



CoE Brazil

CENTRE OF EXCELLENCE
FOR ILLICIT DRUG SUPPLY
REDUCTION

1st THEMATIC BULLETIN

Management of Assets from Drug Trafficking - Decapitalizing organized crime to strengthen public policies in Brazil

April 2021



SECRETARIA NACIONAL DE
POLÍTICAS SOBRE DROGAS

MINISTÉRIO DA
JUSTIÇA E
SEGURANÇA PÚBLICA





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Thematic Bulletin of the Centre of Excellence for Illicit Drug Supply Reduction (CoE Brazil)

Management of Assets from Drug Trafficking Decapitalizing organized crime to strengthen public policies in Brazil

Ministry of Justice and Public Security (MJSP)

National Secretariat for Drug Policies (SENAD)

United Nations Development Programme (UNDP)

United Nations Office on Drugs and Crime (UNODC)

Centre of Excellence for Illicit Drug Supply Reduction (CoE Brazil)



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DATASHEET

Management of Assets from Drug Trafficking - Decapitalizing organized crime to strengthen public policies in Brazil

Development and review: Staff of the Centre of Excellence for Illicit Drug Supply Reduction (CoE Brazil)

Graphic design and layout: Quatro X Soluções

English translation: Wide Traduções Técnicas

Website: www.cdebrasil.org.br

ABBREVIATIONS

- CoE Brazil** // Centre of Excellence for Illicit Drug Supply Reduction
- CICAD** // Inter-American Drug Abuse Control Commission
- CNJ** // National Council of Justice
- Conab** // National Supply Company
- COPOLAD** // Drug Policy Cooperation Program between Latin America, the Caribbean and the European Union
- CPAAB** // Permanent Committee for the Valuation and Disposal of Assets
- DGA** // Asset Management Board
- DPPA** // Public Policies and Institutional Articulation Board
- FUNAD** // National Anti-Drug Fund
- FUNCAB** // Fund for Prevention, Recovery and Combating Drugs of Abuse
- G8** // Group of 8
- GFUNAD** // Asset Management System of the National Anti-Drug Fund
- IPEA** // Institute for Applied Economic Research
- MJSP** // Ministry of Justice and Public Security
- SDGs** // Sustainable Development Goals
- OAS** // Organization of American States
- OSA** // Disposal Service Order
- Pnad** // National Anti-Drug Policy
- UNDP** // United Nations Development Programme
- RRAG** // Asset Recovery Network of the Financial Action Task Force of Latin America
- SEI** // Electronic Information System
- SENAD** // National Secretariat for Drug Policies
- SENAPRED** // National Secretariat for Drug Care and Prevention
- IFMS** // Integrated Financial Management System
- Sisnad** // National System of Public Policies on Drugs
- SPU** // Federal Union Patrimony Secretariat
- Susp** // Single Public Security System
- EU** // European Union
- UNCAC** // United Nations Convention against Corruption
- UNODC** // United Nations Office on Drugs and Crime

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Introduction

The implementation of the pilot project of the Centre of Excellence for Illicit Drug Supply Reduction (CoE Brazil) aims to provide subsidies to qualifying the Ministry of Justice and Public Security (MJSP) in the development of studies and analysis of trends on the threats posed to drug trafficking and transnational organized crime.

As a result of a technical cooperation partnership between the National Secretariat for Drug Policies (SENAD/MJSP), the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC), the CoE Brazil seeks to provide scientific evidence for a network of strategic partners responsible for combating illicit drug trafficking.

The implementation of the pilot project is a response to the definition of the National Anti-Drug Policy (Pnad), by Decree No. 9.761/2019, which attributes to SENAD the articulation and coordination of cores such as reducing the supply of illicit drugs, repression of unauthorized production and fight against drug trafficking. Among other objectives, Pnad proposes to “disseminate knowledge about crimes, misdemeanors and offenses related to illicit and licit drugs, in order to prevent

and restrain their practice, through the implementation and effectiveness of public policies to improve the citizen's quality of life”¹.

Within the perspective of building drug policies based on scientific evidence, the CoE Brazil meets its purpose in the dissemination of data, statistics and indicators on this subject in Brazil. By strengthening cooperation between government partners and technical institutions, and based on extensive research and analysis, the CoE Brazil will provide subsidies to improve government measures that can lead to more qualified responses in the fight against illicit drug trafficking. Evidence-based public policies will help promote comprehensive and multidimensional crime prevention strategies aimed at social and economic development, considering social, educational and security measures to foster a people-centered culture of legality.

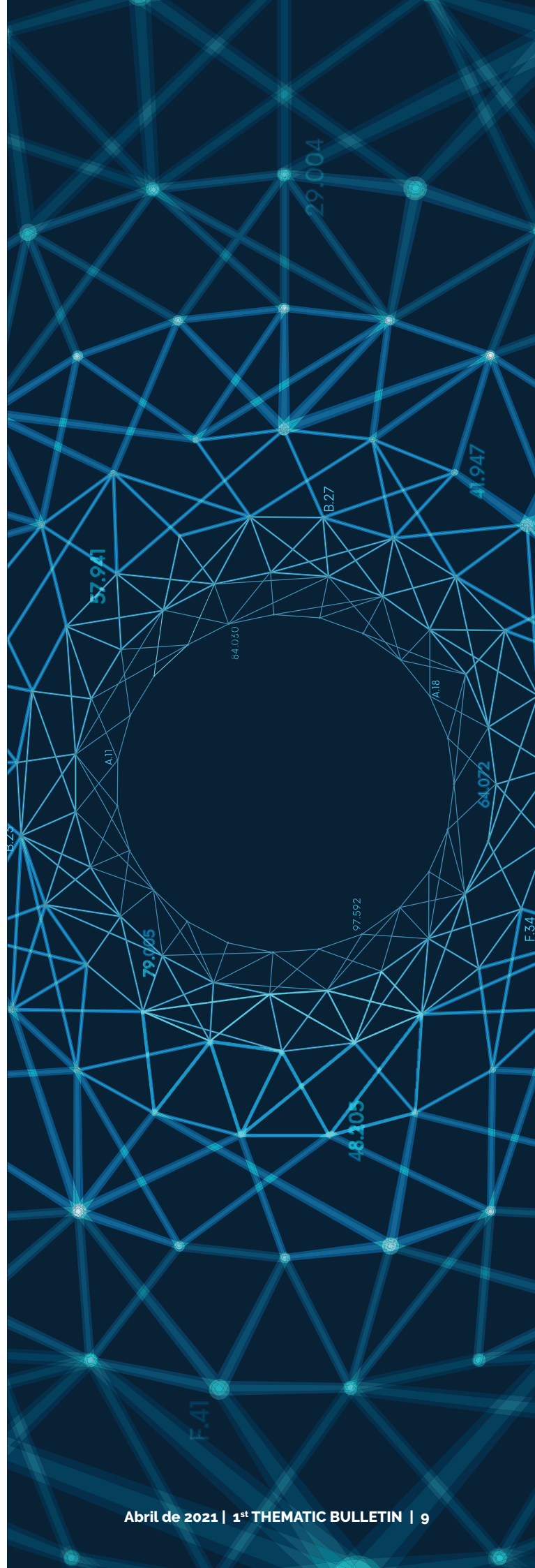
To this end, the CoE Brazil relies on the expertise of the UNODC headquarters in Vienna and offices in several countries to strengthen the statistical, analytical, and monitoring capacities of the supply of illicit drugs. All of this work is carried out

¹ Available at <http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9761.htm> Access in: Feb 13, 2021.

in close collaboration with SENAD and its national partners who are involved in reducing the supply of illicit drugs, so that the knowledge generated facilitates the research dialog not only within Brazil but also with neighboring countries, in the search for articulated solutions, coordinated and integrated approaches to drugs and crime problems.

In addition to being in line with what Pnad proposes, the CoE Brazil pilot project also collaborates in the achievement of several objectives of the Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda, including objective 16, which aims to promote peaceful societies, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. In this context, goal 16.4 aims to significantly reduce illicit financial flows, strengthen the recovery and devolution of diverted resources and combat all forms of organized crime. Considering the SDGs benchmark, it is intended to contribute to an increasingly comprehensive and balanced approach to overcoming problems related to drug supply.

In this first bulletin, the CoE Brazil contributes to this debate by discussing the asset management model in Brazil, its sources of information, the alienation process, the legislation in force and the world's experience on this matter.



