Members of the Judiciary and civil servants on secondment to the Agency for the management and recovery of seized and confiscated assets shall have access to all data stored in computerized data bases containing personal information”.

This provision could be accompanied by further clarification of a regulatory nature providing that :

“ The following paragraph, worded as follows, shall be inserted in Article R.15-33-66-8, after the fifth paragraph of I :

Members of the Judiciary and civil servants of the Ministry of Justice on secondment to the Agency for the management and recovery of seized and confiscated assets”

Statutory reforms

Implementation of AGRASC recommendations in recent statutory provisions

Virtually all the recommendations made by the Agency in its reports for 2011 and 2012 have been incorporated into recent statutory provisions.



assets.

The Act of December 6th 2013 pertaining to the fight against tax evasion and major financial offences has in particular put on a statutory footing the general confiscation of all the property of legal entities in the event of money laundering and the freedom of disposal in cases of value based confiscation and seizure under Article 131-21 paragraph 9 of the Criminal Code. It has updated Articles 694-10 and following of the Code of Criminal Procedure as regards international judicial assistance and reworded Article 434-41 of the Criminal Code to give greater efficacy to the provision imposing penalties for the destruction or misappropriation of confiscated

Two other statutory amendments would enhance the effectiveness of current applicable provisions.

The necessary introduction of the concept of free disposal in Article 99-2 paragraph 2 of the Code of Criminal Procedure concerning the sale of assets prior to judgment

The first amendment concerns Article 99-2 paragraph 2 of the Code of Criminal Procedure which allows the Investigating Magistrate to entrust the AGRASC with the sale, during the preliminary criminal investigation, of chattels which are no longer useful for ascertaining the truth and which may depreciate in value.

Article 99-2 paragraph 2, in a manner inconsistent with the current law governing seizures, limits this possibility to chattels “belonging to the person object of the prosecution”. The problem is that all the assets which are the proceeds of the offence or of which the person prosecuted has the free disposal may be seized, but only those actually belonging to said person may be entrusted to the AGRASC. This approach is illogical and leads to patently absurd situations where chattels seized, of no use for ascertaining the truth and likely to depreciate in value, must be stored at considerable expense. This situation is all the more surprising in that it is not found in Article 41-5 of the Code of Criminal Procedure which allows the Public Prosecutor’s Office, with the prior authorization of the Freedom and Detention Judge (JLD) to also entrust to the AGRASC chattels for sale prior to judgment.

This inconsistency is easily rectifiable by introducing the concept, which has now become a permanent element of French law, of “free disposal” into Article 99-2 of the Code of Criminal Procedure. The provision could be worded as follows : “*The Investigating Magistrate may also order, subject to any rights vested in third parties, that chattels placed under judicial control and belonging to persons prosecuted (or chattels of which such persons have the free disposal) and of which the keeping is no longer useful for ascertaining the truth and which may confiscated under statutory provisions, be handed over to the Agency for the Management and Recovery of Seized and Confiscated Assets, when the maintaining of the seizure of such chattels is liable to depreciate the value thereof*”.

These additional words could also be inserted in paragraph 3 of the same Article 99-2 if Parliament wishes to facilitate the allocating of seized chattels to investigators.

The indispensable rewording of Article 706-164 of the Code of Criminal procedure to enhance the effectiveness thereof

The second amendment concerns Article 706-14 of the Code of Criminal Procedure pertaining to the indemnifying of civil claimants in criminal proceedings by means of confiscated assets. Section 26 of the Act of January 2nd 2014 authorising the Government to simplify and secure the activities of businesses has deleted the word “ natural” in Article 706-164 thus ending the impossibility for the AGRASC to indemnify legal entity civil claimants by means of confiscated assets.

Despite this step in the right direction, Article 706 still remains far too vague to be able to be implemented in a satisfactory manner in favour of civil claimants in criminal proceedings.

It is lacking in precision as regards the basis on which the AGRASC can carry out such indemnification. The idea of Parliament was to allow indemnification by means of confiscated chattels managed by the AGRASC. The current wording is ambiguous on this point, in particular due to the use of the term “ in priority” (any civil claimant “*may obtain from the Agency for the Management and Recovery of Seized and Confiscated Assets that such monies be paid to him/her in priority by means of the chattels of his debtor when confiscated of such chattels has been ordered by a final and binding judgment*”) When using this expression Parliament wished to indicate that such claimants had priority over the State. However an inaccurate reading of this provision may lead one to think that the AGRASC could indemnify “in priority” such a claimant by means of confiscated assets and in the absence of any such assets out of its own funds.

