



3rd Meeting of the Law Enforcement Network  
„Confiscation of Proceeds of Corruption and Asset Recovery“  
15 – 17 November 2017, Seoul, Korea

# Case Study on Corruption related Investigations Asset repatriation by Governments



# Central Unit Organised Crime and Corruption

Specialists on

- Corruption (also investigation against MP)
- Organised Crime
- Mutual Legal Assistance/International Cooperation
- Cyber Crime
- Skimming of illegal proceeds
- Money Laundering
- Trafficking in Human Beings



# Central Unit Organised Crime and Corruption

## Assistance to

- Prosecutors
- Law enforcement
  - Police
  - Tax investigation
  - Customs
- Courts
  
- From Germany and from other states:
- EJM
- Eurojust



# Confiscation and Asset recovery

4 steps:

- Finding (tracing and identifying) assets
- Securing assets
- Repatriation of assets
- Confiscation



# Confiscation <-> Restitution

Different systems:

- Confiscation -> to the state
- Restitution -> to the victim
  
- Which prevails?
  
- E. g. Germany:
- Old: restitution always prevailed
- New: always confiscation with compensation of victim
- (exception: if restitution has already taken place)



# Confiscation <-> Repatriation

Different systems:

- Confiscation -> to the state where the assets are
- Repatriations -> handover to the state where the crime has been committed
  
- Which prevails?
- E. g. Germany:
  - Old: repatriation prevailed
  - New: repatriation only during investigation/trial
  - After final decision: request for execution
  - With possibility to divide



# Confiscation and Asset recovery

4 steps (?)

- Finding (tracing and identifying) assets
- Securing assets
- (Repatriation of assets)
- Confiscation
- (Request for execution of the confiscation decision)



# Assistance

- ARIN-AP (Asset Recovery Interagency Network Asia Pacific)
- CARIN (Camden Asset Recovery Interagency Network))
- ARO (Asset Recovery Offices - in EU)
- LEN (Law Enforcement Network)
- (European Judicial Network, Eurojust)





# Germany

- Judge working at the Ministry of Justice of Lower Saxony
- “Selling” exams
- Running to Italy
- Apprehended in Hotel in Milano with
  - Weapon
  - Notebook
  - Mobile phone
  - Money (cash)



# Germany

- Investigation in Germany for several cases of bribery
- Several MLA-Requests to Italy



# Italy

- Started investigation for illegal possession of a shotgun
- Resulted in fine
- To be paid from the money he had with him?



# Germany

- Group of criminals smuggled cigarettes from Albania to Germany
- Fled to Greece with their money
- Request from Germany to freeze the money to return to German government
- Problem: taxes, not confiscation
- Private lawyer needed
- No funds to hire a private lawyer in another state

=> Own investigation for money laundering in Greece with confiscation of the money



# Switzerland

- Investigation for drug trafficking, corruption and burglary against a group of Albanian nationals
- Criminals travelled to Germany with money (cash)
- Request from Switzerland to German authorities to seize the money
- Criminals had bought car and travelled to Italy
- Own case in Germany for money laundering with seizing order for car
- Car found in Bari (Italy) when leaving for Albania
- Switzerland sent own request to Italy



# Switzerland

- Letters rogatory:
  - “...to the competent authority in Germany
  - With the request to take the necessary measures...”
- Under the domestic court decision on seizure of the assets
- Bad request?
- Good request, because it worked!



# Thank you for your kind attention!

LOStA Christian Schierholt

Tel.: 05141/206-610

[christian.schierholt@justiz.niedersachsen.de](mailto:christian.schierholt@justiz.niedersachsen.de)

[zok@justiz.niedersachsen.de](mailto:zok@justiz.niedersachsen.de)

[ejn@justiz.niedersachsen.de](mailto:ejn@justiz.niedersachsen.de)

