



State Comptroller and Ombudsman  
Annual Report 70B | 2020

# **Fighting Crime Through Economic Enforcement and Forfeiture**

Abstract





# Fighting Crime Through Economic Enforcement and Forfeiture

## Abstract

### Background

Among the law enforcement agencies in Israel and around the world, there is an increasing realization that in order to combat serious crime and organized crime, criminal law and imprisonment or fines are not sufficient. Against this backdrop, the outline of economic enforcement has taken shape, according to which enforcement bodies cooperate with the aim of depriving the offender from the financial benefit gained from the offense. Forfeiture is a powerful means of depriving the offender from the property under his control, including the profit derived from the criminal activity, and transferring it to the State by judicial order. In order to prevent the smuggling of assets and to assist in the use of forfeiture, Israeli law permits the seizure of property temporarily already during the course of an investigation, pending the final decision in the legal process.

### Key figures

**4.2** billion NIS

The amount seized by the police in economic enforcement proceedings in 2016-2018. In the case of a large part of the forfeited items, a judgement has not yet been made

**454** million NIS

The amount judged in forfeiture orders in cases that ended in the years 2016 to 2018, of which NIS 294 million were in cases that began with seizure of property

**817** million NIS

The amount handled by the Administrator General in the forfeited property management fund. 78% of the amount in temporary seizure and the balance in finalized forfeiture

**707** million NIS

The amount agreed to be paid in favor of the State Treasury, as part of the economic enforcement carried out in five cases that ended in a settlement and without a money laundering conviction

**430** million NIS

The amount in the money laundering forfeiture fund that was pending for distribution to the budgeted enforcement bodies for the years 2016 through mid-2019. By mid-2019, the budgeted entities have utilized NIS 227 million of this sum.

**800** million NIS

The amount caught in the framework of "mega files" and are in waiting more than a year for the prosecution's decision

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## Audit Actions








During the months of February - July 2019, the State Comptroller's Office reviewed the fight against crime through economic enforcement and forfeiture of property. Supplementary reviews were conducted until February 2020. The report has focused on examining obstacles to cases management that include economic enforcement and the scope of property seizure in the temporary phase relative to the final forfeiture. The examination was conducted at the Israel Police, the State Attorney's Office, the Office of the Administrator General and Official Receiver, the Tax Authority, the Anti-Money Laundering Authority (AMLA) and the Forfeiture Council.

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## The Situation Reflected in the Audit Findings



-  **Absence of a coordinating body** - which is responsible for obtaining, collecting and analyzing the full information available to all entities participating in the economic enforcement chain (including the police, the prosecutor's office, the tax authority and the GG) in order to obtain a complete and reliable picture and to derive effectiveness measures for the entire system.
-  **Bottleneck in the transfer of files from investigating units to the prosecutor and the forfeiture unit** - There is a significant gap between the increase in the investigation files opened by the police and other investigative authorities and the seizures of property and the ability of the prosecution bodies and the forfeiture unit to handle those cases and to realize the forfeited items. In the years 2016-2018, there was approximately a 220% increase in forfeitures, but there was no significant change in the personnel allocation that handles those cases. As of the end of 2019, the forfeiture unit has completed about 40% of the cases under its responsibility in which a final forfeiture order has been granted.
-  **Litigation and potential infringement of property rights and public finances as a result of long delays in handling and managing legal proceedings in economic enforcement cases and serious tax offenses** - Two large investigation case have been in the Prosecutor's Office for more than a year, with a forfeiture total of approximately NIS 800 million, waiting for a decision on whether to file an indictment. In the Tax Authority legal department (dealing with indirect taxation), more than 300 cases of serious tax offenses have been pending for several years.
-  **Need for effective management of temporarily seized funds** - During the years 2014-2018, approximately NIS 350 million were deposited in the financial system of the police comptroller without distinction between forfeited funds and other funds seized as exhibits. The seizure funds are deposited by the police, until the completion of the criminal proceedings, in the Accountant General (AG) account, which carries the Bank of Israel's interest rate (0.1% in 2017) and not in the property management fund for which the interest rate is higher (about 5% in 2017).
-  **Failure to deposit money in the Money Laundering Prohibition Fund** - It was found that in 2015-2018, approximately NIS 80 million were not deposited in the fund, partly because of legal obstacles to assets realization and due to IT difficulty

in the enforcement and collection authority to identify the appropriate entity to which the fines and money forfeited are to be transferred.



**Forfeiture of assets abroad** - Despite efforts made by the intelligence, investigation and enforcement bodies to identify, locate and seize assets abroad, no forfeiture funds were transferred to Israel.



**Improving the work of the “Super Team”** - Since the previous State Comptroller’s report on the issue was published, a strategic plan for mapping risks and formulating and enforcing economic enforcement policies has begun. This move is also expected to streamline the Standing Committee’s conduct.

**Formulation of joint work practices** - During the audit period, the enforcement bodies began to formulate and enact joint guidelines in the field of economic enforcement, divided by the types of forfeited items.

**Maintaining the financial strength of the forfeiture fund** - The forfeiture council allocated approximately NIS 430 million to the police, the tax authorities and the Anti-Money Laundering and Terrorism Financing Authority in 2016-2019 while maintaining the fund’s stability and preventing a future deficit.