The provision is even more imprecise as to the procedure to be followed, in particular concerning timeframes. In the absence of any specific timeframe for its intervention, the AGRASC may never pay over confiscated monies to the State, since it must wait for civil claimants to enforce their right to be indemnified in priority.

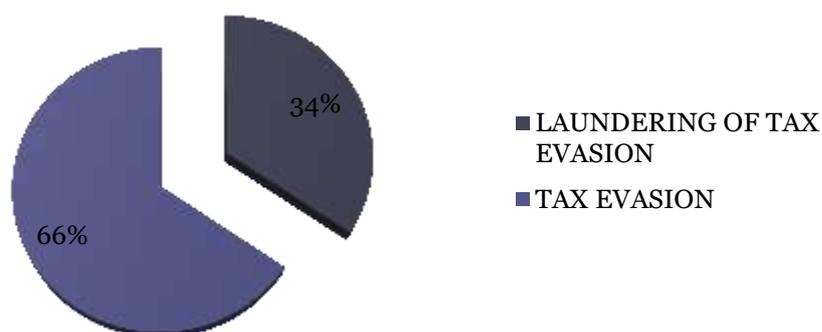
In addition this Article makes no provision for the case, frequently encountered, where monies confiscated are insufficient to indemnify all civil claimants. In the absence of any specific provision clarifying this situation, the AGRASC’s sole solution is to comply with the general principle whereby payment is the price for the trip.

Lastly this Article provides that the State shall, in the event of indemnification of civil claimants, be subrogated to their rights. This a vital provision since the convicted offender is required to bear the cost of indemnification, and Article 706-164 obviously does not release convicted offenders from the duty to assume the obligations arising under such conviction. However this provision in no way identifies which Department of the State is in charge of recovering such amounts.

The AGRASC would like thought to be given to rewording these provisions which are essential for the rights of civil claimants in criminal proceedings. A working group will be set up with all interested parties in an attempt to amend these provisions in order to resolve these practical difficulties and render Article 70-6164 fully applicable.

IV) Focusing on tax evasion

Since its creation the Agency has accounted for 902 assets corresponding to 148 criminal cases of tax evasion or laundering of the proceeds of tax evasion.



	Number of assets seized	%	Estimated amount (in M€)	%
Bank accounts	370	41	203.67	77
Real estate	102	11	46.59	18
Receivables (with transfer to CDC)	11	1	9.65	4
Cash	192	21	4.64	2
Life Insurance	15	2	0.75	0
Vehicles	51	6	0.36	0
Businesses	1	0	0.25	0
Miscellaneous	160	18	0.04	0
	902		265.96	

- ***-Increase in number and millions of euros of the portfolio of assets managed in tax offence cases-***
- *Cumulative position since February 2011-*

More than 265 million worth of assets deriving from tax evasion have been seized since the creation of the Agency.

Conclusion

There are still numerous challenges to be met during 2014 by all members of the AGRASC.

The management of the data system will undergo major changes in the framework of a contract designed to provide the Agency with a dedicated management tool which will integrate elements of the current data base in the system of the Ministry of Justice.

The AGRASC will implement the recommendations of the CNoCP as regards procedure for the sale of assets prior to judgment and sale of real estate.

The AGRASC will implement the measures provided for in Section 24 of the Act of December 6th 2013 for the repatriating of the balance of court accounts to its sole account and will use the same to replenish the State budget. Thanks to this operation the situation of the courts will be rectified, the relationship between the courts and the AGRASC strengthened and the spirit of the Act of July 9th 2010 providing for centralization of seized monies complied with.

However if we are to best respond to the issues which are at the heart of seizures and confiscations of unlawfully acquired assets, it is indispensable for us to cross borders and benefit from the experience of our European partners. Confronted with the same difficulties, called upon to meet the requirements of both Governments and citizens, the foreign counterparts of the AGRASC have opted for a policy of innovation and evolution to keep step with the ever-changing face of organized crime.

