

# The Bulgarian Experience in Establishing a Specialized Asset Recovery Agency

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**Workshop on Strengthening Regional Cooperation in the Area of Asset Recovery**

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# Bulgarian Asset Forfeiture System

## **The Law on Forfeiture of Proceeds of Crime (LFPC Act) – 2005**

- **introduces the concept of asset recovery within the framework of the civil legal proceedings;**
- **reverse burden of proof;**
- **conviction based;**
- **establishes a specialized body**
- **complies with the international legal framework developed within the UN, Council of Europe and EU**

# “Confiscation” and “Forfeiture”

## Confiscation

Art.37.3 Criminal Code allows confiscation of all or part of the assets of a convicted individual as a form of a **penalty**, usually facultative, added to the sentence.

- a number of crime categories specified in the Criminal Code

- police and customs only seize or confiscate assets used to commit crimes

# “Confiscation” and “Forfeiture”

## Forfeiture (“civil confiscation”) – LFPC Act

### Pre-requisitions:

1. **a list of 33 crime categories** as defined in the Criminal Code
2. **assets of substantial value** - more than 30 000 €
3. **reasonably assumed** to have been acquired from criminal activity – similar to “balance of probabilities” principle
4. **a criminal procedure** has been **started** or in some specific cases: the prosecution has been terminated, suspended or cannot be started

# STRUCTURE OF CRIMINAL ASSETS COMMISSION



# PROCEEDINGS CARRIED OUT BY CAC

- **IDENTIFYING OF PROCEEDS FROM CRIME**
- **INJUNCTION OF ASSETS**
- **ASSET FORFEITURE**

OFFICIAL NOTIFICATION FROM PRE-TRIAL AUTHORITIES / PROSECUTION / COURTS FOR OFFENCE UNDER ARTICLE 3 OF THE ASSET FORFEITURE LAW

START OF PRELIMINARY INVESTIGATION BY THE TERRITORIAL DIRECTORATES

REGISTER OF PERSONAL DATA

COMPANY REGISTER

AUTOMOBILE REGISTER

LAND REGISTER

NATIONAL REVENUE AGENCY

BANK ACCOUNTS

REGISTER OF WATER VESSELS

REGISTER OF AIR VESSELS

REGISTER OF PATENTS

OTHER RELEVANT REGISTERS

EVIDENCE OF PROPERTY OVERSEAS

CURRENT STATUS OF COMPANIES

CEPACA BRINGS REASONED MOTION TO COURT TO GET WARRANT

LIFTING OF THE BANK SECRECY

CONTACT RELEVANT INSTITUTION IN CORRESPONDING COUNTRY

EXCHANGE INFORMATION

OBTAIN OFFICIAL DOCUMENTS THROUGH INTERNATIONAL LEGAL ASSISTANCE PROCEDURES

ANALYSIS OF EVIDENCE GATHERED

IF TOTAL VALUE OF IDENTIFIED ASSETS EXCEEDS 30 000 EUR THE TERRITORIAL DIRECTORATE NOTIFIES THE FIVE DECISION MAKING MEMBERS OF CEPACA

CEPACA MEMBERS COME UP WITH A DECISION TO INITIATE A PROCEEDING FOR IDENTIFICATION OF CRIMINAL ASSETS (TO BE COMPLETED IN 10 + 3 MONTHS)

CEPACA COMES UP WITH A DECISION TO START LEGAL PROCEEDINGS FOR FREEZING THE CRIMINAL ASSETS

CEPACA BRINGS A REASONED MOTION IN COURT FOR IMPOSING FREEZING ORDERS OVER THE PROPERTY

DEFENDANT FILLS A DECLARATION, LISTING ALL OF HIS ASSETS AND SOURCES OF INCOME

TERRITORIAL DIRECTORATE VARIFIES INFORMATION FROM THE DECLARATION AND GATHERS ADDITIONAL EVIDENCE

ANALYSIS OF EVIDENCE GATHERED

CEPACA MEMBERS COME UP WITH A DECISION TO INITIATE A PROCEEDING FOR DEPRIVATION IN FAVOR OF THE STATE OF THE CRIMINAL PROPERTY