Asset Management

Among the practices to combat drug trafficking, one has grown in prominence in recent years: the decapitalization of criminal organizations. In the international scenario, increasingly, the reduction in the supply of illicit drugs is due to the economic losses of the groups that operate in drug trafficking and the consequent reversion of the seized and lost assets in favor of the Union for drug policies. To continue to face complex illicit markets, improving the asset management seized by drug trafficking is a means of expanding the funding of public policies, promoting drug supply reduction and increasing the government's ability to deal with organized crime. In turn, putting in place effective mechanisms and improving the management of seized assets can help ensure the proper destination for these assets and, thus, foster a positive government cycle for the use of that capital.

The confiscation of seized assets in the context of drug trafficking, as well as the repressive measures to combat crime, must be understood as a means of compensating society, particularly through Asset Management systems that consolidate the government's

resources for the implementation of public policy. In that regard, this Bulletin seeks to address the subject by analyzing the flow of seized assets since the confiscation, through disposal, the sale coordinated by SENAD and, finally, adding resources to the National Anti-Drug Fund (FUNAD).

As a source of information, this Bulletin presents some international experiences, uses data from the Asset Management System of the National Anti-Drug Fund (GFUNAD) and recalls the mapping of the work processes carried out by SENAD and the players involved at the state level. These subsidies allowed an analysis of the management of seized assets in Brazil. In addition, as a complementary source, the CoE Brazil conducted interviews with interlocutors at the federal and state levels - Distrito Federal and Minas Gerais - in order to highlight the current flow of asset management in the country and to map the practical experiences and challenges faced by professionals from the Permanent Committee for the Valuation and Disposal of Assets (CPAAB) and public auctioneers.

INTERNATIONAL SCENARIO

In the international scenario, a series of instruments to combat drug trafficking and organized crime stands out, including protocols on the seizure and asset management linked to criminal activities.

The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention, 1988) contains far-reaching provisions on the confiscation of proceeds from the products of crime and property mixed with legitimate assets. Based on the definitions of this Convention, which allows using these assets for crime prevention, other instruments for the confiscation of crime products have been agreed upon by the international community at global², regional and local levels.

Article 6 of the 2003 United Nations Convention against Transnational Organized Crime (Palermo Convention) identifies confiscation of the proceeds of crime as an important means of suppressing transnational organized crime and requires Member States to take measures to allow the confiscation of assets from criminal activities.

Designed to promote international cooperation against corruption, the 2005 United Nations Convention against Corruption (UNCAC) also provides instructions for the recovery of assets. Article 31 of this Convention contains

² Defined in Articles 1 and 3 of this Convention..

detailed provisions on the seizure and confiscation of the proceeds of crime or the instruments used in its practice. In addition, Articles 53 and 57 of the UNCAC establish, among others³, the obligation of Member States to adopt legislative measures that allow them to return the seized property to the rightful owners or to compensate the victims of crime.

As a signatory to the three above-mentioned Conventions, Brazil has committed to using anti-corruption and drug trafficking practices in its various forms of action. This means that the country considers measures and standards set out in the international context.

Regarding the incorporation of the provisions present in the conventions, the study "Effective Management and Disposal of Seized and Confiscated Assets" (UNODC, 2017) provides an overview of trends and approaches on asset management in 64 countries that involves: 1) the legislation related to the management of an asset during the provisional phase; 2) issues related to the end of the sale of an asset by decision of the court or competent authority; and 3) mechanisms to preserve the value of seized assets to guarantee maximum return on sale. This study presents the efforts of several countries to integrate the conventions, mainly UNCAC, into specific national contexts, being an important reference on the topic of asset management.

³ Paragraph 3 of Article 31 provides that each Member State shall take measures to regulate the administration of assets under embargo, seized or confiscated



Finally, UNODC is working on a guide for seizure, frozen and confiscated asset management, which was initially presented in 2018⁴ to the Open-ended Intergovernmental Working Group on Asset Recovery⁵, and then revised and updated. The latest version of the aforementioned guide, which contains 14 non-binding guidelines, was presented during the eighth session of the Conference of the States Parties to the United Nations Convention against Corruption in 2019⁶.

In 2020, the European Union (EU) and the Brazilian government held a virtual seminar entitled "International Dialogs on Justice and Public Security - European Union - Brazil: Best Practices in Seized Asset Management", that brought together public authorities from various countries and international organizations such as the UNODC, the Organization of American States (OAS) and the El Paccto Program to discuss the issue of seized asset management.

In addition to the United Nations, in 2003 the OAS adopted a model for regulating money laundering and drug trafficking that addresses the sale of seized property. The model indicates how to seek the management of the-

4 CAC/COSP/IRG/2018/CRP.14, available at: <<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/12-14November2018/V1807476e.pdf>>. Access in: Feb 03, 2021.

5 Subsidiary body of Conference of the States Parties to the United Nations Convention against Corruption.

6 CAC/COSP/ WG.2/2019/ 3, available at: <<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2019-May-29-30/V1901749e.pdf>>. Access on Feb 03, 2021.

se assets, the arresting organs and the distribution of the assets to the countries cooperating in the investigation or trial (UNODC, 2017).

In 2005, the Group of 8 (G8), an association of the world's most industrialized countries, developed a guide to best practices in seized assets management, highlighting the importance of: 1) make good tax decisions; 2) have a clear separation of the tasks of each authority; 3) generally have an effective management; 4) implement strict controls; and 5) ensuring transparency of management through annual audits with independent auditors (G8, 2005).

In addition, in 2008 the OAS developed a project to manage seized and confiscated assets in Latin America. The initiative, known as "BIDAL", stands for the Spanish acronym "Proyecto de Administración de Bienes Incautados y Decomisados en América Latina" and provided technical assistance to the associated countries, including Brazil, where it was implemented in 2014.

SEIZED AND CONFISCATED ASSETS IN LATIN AMERICA // BIDAL PROJECT

SOURCE: ORGANIZATION OF AMERICAN STATES (2014)

The Executive Secretariat of the Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD/OAS) and the Member States developed the project on Seized and Confiscated Assets in Latin America (BIDAL Project). This initiative is the result of a series of detailed analyzes designed to help national anti-drug agencies to deal with the recurrent lack of funds to finance demand reduction programs and improve drug law enforcement and mechanisms to efficiently manage assets derived from illicit drug trafficking.

According to the experiences of CICAD/OAS and studies carried out by specialists in the region, the resources generated by assets seized from organized crime - mainly from drug trafficking and players responsible for money/capital laundering - were not well used. These resources were often not effectively managed or used to deal with the serious consequences of illegal activities by criminal organizations.

For this reason, the aim of the BIDAL Project was to incorporate an innovative method to help Member States develop and improve capacities to create transparent legal structures and administrative procedures that enable the detection, seizure, confiscation and management of seized and confiscated assets, as well as the

application of a range of flexible and common techniques.

During its establishment and its first phase in 2008 and 2009, the BIDAL Project was implemented in three countries: Argentina, Chile, and Uruguay were chosen because of the similarity of their legal systems and their geographic proximity. In 2011 and 2012 it was used in the second phase in El Salvador and the Dominican Republic to carry out situation diagnoses, E.g.: identifying the strengths and weaknesses of each country in relation to asset recovery, asset seizure, management of seized and confiscated assets, final destination, exchange of experience and best practices in international cooperation.

In the regional context, the BIDAL Project contributed to the UNODC in the development of the following products: "Model Law on Domain Extinction", a significant legal instrument for States that plan to incorporate this figure in their national legislation; support for the Drug Policy Cooperation Program between Latin America, the Caribbean and the European Union (COPOLAD); and active participation in the proposal for the creation and development of the Asset Recovery Network of the Financial Action Task Force of Latin America (RRAG), which aims to cooperate internationally in the identification, monitoring and recovery of assets derived from activities related to organized crime.



Diagnosis of the situation that identified the existing deficiencies in the confiscation system and in the body responsible for managing the seized and confiscated assets.

Started in 2014, it carried out a patrimonial investigation on the management and destination of the assets that are seized in the country. These studies were used as subsidies for the modification of the Asset Disposal Act in 2019.

Provided technical assistance and worked in coordination with various national institutions of the three branches of the republic; The "Domain Extinction Law" was promulgated. Creation and legal nature of the Asset Management Council (CONAB) as well as special provisions for the management of seized and confiscated assets.

It identified the weaknesses in the individual processes of the Department of Public Prosecutor and other bodies in the country. It also established a number of recommendations and proposals to adjust its legal standards for the creation of a specialized body in the administration of assets derived from organized crime.