In the Netherlands for instance, the Agency is a fully-fledged member of the Public Prosecutor's Office. The Crown Prosecutors members of the Agency request the Court during Court hearings to order confiscation of assets, they contribute their wide-ranging knowledge and expertise in the field of investigations into property of offenders, both of which are indispensable for the Court called upon to order enforcement of penalties on property.

Belgium has also introduced a process of criminal investigation for enforcement purposes which allows the Agency, when for value confiscation has been ordered and assets on which such enforcement may be effected have not been identified, to undertake the necessary investigations with a view to such identification.

Lastly Italy, always at the forefront in seizures and confiscations, has had, in order to curb the activities of the Mafia, to manage some 2000 businesses confiscated from criminal organizations between 1983 and 2013. Its Agency has enlisted the network of Chambers of Commerce to assist in managing such businesses to optimal effect.

The Agency will have to mobilize its resources to make 2014 a year of progress and change designed to ensure greater operational capability by diversifying still further its partnerships, in particular with Receivers. To this end it will organize a symposium in June 2014 bringing together all institutional partners of the Agency : Notaries, Court-accredited Auctioneers, Auctioneers, Clerks of Commercial Courts, Receivers, in order to give still greater impetus to the momentum which has been achieved over the past three years in the performance of the tasks entrusted to it.

Figures and Appendices

22 agents

31 195 cases corresponding to **56 947** assets managed i.e an average of almost **two assets per case**

These assets are valued overall at more than 1 billion euros, **i.e a rise of 49% compared with 2012**

More than 450 million euros seized per year since the creation of the Agency, **i.e an average of 1.7 million euros seized each day**

404 criminal asset seizures of real estate in 2013

1 670 assets sold prior to judgment amounting to 6.63 million euros in 2013

4.5 million euros paid over to the State and 5.9 million euros to the Drug Fund (Inter-ministerial mission on fighting drugs and drug addiction) since 2011

1.2 million euros paid to public creditors in 2013

Restitution of more than 23 million euros in 2013, of which 1.1 million to civil claimants in criminal proceedings

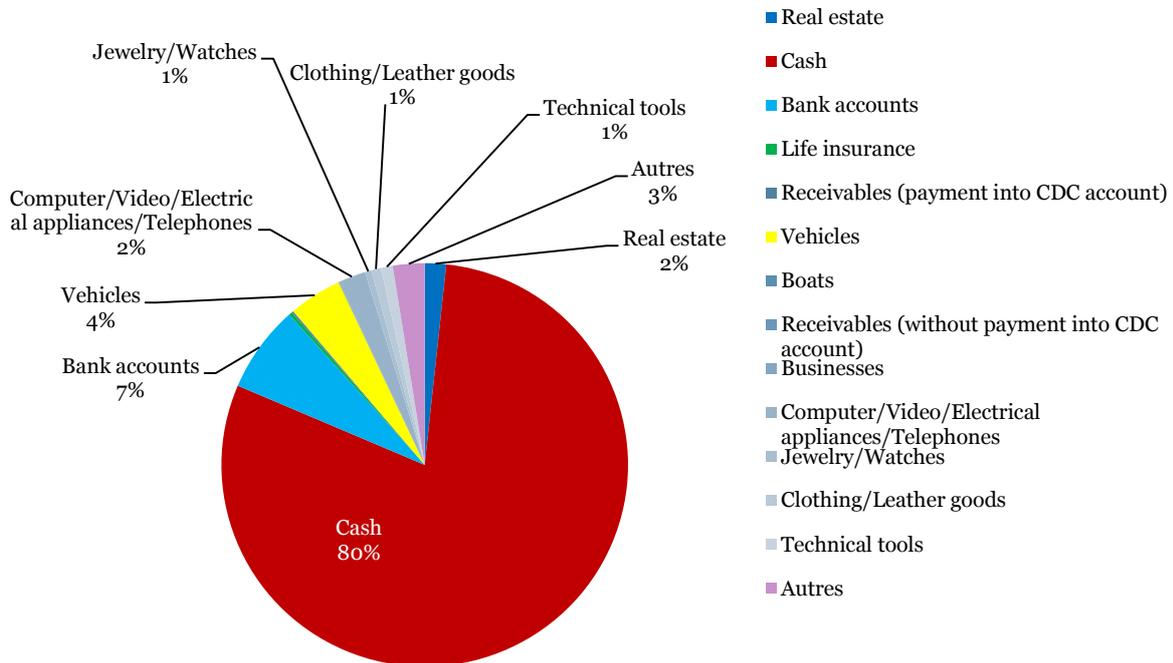
Valuation Chart of stock of seized and confiscated assets