CEPACA BRINGS ASSET FORFEITURE CASE TO COURT

START OF COURT PROCEEDINGS

COURT DECISION CAN BE APPEALED AGAINST AT THREE INSTANCES

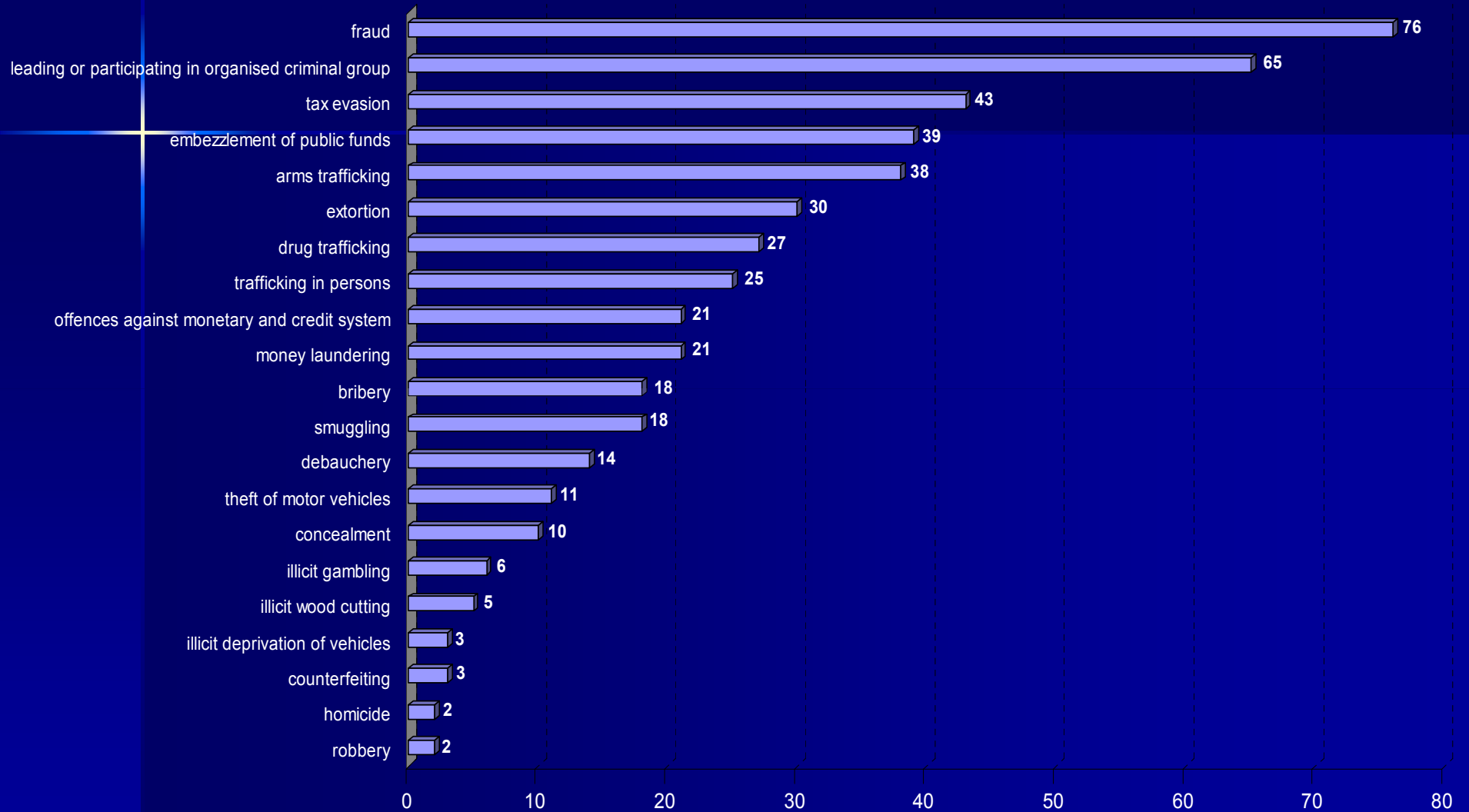


# PROCEEDINGS FOR TRACING OF PROCEEDS FROM CRIME

TOTAL - 477