The National Registry of Seized and Confiscated Assets was created during the Criminal Procedure, whose main function is the identification, registration, evaluation and location of all assets seized, confiscated or affected by a precautionary measure in the context of criminal proceedings. Amendments to the Criminal Code to incorporate the issue of "confiscation without sentence or condemnation" and the Patrimonial Investigation Manual of the National Public Prosecutor were developed.

It had implications for the enactment of a law containing so-called "Full-fledged Confiscation" and certain other elements related to the abandonment and management of seized and confiscated assets. The rules of Confiscated Assets Fund of the National Drugs Board have changed. The Seized Asset Fund Regulations have been established, the subject of which is the legal framework for procedures for the effective management of seized and confiscated assets.



In 2014, in collaboration with the Center for the Study of Democracy, the EU launched a study on the disposal of confiscated assets from its Member States. According to the publication, all EU countries are using auctioning as the primary disposal method for seized assets, although there are other disposal options. This fact can be explained because the sales model is a category considered rooted in the legislative framework of the EU and its countries, including an EU Council Regulation adopting this path (CENTER FOR THE STUDY OF DEMOCRACY, 2014). In this sense, confiscated assets are considered to be instruments to provide compensation to victims of crime and to the consolidation of the State Budget, similar to that practiced by the Brazilian Law (Law No. 13,840, of June 5, 2019).

Although EU Member States share a common policy focus on asset disposal due to criminal activity, some challenges remain and are similar to those in Brazil. In relation to confiscated properties, the main conflicts arise when they have a mortgage guarantee or are subject to other executive procedures that lead to third party claims in good faith. Another issue related to the difficulty of selling property in the EU arises when the reputation of the former owner is linked to organized crime (ibid.).

NATIONAL SCENARIO

In Brazil, SENAD was founded in 1998 with the aim of implementing public drug policies in the country. Pnad, updated in 2019, dismembered the political structure in this area and delegated responsibility for the coordination and implementation of this policy within the scope of its capabilities to SENAD and the National Secretariat for Drug Care and Prevention (SENAPRED). SENAD is responsible for developing strategies to reduce drug supply through the dissemination of knowledge and the suppression of drug trafficking and related crimes. One of the drug policy guidelines determines the existence of a flow of information between SENAD and the members of the Single Public Security System (Susp) about the movable assets, properties and financial assets seized in the context of drug trafficking. On the other hand, SENAPRED, which was assigned to the Ministry of Citizenship, was responsible for developing measures to promote drug demand reduction through drug use prevention and treatment, as well as social reintegration in this context.

With regard to national legislation, Brazil relies on the National System of Public Policies on Drugs (Sisnad), created by Law No. 11,343, of August 23, 2006, which provides for the prevention of the use, attention and social reintegration of drug users, in addition to establishing the sanction related to unauthorized production and illicit drug trafficking. This system was updated by Law No. 13,840, of

June 5, 2019, which provides guidance on asset management and creates the possibility of selling an asset in advance (Article 61). This Law opened space for the Brazilian State to sell assets originating from drug trafficking, with the exception of weapons, before the final and an unappealable court decision. Sisnad was also updated by Decree No. 9,761, of April 11, 2019, which defines Pnad, and FUNAD is one of its main instruments.

As the most important normative milestone in this field, Pnad is based on the following assumptions: the prevention of the use of licit and illicit drugs; coordination with health and life, health and adolescent protection policies; and the repression of drug trafficking, money laundering and related crimes, including the recovery of assets that finance or are the result of these criminal activities. There is also the recognition of corruption, money laundering and organized crime linked to drug trafficking as the main vulnerabilities to be targeted by measures to reduce the supply of drugs.

In addition to changes in the regulatory milestone for drug policy, SENAD structured its activities in two areas: reducing the supply of drugs and combating drug trafficking and related crimes; and the management of resources seized as a result of criminal activities related to these crimes. To this end, the Secretariat has two departments in its organizational structure: The Public Policies and Institutional Articulation Board (DPPA), responsible for measures to reduce the drug supply, in particular through training and

conducting research in preparation for public policy; and the Asset Management Board (DGA), which is responsible for the management of FUNAD, and seized and lost assets due to drug trafficking and related crimes for the benefit of the Union..

NATIONAL ANTI-DRUG FUND

FUNAD was established by Law No. 7,560, of December 19, 1986, at the time under the name of Fund for Prevention, Recovery and Combating Drugs of Abuse (FUNCAB), with the main purpose of funding measures, projects and programs related to drug policy. This fund raises resources through the sale of assets of economic value seized as a result of crimes related to drug trafficking, as well as any activity associated to the manufacture and distribution of illicit drugs. It also receives donations, fines, proceeds from the use of assets, and inclusion of funds earned and remitted as part of the fight against drug trafficking. In 2020 alone, the Fund raised R\$ 134 million⁷.

The flow of these assets can help to understand a little more the processes of seizure of an economic asset owned by criminal organizations, which, subsequently, is under the responsibility of some public agency, mainly civil and federal police. Eventually, SENAD is empowered by court order to put it up for auction "definitively" or "in advance" and the appeal is then incorporated into FUNAD to fund public policy

on drugs. This can be considered the main route of the asset, from its seizure until its sale.

However, the flow can become more complex, with the creation of alternative procedures and the involvement of other actors, mainly in the proactive performance of the Permanent Committee for the Valuation and Disposal of Assets and the public auctioneers. These committees and auctioneers⁸ facilitate the identification of assets that can be auctioned and act in the resolution of possible documentary pending issues. Figure 1 details how the flow of seized assets occurs in the context of an early sale, given the recent legislative change authorizing this modality.

⁷ Source: Integrated Financial Management System (IFMS). Updated Jan 8, 2021..

⁸ All 27 Federation Units have a Permanent Committee for the Valuation and Disposal of Assets, which are composed of professionals linked to public security in the States and work together with SENAD in the management of assets, as well as the auctioneers who are hired by the Secretariat.