Stock of seizures and confiscations per financial year (In number and M€ - Dec 31 st 2013)	Stock 2011		Stock 2012		Stock 2012		Increase in number (2012/13)
	Nb	Amount	Nb	Amount	Nb	Amount	%
Real estate	225	97.16	621	402.38	967	586.70	56
Cash	10 753	68.31	30 414	121.57	45402	158.81	49
Bank accounts	945	34.48	2547	280.14	3960	245.28	55
Life insurance	18	2.20	75	108.95	154	11.71	105
Receivables (paid into CDC account)	11	2.16	43	62.17	80	122.73	86
Vehicles	714	0.93	1 902	1.17	2414	19.83	27
Boats	3	6.60	20	0.39	24	0.55	20
Receivables (not paid into CDC account)	1	0.37	1	0.37	4	1.12	300
Businesses	1	0.25	1	0.25	2	0.50	100
Computer/Video/Electrical appliances/Telephones	235	0.12	861	0.13	1327	0.19	44
Jewelry/Watches	78	0.08	200	0.03	290	0.04	45
Clothing/leather goods	53	0.03	273	0.07	443	0.09	62
Technical tools	136	0.03	391	0.03	531	0.04	36
Miscellaneous	181	0.04	945	2.14	1439	0.93	52
Total	13 354	206.75	38 294	979.77	56 947	1148.53	49

Annual quantities of seized and confiscated assets registered by the Agency

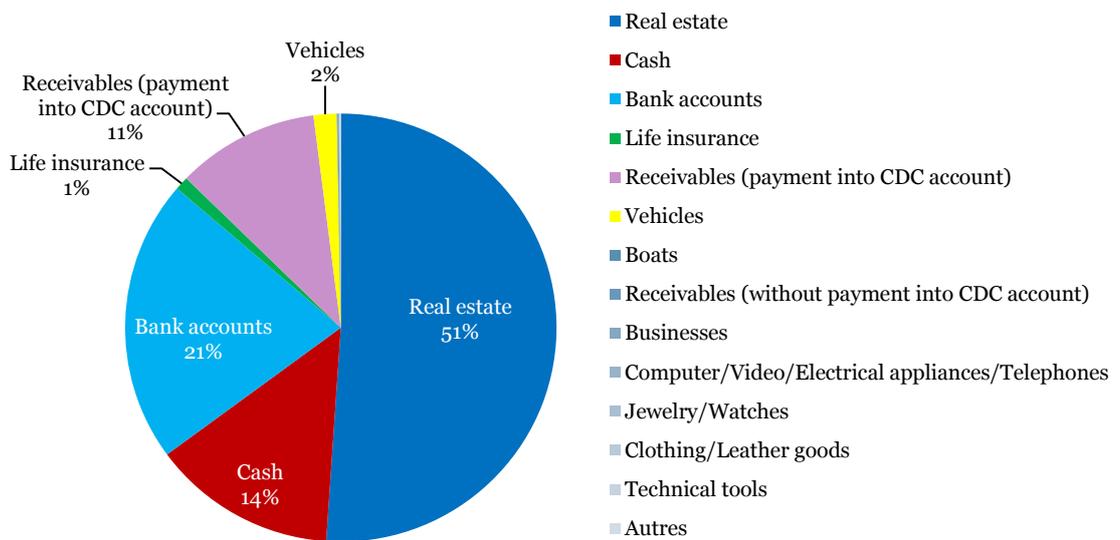
Annual quantity	2011	2012	2013	Average
Real Estate	225	331	419	325
Receivables (paid into CDC account)	14	27	41	27
Bank Accounts	1051	1479	1759	1430
Cash	15023	16930	16632	16195
Life Insurance	21	40	96	52
Vehicles	722	1101	597	807
Receivables (not paid into CDC account)	1	0	3	1
Businesses	1	0	1	1
Computer/Video/Electrical appliances/Telephones	235	384	619	413
Boats	3	15	6	8
Clothing/leather goods	53	201	189	148
Jewelry/Watches	78	117	104	100
Technical Tools	136	101	294	177
Miscellaneous	209	661	585	485
Overall Total	17772	21387	21345	20168

Breakdown by type of main assets seized



-Breakdown by type of main assets seized by number-

Operations directly affecting the CDC account , i.e seizures of cash and bank accounts represent 87% of the total of assets managed by the Agency.