## Main Audit Recommendations



It is proposed that the State Prosecutor’s Office, the Police, the Tax Authority and the forfeiture unit work to build a joint, reliable, validated and controlled database, and establish an arrangement whereby one party will be responsible for the consolidation of all the data. This party will be required to submit a periodic report to all parties as well as to the Standing Committee and this information will be used to improve seizure and forfeiture procedures.



Policymakers in the Justice Department and the police must examine the discrepancies between the seizure amounts and the amounts forfeited according to the forfeiture orders, and any shortfalls between the value of the property that the court had taken from the offender and the amounts deposited in the forfeiture funds at the end of the forfeiture proceeding. This is to be made within the framework of the assessment actions that should be implemented regarding economic enforcement activities and how they are implemented.



The prosecution system must work to shorten the lengths of time for handling cases involving economic enforcement in order to increase the effectiveness of the procedure as a whole.



The Tax and Public Prosecutor’s Office must regulate the division of work regarding serious tax offense cases, given the scope and implications of the lack of treatment and of the harm to the public coffers, deterrence capability and public trust in the enforcement system.



The Department of Justice and the administration of the courts should look into the claims of senior enforcement officials and the recommendation provided in the Financial Action Task Force Report and to consider the establishment of

special courts - or the extension of the jurisdiction of economic courts - to deal with forfeiture and money laundering proceedings, or to adopt another means that will provide a professional and quick response to hearing these files.



It is appropriate that the Ministry of Justice, the Administrator General and the Budget Department of the Ministry of Finance examine the needs and challenges of the forfeiture unit, taking into account the scope of its activities and adapting the workforce to its diverse needs, in a forward-looking manner, including consideration of the possibility of increasing the unit's powers.

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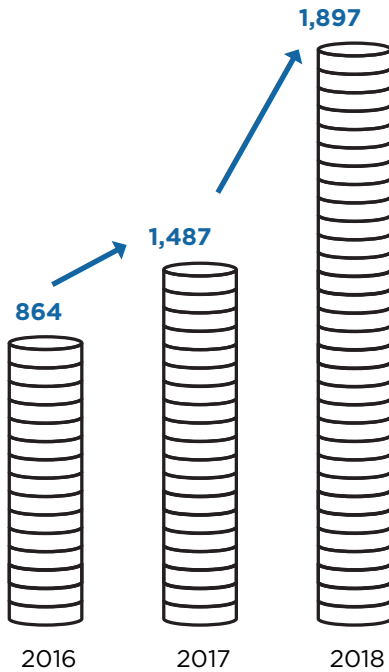
## Summary

The findings of this report present three main challenges before the enforcement bodies: one, the compilation and consolidation of a comprehensive database that will serve, inter alia, as a basis for mapping the shortfalls between the initial seizure amounts and the disbursement funds for the forfeiture funds or the state treasury. The way economic enforcement data is analyzed is a fundamental issue related to the balance needed between the tools used in the fight against crime and the realization of forfeiture goals, and aspects of the rights of suspected and accused persons and damage to their property, and the concern for using forfeiture as a means of enforcement of other charges. The second challenge is dealing with the prolongation of the proceedings, which is a major obstacle to the efficiency and effectiveness of economic enforcement; and the third - strengthening and improving the work interfaces of the enforcement agencies, taking into account the technological developments that characterize the field of economic crime in Israel and around the world. It is appropriate that these challenges be in the forefront as policymakers and the professional level of the enforcement authorities proceed with the assessment and implementation of economic enforcement activities.

## Economic Enforcement Data for 2018-2016

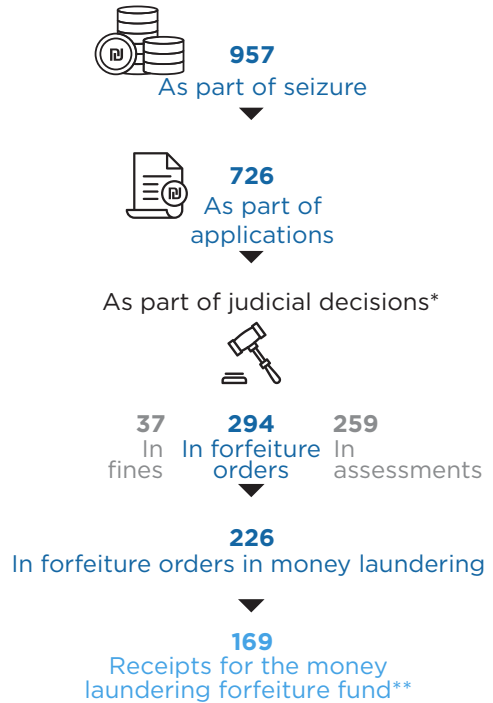
### Police seizure data by section by years

Sums are in NIS million



### Portfolios that ended in 2016-2018 that started with forfeiture

Sums are in NIS million



SOURCE: Police, prosecutor's office and forfeiture data processed by the State Comptroller's Office.

\* The prosecutor's office deliverables include forfeitures, fines and assessments (tax charges) even in cases that did not commence in forfeited items. For example, in the framework of five cases that ended in agreements without a money laundering conviction, NIS 160 million in forfeiture orders, NIS 221 million in fines and NIS 326 million in income tax assessments, were judged.

\*\* The sum refers to the fines and forfeiture receipts in 2016-2018 that were also received from cases that ended in previous years.