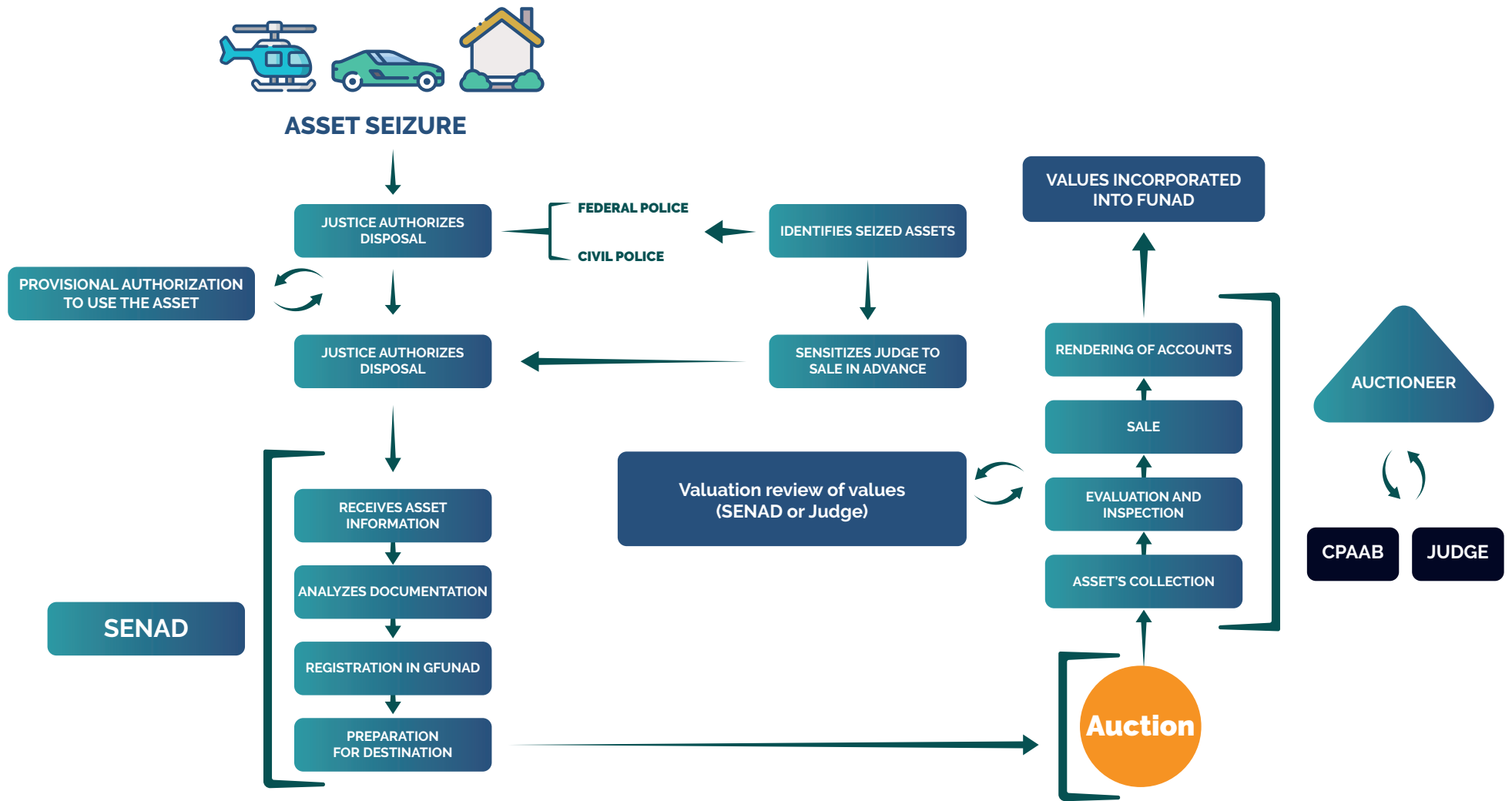


Figure 1 - Flowchart of the management model of disposal of assets in advance

Source: Centre of Excellence for Illicit Drug Supply Reduction (CoE Brazil)



ration with the CPAAB and the auctioneers, carries out the processing and procedures for the patrimonial transfer of these assets in accordance with the guide manual⁹ that describes the actions and functions of each responsible party in this process.

FLOWS AND PROCESSES FOR FUNAD'S INFORMATION MANAGEMENT

GFUNAD is the system that promotes the safekeeping and data management of seized assets, including information since 2003. Over time, it was improved and provided with new management variables.

An important change to GFUNAD that should be mentioned is the inclusion of information related to the mandatory procedure, including the unique identification number of the National Council of Justice (CNJ) and the information related to the auction process carried out. The information in the system is all filled in by SENAD employees, after receiving the judicial files sent to the Secretariat. Thus, GFUNAD contains the records of assets sent to SENAD via the Judiciary, and there may be a lapse of information about the location of assets or even assets that are not known to the federal government¹⁰.

In the flowchart we can see that immediately after the seizure, it is possible for the court to authorize the temporary custody of the assets. This occurs, for example, when security forces request the use of seized aircraft or vehicles before their final destination. SENAD then receives non-standardized information on process and asset details so that it can carry out the preparation procedures for the auction.

Regarding the final sale, after a final and unappealable court decision, SENAD is entitled to indicate other destinations than the auction, such as donation, destruction or assignment of an asset.

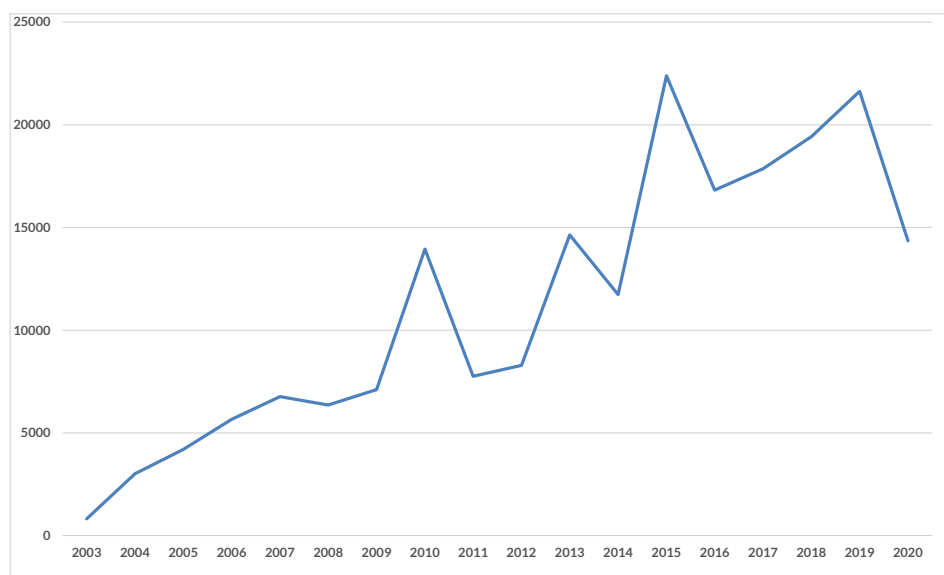
If the asset is auctioned, SENAD, in collabo-

9 <<https://www.justica.gov.br/sua-protecao/politicas-sobre-drogas/arquivo-manual-de-avaliacao-e-alienacao-de-bens/manual-de-orientacao-avaliacao-e-alienacao-cautelar-e-definitiva-de-bens-v15.pdf/view>>. Access in: Feb 12, 2020.

10 SENAD receives information on seized assets in a non-standard way. There is no regulation that establishes flow or rules for receiving this information.

With this scenario in mind, SENAD implemented the Check in Project, which works with state public security agencies and the Federal Police as partners in the registration of assets that are located in the storages to improve the information and make the auctions more agile. In return, this project provides for the allocation of 20% to 40% of the amount collected to the police who seized the asset¹¹. Until December 2020, there were 202,700 assets¹² registered in the GFUNAD database¹³, which delineates the historical increases in the number of annual registrations. As of 2015, it is possible to see an increase to the level of more than 15 thousand assets per year (Figure 2).

Figure 2 - Evolution of the number of assets incorporated into FUNAD per year until 2020



Source: GFUNAD- Ministry of Justice and Public Security (2020).

Most of the seized assets incorporated into GFUNAD are made up of local (cash¹⁴) currency notes (54.0%), followed by vehicles (21.8%), electronic items (15.4%), miscellaneous items¹⁵ (5.6%), cash in foreign currency (2.4%) and, finally, real estate, vessels and aircraft (0.9%) (Figure 3).

¹¹ <<https://www.justica.gov.br/news/collective-nitf-content-1571145331.23>>. Access in: Feb 18, 2021.

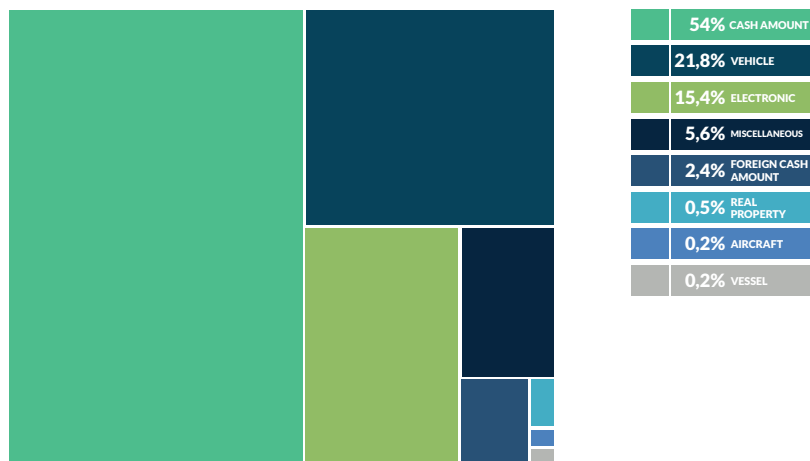
¹² An asset is considered to be a tangible asset of economic value seized by security agencies, which can be material goods, such as: vehicles, jewelry, real estate, money or even biological goods such as livestock.

¹³ Asset data was extracted from GFUNAD on January 14, 2021. There is a liability for information to be incorporated into the database, so that it is subject to change.

¹⁴ The amount of cash takes into account the amount of seizures made regardless the value.

¹⁵ They fit into the miscellaneous items: jewelry, bicycles, precision scales, food, animals, among others.