- Breakdown by type of main assets seized by amount -

In terms of value, real estate represents 50% of the value of the portfolio. Bank accounts, cash and receivables paid into the CDC account represent another 46% of this value. The remaining 4% comes mainly from seized vehicles.

Payments following confiscations

(in €)	AGRASC (self-financing)	State Budget	Drug Fund MILDT	Aggregate
2011	50 291	-	689 328	739 620
2012	1 806 000	2 928 731	895 847	5 630 578
2013	1 806 000	1 623 099	4 315 594	7 744 693
Aggregate	3 662 291	4 551 830	5 900 770	14 114 892

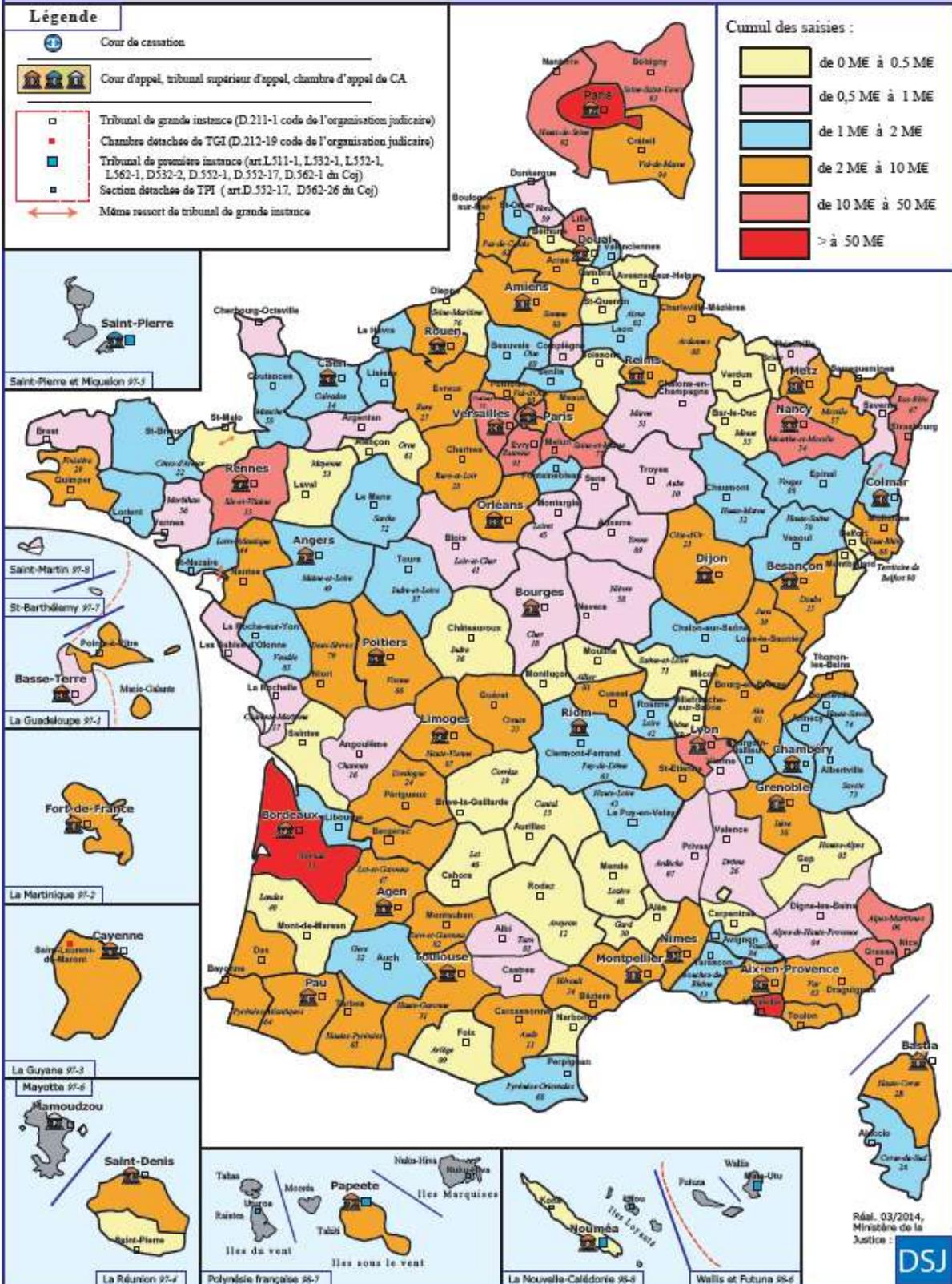
Offences

