Best practices in Asset Recovery: Cooperation through so-called mirror proceedings

UNCAC CoSP Intersessional Meeting
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Seizure of Assets in MLA procedure

Seizure of assets

Confirmation of seizure (prima facie)

Ordering of provisional measures (Art. 18 IMAC)

Preliminary MLA request for seizure

1st mutual assistance request regarding evidence

Final decision on evidence (Art. 80d IMAC)

Forfeiture order

Decision of entering into the case (Art. 80a IMAC)

2nd mutual assistance request regarding handover of assets

Decision of entering into the case (Art. 80a IMAC)

Final decision on handover of assets (Art. 80d IMAC)

Lifting of seizure

Handover of assets

Colour key responsibilities:
- requesting state
- competent authority in Switzerland, in connection with precautionary measures, as well as asset freezes and evidence collection on the basis of the initial request
- competent authority in Switzerland on the basis of a second request for the handover of assets
«Mirror proceedings»

- Swiss money-laundering investigation opened based on a suspicious activity report
  - Spontaneous transmission of information / evidence to foreign country (Art. 46 (4) UNCAC; Art. 67a IMAC)
  - Opening of criminal investigation in the receiving country
- Swiss money-laundering investigation opened based on a foreign MLA request
- Money-laundering investigation in Switzerland: Predicate offense is necessary (i.e. corruption/bribery in foreign country)
Advantages of «mirror proceedings»

- Active requests from both states -> proactive law enforcement exchanges based on MLA
- Division of work -> Focus on own investigation
- Most efficient cooperation possible in particularly complicated cases
- Maximum coordination between proceedings and maximum likelihood to remove funds from the disposal of criminals
Publication of the FOJ:
Website: http://www.rhf.admin.ch


Checklist (German, French, Italian, English, Russian, Spanish)

Leaflet “Recovering unlawfully obtained assets located in Switzerland”

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