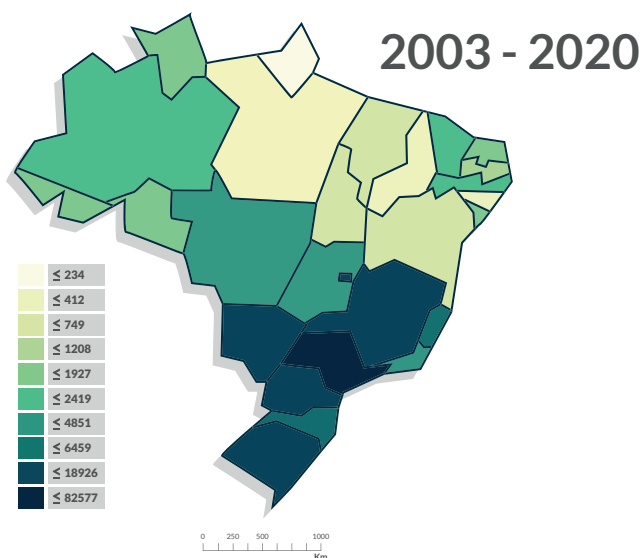
Figure 3 - Percentage distribution of the types of seized assets incorporated into FUNAD (registration until December 2020)



Source: GFUNAD- Ministry of Justice and Public Security (2020).

Historically, among the registered assets, the State of São Paulo has the most assets seized and incorporated into GFUNAD, followed by Minas Gerais and Distrito Federal (Figure 4). There is also a greater concentration of seized assets in the states of the South-Central region. In the data analyzed for this Bulletin, there are no elements that can explain the reason for the concentration of seizures in this region. The following are identified as possible factors to be investigated in future analyzes and studies: (i) the greater presence of ports, airports and road infrastructure, (ii) greater population concentration, (iii) greater structure of police institutions and the Judiciary in specific federal units.

Figure 4 - Map of the quantity of assets registered with GFUNAD by State from 2003 to 2020

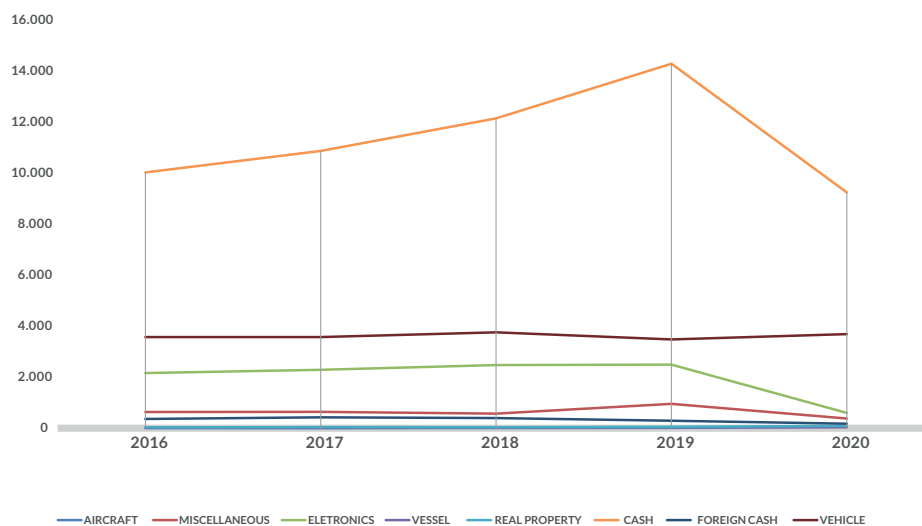


Source: GFUNAD- Ministry of Justice and Public Security (2020)

Regarding the assets registered with GFUNAD, it is possible to notice an increase in the number of monetary values incorporated into the Fund, which had a peak of seizures in 2019. For the aircraft and real estate categories, the figures included over time are relatively stable. In

the electronics category, the number of assets registered is stable from 2016 to 2019, with a decrease in 2020, as shown in Figure 5.

Figure 5 - Quantity of assets incorporated into FUNAD from 2016 to 2020¹⁶



Source: GFUNAD- Ministry of Justice and Public Security (2020)

For vehicles, the second category of assets most incorporated into GFUNAD, the amount was relatively maintained in the period from 2016 to 2020. It is important to note that the vehicle category is the main item sold in the auctions held.

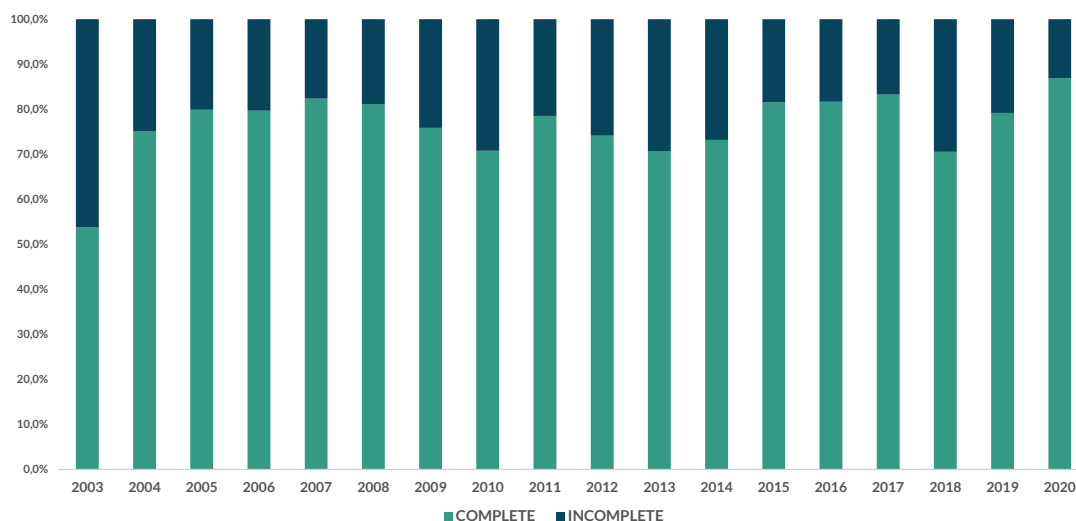
Efforts have been made over the years to improve SENAD's administrative capacity and to make the disposal of seized assets in drug trafficking situations more efficient. The observed efforts include improvements to GFUNAD, the internal workflow, the federative agreement with government agencies and changes in legislation.

To make the auction of an asset feasible, one of the first steps is to complete the documentation process with court documents and information on the location of the asset. Without this documentary validation, it is not possible to proceed with the disposal process. The GFUNAD data show that 77.9% of the assets are in a procedural situation classified as complete, that is, that they can proceed to the next steps. This percentage shows the Secretariat's potential to auction and raise more funds for FUNAD based on improvements in the asset documentation process.

¹⁶ The amounts shown in the chart for the cash category consider the quantity of seizure and not the value seized.

Figure 6 shows the status of documentation of assets according to the date of registration with GFUNAD. The 2020 data show a historical increase in the percentage of assets with complete documentation and is linked to efforts to make asset management more efficient through initiatives such as the Check in project.

Figure 6 - Status of asset documentation according to registration date in GFUNAD



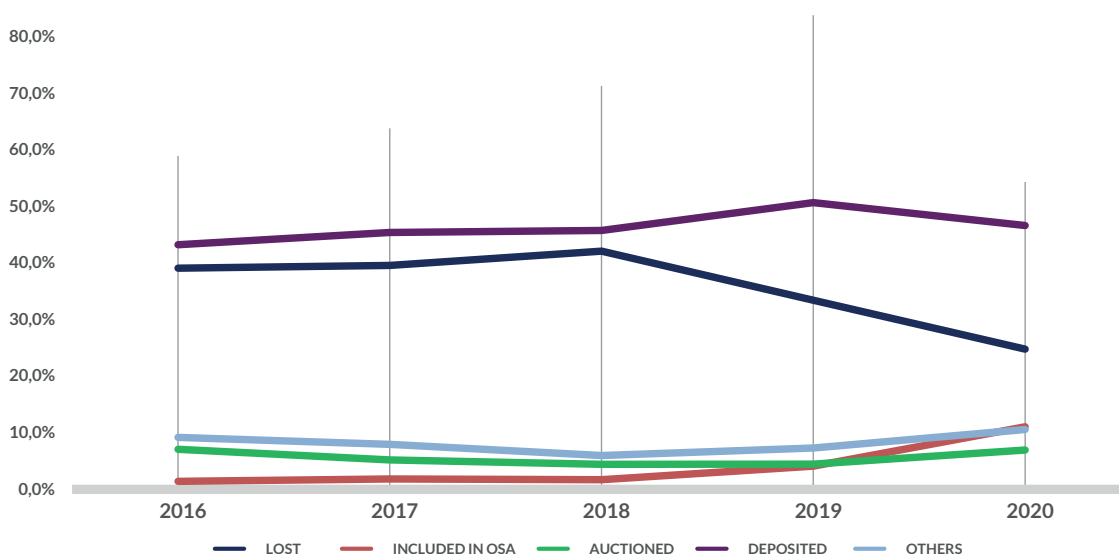
Source: GFUNAD- Ministry of Justice and Public Security (2020)

With that in mind, more agile documentation updates and prioritization of the auction process are promising ways to reduce the time, the cost of asset's custody and the resulting depreciation. In addition to expanding the efforts to document the assets arriving at SENAD, it is important to emphasize that accountability for incomplete documentation of older processes must be considered.