At the end of 2013, 55 462 offences were registered on the database (one single case may comprise several offences).

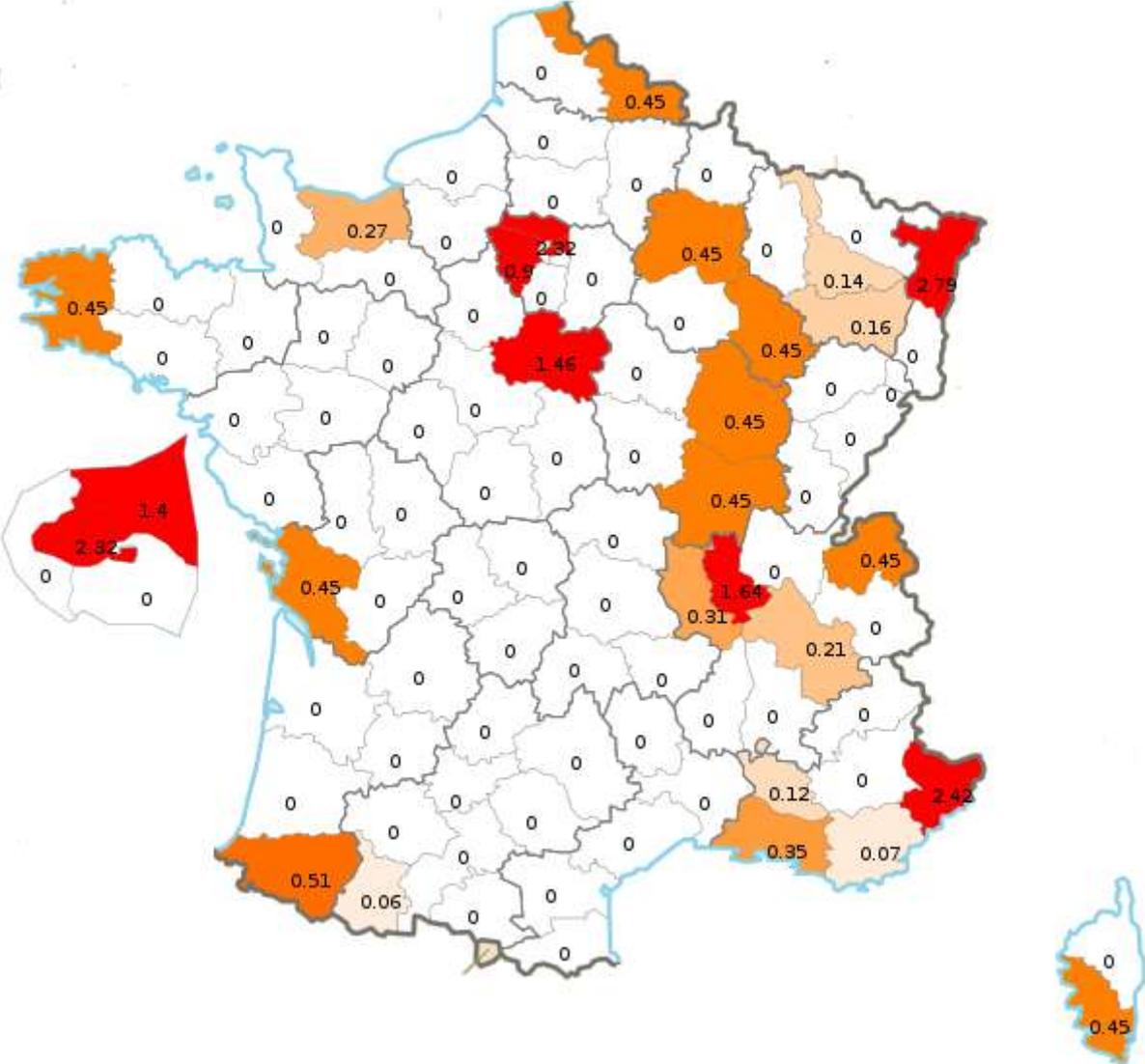
Type of offence	Number	%
Drugs	37 411	67.45
Theft	8 719	15.72
Obtaining property by deception	3 807	6.86
Money laundering	970	1.75
Illegal Labour	908	1.64
Procuring	722	1.30
Betting and Gaming	430	0.78
Forgery	281	0.52
Illegal immigrants	286	0.51
Tax evasion	160	0.29
Non justification of wealth	135	0.24
Taking unfair advantage of weakness	113	0.20
Corruption	71	0.13
Terrorism	54	0.10
Counterfeit money	45	0.08
Extortion	36	0.06
Misappropriation of Public Funds	18	0.03
Environment	3	0.01
Others	1 293	2.33
	55 462	