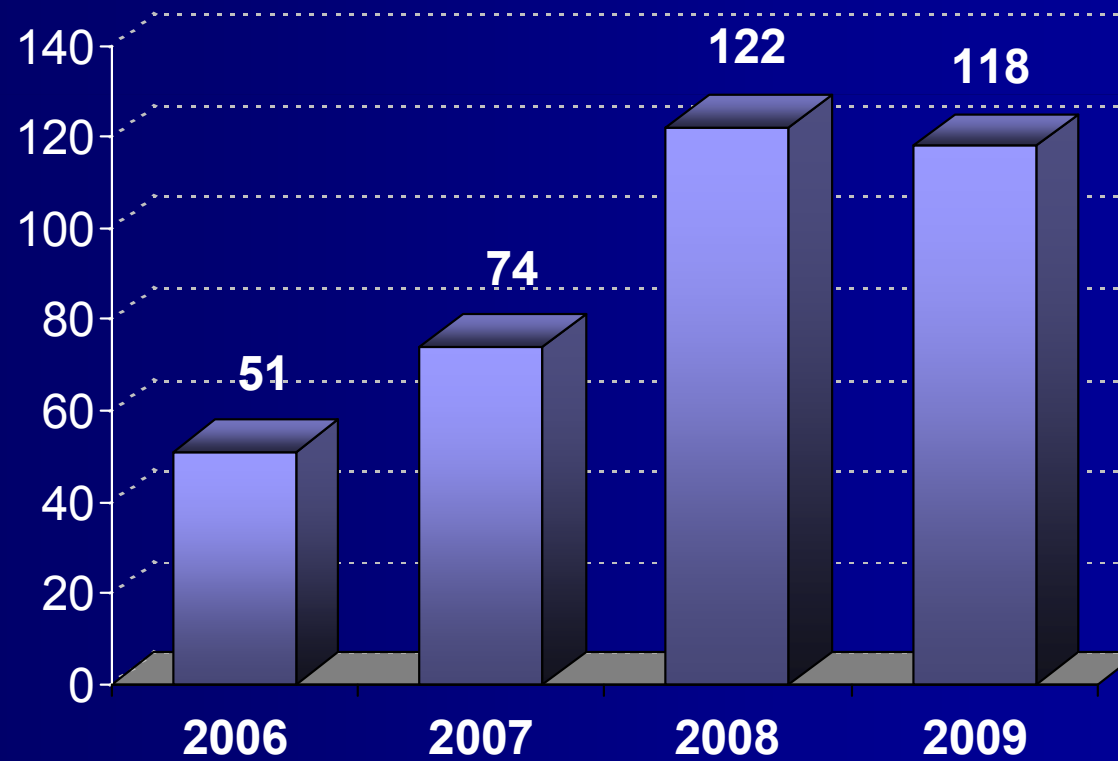


## PROCEEDINGS FOR TRACING OF PROCEEDS FROM CRIME TOTAL - 477



# INJUNCTION MEASURES

INJUNCTION MEASURES - 365



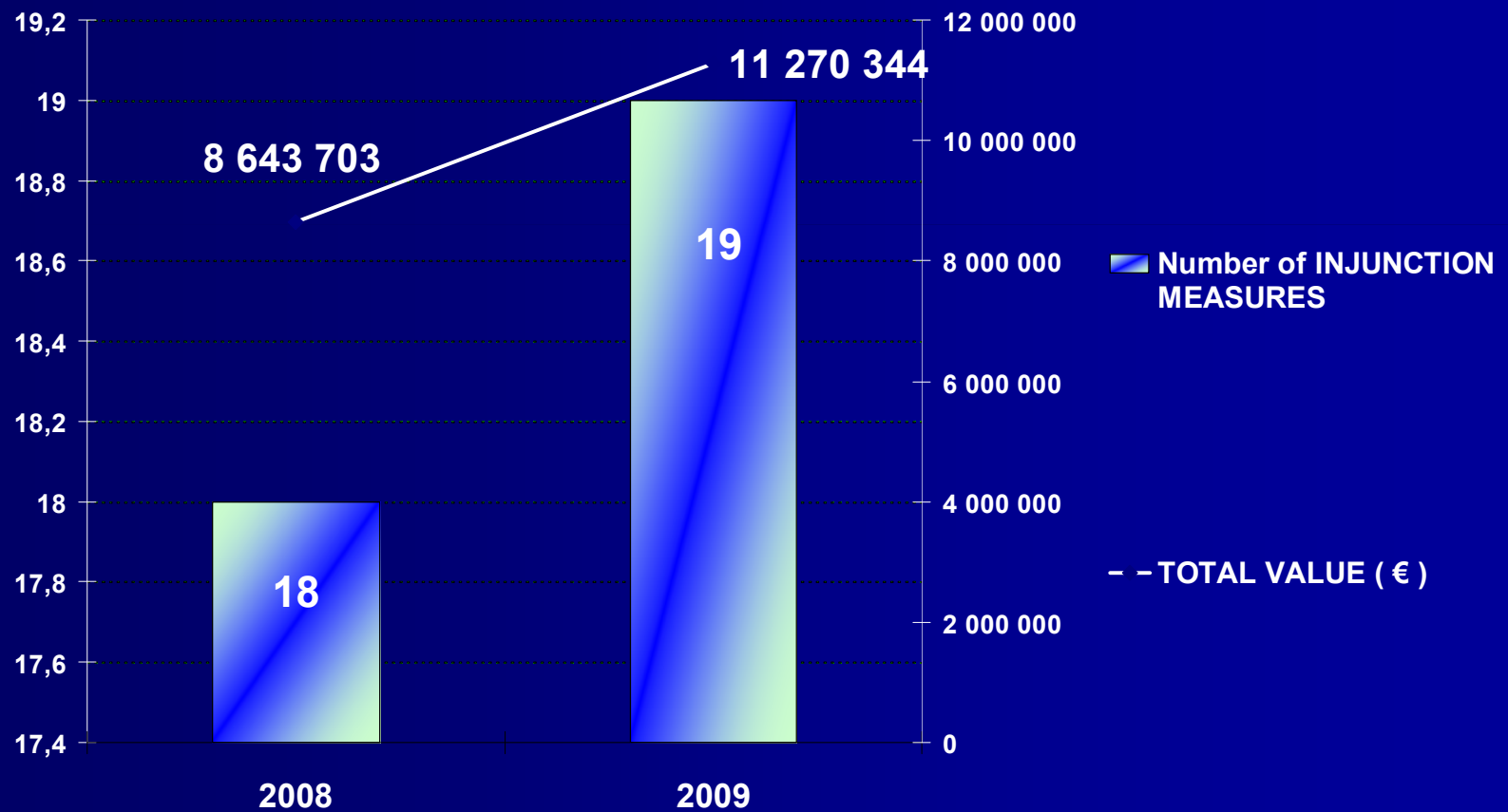