Continuing with the procedural steps, in a second stage, in order to make the auctions feasible, the assets must be classified as included in the Disposal Service Order (OSA) and given a number that is linked to a process in the Electronic Information System (SEI) of the Federal Government. This allows the assets to be destined for auction.

Figure 7 illustrates the status of the assets registered with GFUNAD in the period from 2016 to 2020. Inside this historical snippet, from the date the asset was registered in GFUNAD, the increase in the percentage of assets classified as OSA in 2019 and 2020 is noticeable, allowing the conduction of auctions. Another fact to highlight is the reduction in the proportion of assets classified as lost by Union: in 2016, 39.1% was categorized in this way, a rate reduced to 24.8% in 2020. This means an increase in the workflow's resolution, since the continuity of activities (conversion of the lost status to the status included in the OSA) leads to a reduction in the existing liabilities.

Figure 7 - Status of the assets registered with GFUNAD from 2016 to 2020



Source: GFUNAD- Ministry of Justice and Public Security (2020)

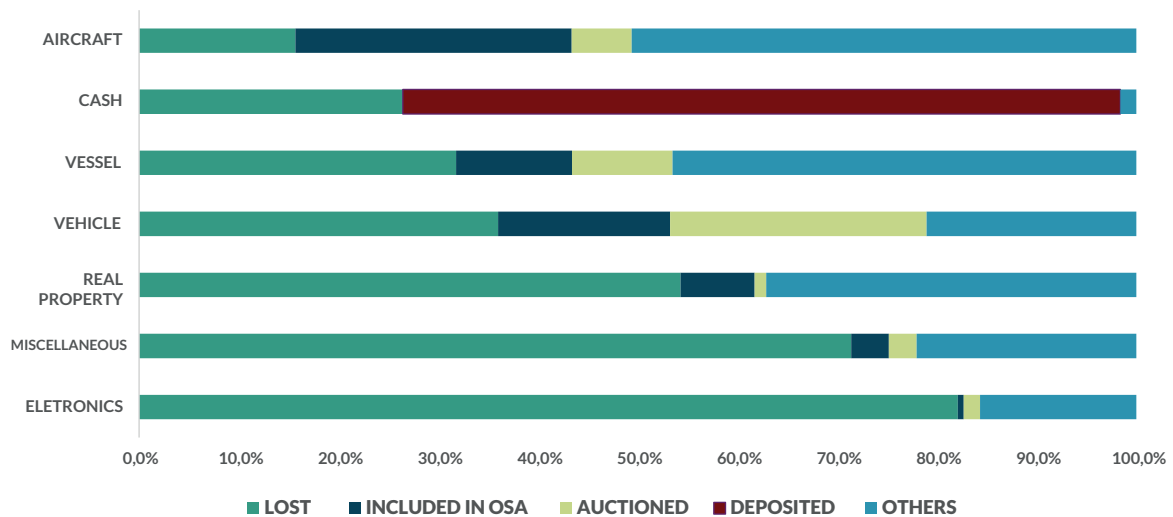
In a second step of the asset management process, the asset is now classified as "lost" after it has been seized and sent to SENAD by the court. Another category that stands out in the overall percentage is "deposited", represented in large part by the money seized and sent to the Fund.

Given the recent legislative changes and the administrative process promoted by SENAD, it is important to analyze the assets registered in 2020 that have already been included in the OSA. In these cases, the managerial effort is identified so that assets sold with authorization for early sale (in accordance with the new legislation) are inserted into an auction process quickly. This fact guarantees a reduction in administrative expenses with the custody of the asset and a reduction in the deterioration of its values. In other words, the prolonged custody period may result in devaluation and/or disappearance of the property due to the lack of suitable storage locations and the absence of a single

system of registration by States.

When analyzing the situation of the assets based on their classification, different treatment trends are observed, as shown in Figure 8. Regarding assets that have smaller dimensions and amounts, such as electronics, there is a greater possibility of being classified as lost (82.1%) and a lower percentage of those included as OSA. These data may indicate that these are types of assets that are not prioritized in the auction process or that are more difficult to obtain a final destination.

Figure 8 - Status of assets according to the type registered in GFUNAD from 2016 to 2020



Source: GFUNAD- Ministry of Justice and Public Security (2020)

Among the assets classified as auctioned by SENAD and included as OSA, the highest proportions are identified for vehicles, vessels and aircrafts. These are assets with high economic value and with a large consumer market in the country and, historically, several states have accumulated experience in holding these types of auctions. In general, vehicles are auctioned for lower prices than those on the market and, therefore, attract great interest. There is also a great demand in auctions for aircraft and vessels, since they are usually more scarce goods and with high market value. This arouses interest of the auctioneers and leads these professionals to work proactively to raise the judges' awareness of authorizing their early sale.

For some respondents, there are limiting factors for real estate auctions, such as the use of the parameters of the Federal Union Patrimony Secretariat (SPU), which requires a range of evaluations and technical engineering opinions that are unusual for

the market. There are also documentary difficulties related to the property transfer process. In this context, auctioneers must spend more effort and expense to enable the sale of these assets and thereby reduce profit margins.

In the Miscellaneous and Electronic categories, the percentage of assets classified as lost is over 70%. These data show that these assets may not be prioritized in the auction process¹⁷. This can be explained both by the low market value relative to vehicles, aircrafts and real estate, as well as the difficulty in making the sale feasible. In view of this fact, SENAD has been establishing partnerships to resolve potential issues with the management of certain types of assets, for instance the partnership with the National Supply Company (Conab) for biological assets.

¹⁷ Given the quantity of electronic goods, SENAD has publicly requested the destination of these goods. See <<https://legado.justica.gov.br/sua-protecao/politicas-sobre-drogas/bens-eletronicos/bens-eletronicos/>>. Access in: March 04, 2021.

AUCTIONS

Another step in managing the seized assets is conducting auctions. Once the asset has received a service order and the public auctioneer is aware of it, the sale is arranged. To understand a little about the dynamics of the auctions, we used data from the dashboard provided by SENAD in Power BI¹⁸ and a direct query to GFUNAD¹⁹.

The number of assets registered with GFUNAD does not necessarily imply an increase in the Fund's resources. Figure 2 shows that asset registration was at its peak between 2015 and 2019. In 2020, however, FUNAD had the largest volume of resources, with an increase of more than 200% compared to 2017²⁰. This increase may be related to the legislative change that allows the instrument of early sale.

Between 2019 and 2020, 4,217²¹ assets were auctioned. During this period, SENAD directly generated a collection of R\$ 44 million with the auctions. In the auction processes carried out in 2020, aircrafts and real estate are the goods with the highest average amount collected. Per asset, the average sale amount was R\$ 469,000 and R\$ 315,000, respectively. The average value of vehicles was R\$ 11,000 in 2020.

Regarding the early sale regulated by Law No. 13,840/2019 in October 2019, out of the 11 auctions organized after that, only one was carried out in advance. Out of the 126 auctions in 2020, 27 auctioned assets were made in advance (37% of the total of 3,752 items auctioned), with the State of Mato Grosso representing the highest volume in this modality (8 auctions).

Among the types of assets auctioned, vehicles represented 57% of the total in 2020. Assets classified as miscellaneous represented 36% of the assets auctioned in the same year, including cattle, jewelry, hydraulic press, among others. The details of the number of assets and values can be seen in Table 1.

18 Available at: <<https://app.powerbi.com/view?r=eyJrIjoiaZWI0OWY1OGEtZTQyOC00YmYyLTk5ZWYtOThhNWQ3Zjk0MjQ3liwidCI6ImViMDkwNDIwLTQ0NGMtNDNmNy05MwYyLTRiOGRhNmJmZThlMSJ9>>. Access in: Feb 01, 2021.

19 Among the funds of assets sold, only those related to the crime of drug trafficking are included in FUNAD. However, SENAD also carries out auctions of goods seized in the context of other crimes, whose sales will have other destinations. Therefore, even though drug trafficking-related assets are the majority, the GFUNAD data contains both information, so that, in this bulletin, it was decided to carry out the global analysis of the auctions.

