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:
  - EJN
  - 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)
England

- 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!

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