# INJUNCTION MEASURES

TOTAL VALUE 202 896 876 €



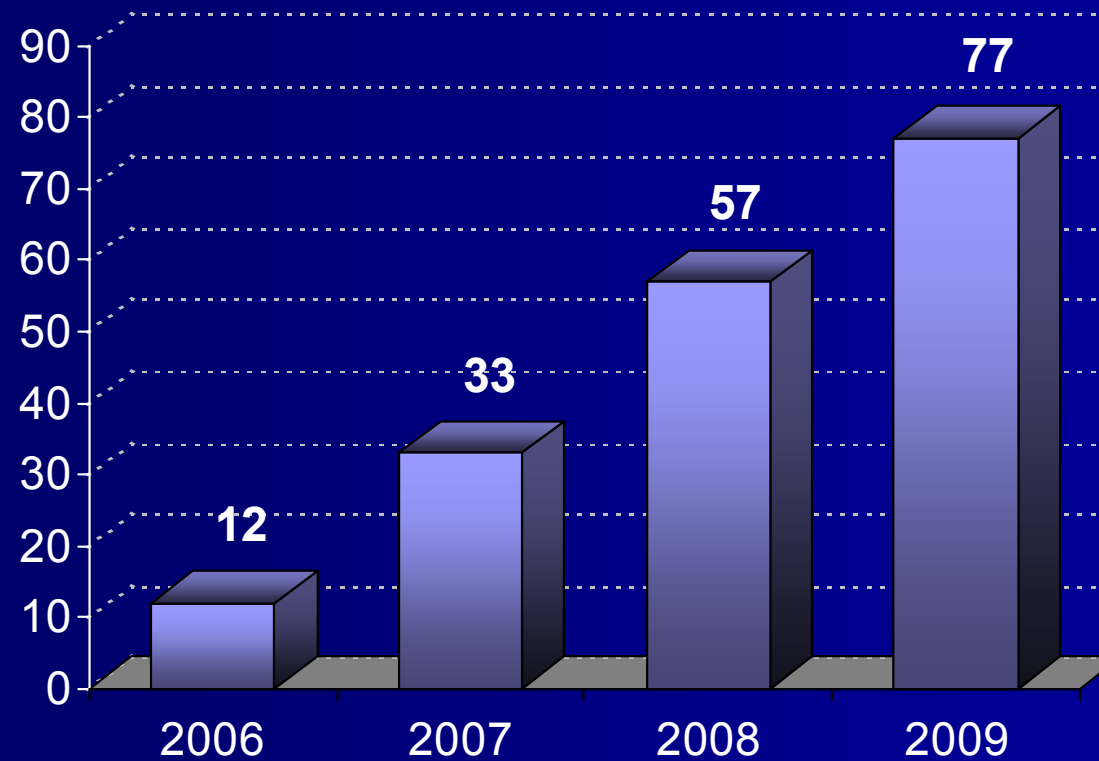
# INJUNCTION MEASURES

\* leading or participating in organized criminal group



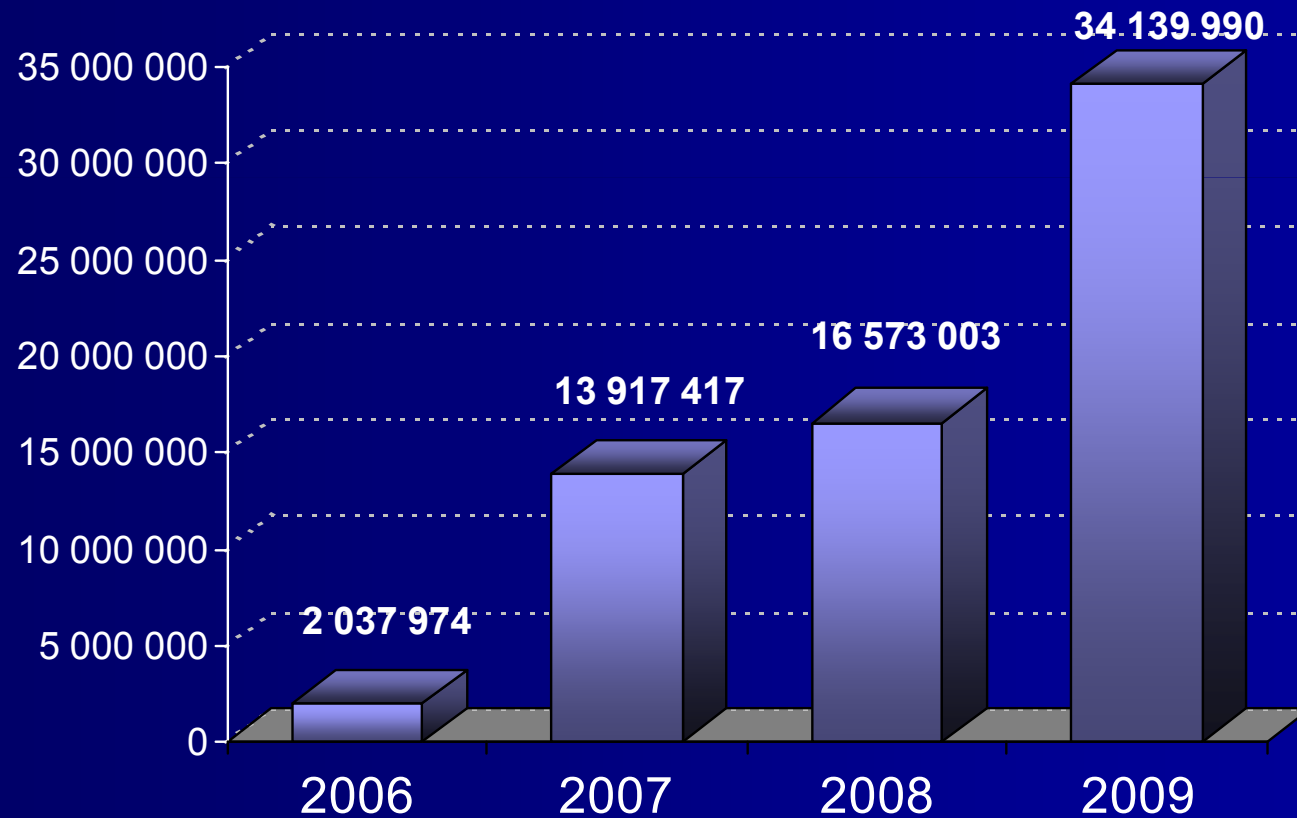
# ASSETS FORFEITURE

ASSETS FORFEITURE CLAIMS –179