20 <<https://www.justica.gov.br/sua-protecao/politicas-sobre-drogas/fundo-nacional-antidrogas-1/funad-em-numeros>>. Access in: Feb 26, 2021.

21 Source: GFUNAD, Panel Power BI/SENAD, 2/12/2021- Ministry of Justice and Public Security (2021).

Table 1 – Types of assets auctioned in 2020

Type	Quantity	Sale Amount
Vehicle	2.173	R\$ 24.149.260,00
Miscellaneous	1.368	R\$ 9.609.891,00
Electronics	186	R\$ 54.570,00
Real Property	9	R\$ 2.835.850,00
Vessels	9	R\$ 396.650,00
Aircraft	7	R\$ 3.284.000,00
Total	3.752	R\$ 40.330.221,00

Source: GFUNAD, Panel Power BI/SENAD, 2/12/2021-
Ministry of Justice and Public Security (2021)

As already pointed out, not all resources from the sale of assets are included into FUNAD as it is required the seized asset to be related to the trafficking or manufacture of illicit drugs. In 2020, 2,379 assets (63% of the total for the year) met this requirement, resulting in the amount of R\$ 27 million.

The application of *Spearman's*²² correlation for the variables "assessment amount" (n=1,396) and "sales amount" (n=1,543) between vehicles showed a positive correlation (=0.834; P<0.01). When calculating this correlation by the type of auction, advanced (n=99) or definitive (n=2,770), a positive correlation was observed both for the early sale (=0.936; P<0.01) and for the definitive (= 0.830; P<0.01). In other words, for both groups there is a strong and positive correlation between the sales amount and the valuation amount. The higher the amount of the valuation, the greater the amount obtained from the sale. In a similar context, assets with higher values tend to have better sales amount and therefore higher fund raising.

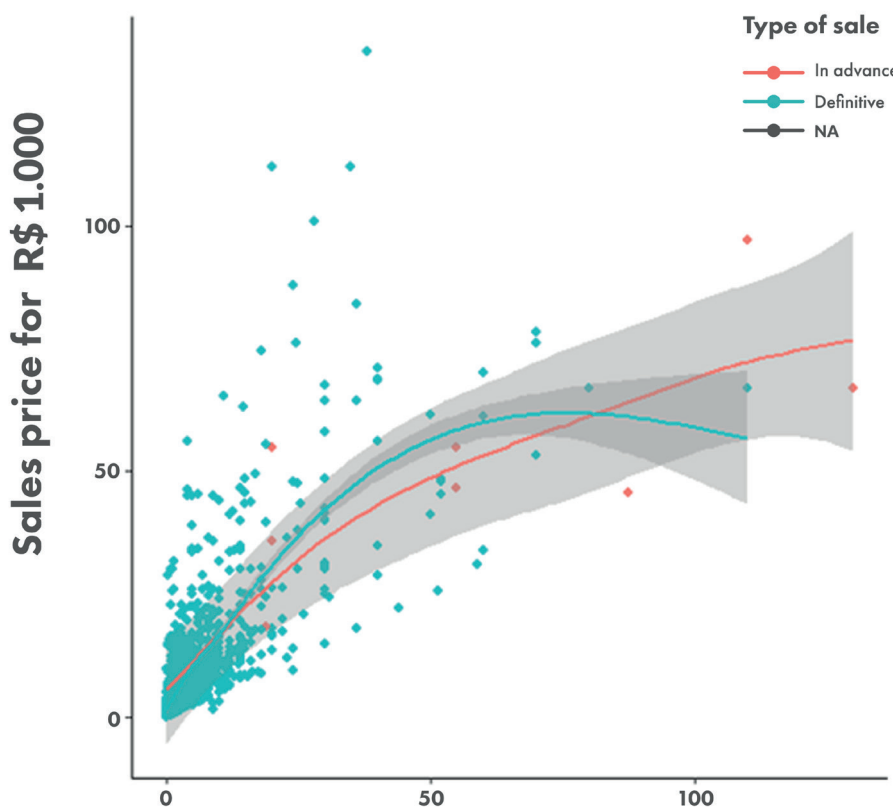
To understand a little more about the difference between the valuation amounts of the asset and the effective amount of the auctioned asset, records in GFUNAD with valuation and sale amounts for 1,377 assets were analyzed. For 80.9% (n=1,115) of these records, it was identified that the sale amount was higher than the appraisal amount, while for 5.2% (n=72) the amounts were the same. For 13.7% of the registrations (n=190), the sales amounts were lower than the valuation amounts.

22 It is a parametric test of rank correlation (statistical dependence between the classification of two variables). The result generated, the coefficient, evaluates the intensity and the relationship between two variables of monotonous relationships, whether linear or not (BARBETA, 2004).

Among the sale amounts below the estimates reported by the auctioneer (n=190), we find an average devaluation of 22%. The largest devaluation observed was 82%²³, referring to a motorcycle valued at R\$ 9,000 and sold for R\$ 1,600. For sales amounts higher than those evaluated (n=1,115), an average appreciation of 377% of the initial price was found, such as, for example, a vehicle valued at R\$ 1,000 and sold for R\$ 4,800.

In order to expand the analysis of the relationship between the asset's valuation amount and the auction sale amount, Figure 9 presents a dispersion diagram for the vehicle amounts (largest category of auctioned asset) according to the type of sale made (early or definitive). For the definitive sales group, the trend line has a slightly steeper slope than the slope of the early sale line, indicating a small difference in the behavior of the results between these two groups, as also observed in the results of the correlation test. As the early sale model is recent, and the volume of data is consequently smaller, the relationship and the results observed for these two groups may change over the long term.

Figure 9 - Dispersion between the valuation amount and the sale amount of the vehicles auctioned, according to the type of sale (n=1.377²⁴)



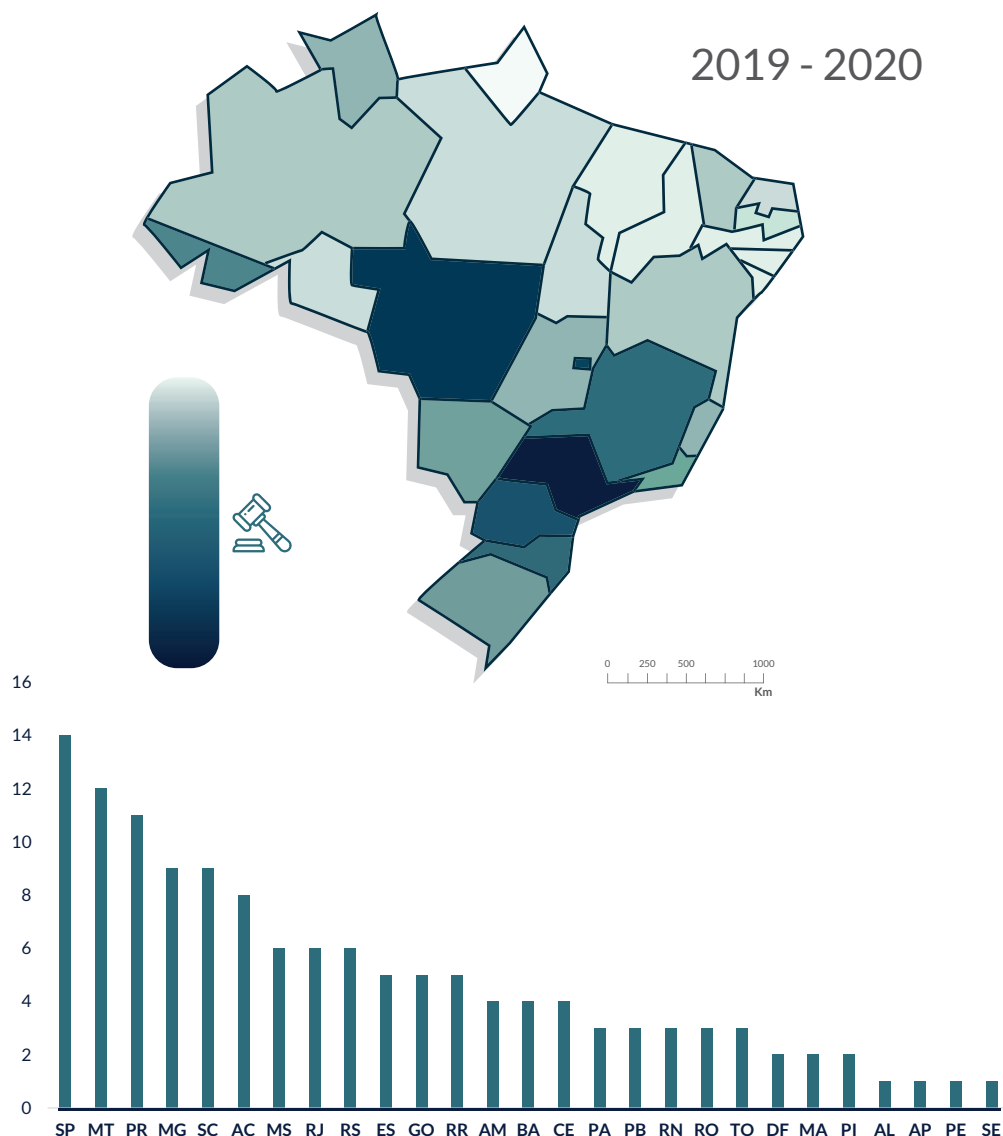
Source: GFUNAD- Ministry of Justice and Public Security (2020)