- *Categories of offence registered on the data base-*

Répartition du cumul des saisies par juridiction



Breakdown of aggregate registrations by court



Organisational chart of the Board of Administration



M. Jean-Marie HUET
Chief Public Prosecutor at the Court of Appeal of Aix-en-Provence
 President of the Board of Administration

<p>The Director of Criminal Matters and Pardons</p> <p>Ex officio member</p>	<p>The Director General of the National Gendarmerie</p> <p>Ex officio member</p>	<p>M. Alain DORISON <i>Inspector General of Finance</i></p> <p>Qualified person</p>
<p>The Secretary General of the Ministry of Justice</p> <p>Ex officio member</p>	<p>The Director General of Customs and Excise</p> <p>Ex officio member</p>	<p>Maître Philippe SCHIES <i>Notary in Alfortville</i></p> <p>Qualified person</p>
<p>The Director General of Public Finance</p> <p>Ex officio member</p>	<p>M. Cyril NOURISSAT <i>Professor of Law</i></p> <p>Qualified person</p>	<p>M. Romain STIFFEL <i>Major in the Gendarmerie</i></p> <p>Staff representative</p>
<p>The Director General of the Police</p> <p>Ex officio member</p>	<p>M. Alain FOURNIER <i>Honorary Registrar of Mortgages</i></p> <p>Qualified person</p>	<p>Mme Christelle NAKACHE <i>Comptroller general Public Finance</i></p> <p>Staff representative</p>

Organisational Chart of the Agency



Elisabeth PELSEZ
Director General
Senior Judge



Hervé BRABANT
Secretary General
Public Finance Administrator

Assistantes



Mona GROGNET
Administrative Assistant
Justice

Budget et comptabilité



Marie-Josée JEAN
Principal Administrative
Agent Public Finance



Nicole DANEZAN
Administrative Secretary

Legal Department



Stephen ALMASEANU
*Head of the Legal
Department*
Judge



Rémi SAPPYA
*Deputy Head of the Legal
Department*
Divisional Inspector of Public
Finance



Béatrice LE GARS
Head Clerk



Sandrine JEANNIN
Territorial Officer



Muriel JAFFART
Chief Auditor of Public
Finance



Isabelle MAUGAT
Court Clerk



Valérie VAUDON
Court Clerk

Operations department



Romain STIFFEL
*Head of the
Operations
Department*
Major in the Gendarmerie



Luc BARON
*Deputy Head of the
Operations
Department*
Senior Police Officer



**Jean-Michel
BOUILLON**
Chief Warrant Officer
Gendarmerie



Francis MARDONAO
Police Officer



Cécile PAPON
Customs and Excise
Chief Inspector

Registration Department



Christelle NAKACHE
*Head of the Registration
Department*
Comptroller General of
Public Finance



Etienne GRUAU
Administrative Assistant

Accounts Department



Yves TOUBOULIC
Accountant
Divisional Inspector of
Public Finance



Cécile ROUSSEAU
Deputy Accountant
Principal Administrative
Officer of Public Finance



Emmanuel LEGEAY
Principal Administrative
Officer of Public Finance