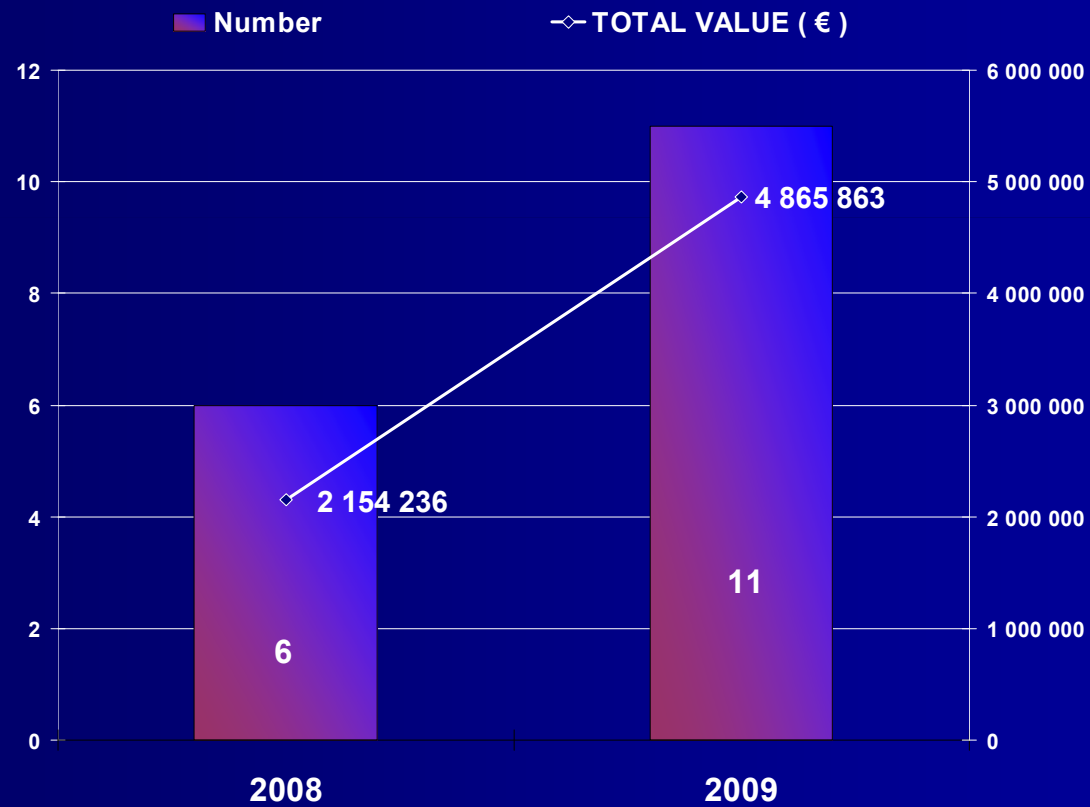
# ASSETS FORFEITURE

TOTAL VALUE – 66 668 384 €



# ASSETS FORFEITURE

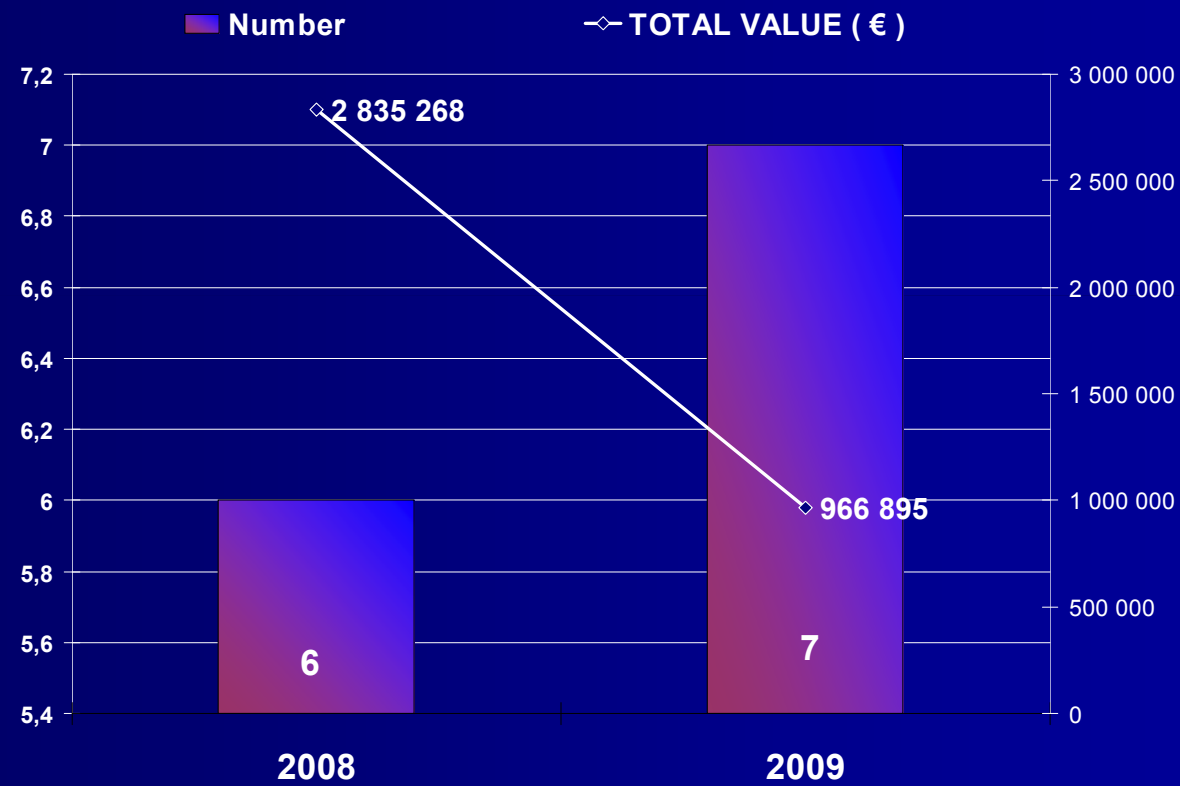
\* leading or participating in organized criminal group





# ASSETS FORFEITURE

\* drug trafficking



# INTERNATIONAL COOPERATION

## Chapter V of LFPC Act

CAC exchanges information with the competent authorities of other countries “based on the international agreements and instruments which are in force in the Republic of Bulgaria”.

# INTERNATIONAL NETWORKS

## CARIN

- 2007 - member of CARIN
- 2008 – member of the Steering Group
- 2011 – BG Presidency of CARIN

THANK YOU FOR YOUR ATTENTION