²³ According to the law, the assets cannot be sold for less than 50% of their valuation, therefore, it may be an inconsistency in the registration or in the sale process. There are 6 auctioned assets in this situation (MINISTRY OF JUSTICE AND PUBLIC SECURITY, 2020).

²⁴ Scatter plot with a polynomial trend line.

To understand the national scenario, the following maps show the number of auctions held by State between 2019 and 2020²⁵. In 2019, auctions were held in Minas Gerais, São Paulo, Paraná, Santa Catarina and Rio Grande do Sul. In 2020, all Brazilian states held auctions. These data demonstrate that the change in the law and in the form of asset management were widespread among the States, indicating an evolution in the process of federative agreement. However, improving relations with the Permanent Committee for the Valuation and Disposal of Assets, as well as articulating and sensitizing the Judiciary to expand the decisions of early sale asset disposal may assist in the improvement and expansion of public policy financing through seized assets from drug trafficking.

Figure 10 - Map of the number of auctions held by State in 2019 and 2020



**Source: GFUNAD, Panel Power BI/SENAD, 2/12/2021-
Ministry of Justice and Public Security (2021)**

²⁵The Power BI system of SENAD on the data of auctions carried out presents information from the year 2019, when the new guidelines of Law No. 13,840/19 come into effect and, therefore, it is a recent indicator..

IPEA STUDY ON UNION RESOURCES APPLIED TO DRUG POLICIES

SOURCE: CUNHA, 2021

In partnership with the Institute for Applied Economic Research (IPEA), SENAD carried out a study on the Union's investment in the prevention, care and combat against drugs, through the budgetary execution of the items designated for this purpose, established in the last four Pluriannual Plans.

In a temporal analysis of the revenue collected by FUNAD, the study identified the following composition: resources for the disposal of seized assets; control and inspection fees for chemical products; other current revenues and fines; and restitution of covenants. In this survey, the collection of resources of R\$ 88 million from the Disposal of Seized Assets increased annually, showing an increase in the composition of the Fund's resources from 2016 onwards.

Spending on public policies on drugs carried out by the Union in the period from 2005 to 2019 was evaluated, using the Annual Budget Law, the Pluriannual Plan and the Management Reports released by the ministries that promote actions linked to the guidelines of the National Drug Policy Plan (PLANAD), classified as direct or indirect.²⁶

²⁶ Direct expenditures are those in which the budget line exclusively develops measures related to drug policy. In the case of indirect expenditures, budget items relating to drug-related and other types of actions, it is necessary to



Based on the analysis of the spending of direct actions on drug prevention and repression policies, the study identified the Ministry of Health, the Ministry of Justice and Public Security, the Presidency of the Republic and the Ministry of Citizenship as the main responsible for the execution of actions in this area.

The Ministry of Health has the largest budget among the four agencies and, from 2005 to 2019, was responsible for executing R\$ 7.3 billion in actions related to the drug issue, which represents 0.44% of the total applied by the agency. In the years 2014 to 2017, there was a greater contribution of resources in expenses with policies on drugs linked to the "Crack, is it possible to overcome Program".

Regarding the expenditures of the Ministry of Justice and Public Security, from 2005 to 2019, it was observed that 1.7% of

use indicators for estimating amounts in order to identify the values associated with drug-related actions.



the budget execution was directed to the theme, and between 2018 and 2019, the execution levels reached the highest proportion (3%). The activities of Prevention and Suppression of Illicit Drug Trafficking and Crimes against Assets, Services and Interests of the Union stand out, with the growth of amounts since 2008, reaching an allocation of R\$ 279 million. Another highlight refers to the action "Strengthen the fight against crime, with an emphasis on criminal organizations, trafficking, corruption, money laundering and operations on the border", implemented in 2016. During this period, its budget practically doubled, from R\$ 283 million in 2016 to R\$ 423 million in 2019.

In the Presidency of the Republic, drug policies were carried out between 2006 and 2019, in actions for the "Management of the National Policy on Drugs", which corresponds to an average of 0.12% of the budget executed by the agency. Finally, in the Ministry of Citizenship, the Action

"Reduction of the social impact of alcohol and other drugs: prevention, care and social reintegration" was implemented in 2019, with an allocation of R\$ 96 million and financial execution of 34.2%.

Improving the management of FUNAD's resources has resulted in a reduction in the time it takes to dispose the asset and, consequently, in a reduction in its depreciation and maintenance costs incurred by the state. All of these efforts can build a positive cycle in the long term, with FUNAD expanding its resources and investing more in measures to prevent and suppress drug trafficking.

FINAL CONSIDERATIONS

Changes in legislation, data obtained from GFUNAD and subsidies collected in interviews with state and national managers point to significant modifications in the process of asset management linked to drug trafficking in recent years. The new legislation, the restructuring of SENAD, the implementation of the Check in Project and the hiring of auctioneers brought remarkable advances in asset management in the country. To the same extent, it is possible to observe that the implementation of early sale to streamline the sale of assets to avoid deterioration are following similar trends in asset management that have been adopted by other countries. There is, therefore, a field of possibilities for exchanging experiences and international cooperation with countries that have advanced policies on asset management.

Better asset management offers the opportunity to reach criminal organizations economically and pave the way for strengthening the national budget. In the case described in this bulletin, FUNAD offers the opportunity to support measures to prevent drug use and to reduce the supply of drugs with relevant social effects.

However, it appears that even in the face of the security given to the Judiciary with the enactment of Law No. 13,886/2019, which authorizes the early sale, this process still involves agreement and awareness of the players and institutions involved. In order

to change this scenario, it is important to expand the interaction and cooperation of national and state managers with the Judiciary to increase the use of the early sale of assets in their decisions. By acting systematically with the Judiciary, the Permanent Committees for the Valuation and Disposal of Assets and other government agencies (such as the department of transportation), the efficiency of processes can also be improved and thus the flow of administrative authorities can be optimized to facilitate auctions.

It appears that several changes have occurred in this field over time and several historically identified bottlenecks have been resolved. However, data on assets registered with GFUNAD point to the existence of a large liability to enable the disposal of assets registered in a period prior to the last five years. All of this liability has a direct effect on the efficiency of the sale, and in many cases, there may be a possibility that the asset value will depreciate.

One way that SENAD may adopt to improve asset management and work with this liability is to establish separate work processes for assets with early and definitive sale. In this way, the Secretariat can create productivity and procedural time indicators for each type of asset, improving its management and reducing the time that assets remain in the custody of the State, whether through the police or the Judiciary. These can be paths taken to create processes that may be monitored by SENAD's management structure.

In order to continue the process of impro-

ving asset management in Brazil, based on the analysis of the national context and international experiences, some of the recommended strategies are:

- » social reuse of confiscated assets that have low market value;
- » destruction of assets with no economic value whose management costs are high;
- » building a monitoring model, with a unique informational system of seized and confiscated assets that enables information to be fed directly by professionals at the state level;
- » improvement of communication and work channels with the Judiciary, including specialized training and alignment of all work fronts involved in the process of seizure and disposal of assets (for example, Federal Police, State Police, Judiciary, SENAD and Permanent Committees for the Valuation and Disposal of Assets of States) based on data sharing, promising practices, and dissemination of knowledge on the subject;
- » improvement of the statistical data management system;
- » and creation of a specific system for the treatment of assets registered for more than five years (treatment of passive assets).

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