

The background of the entire page is a close-up, slightly blurred photograph of several Euro banknotes. The notes are in various colors, including red, orange, and yellow, and feature the characteristic Euro design elements like the stars and architectural patterns. A semi-transparent red rectangular box is centered over the image, containing the title text.

STOLEN ASSET RECOVERY BETWEEN GERMANY AND DEVELOPING COUNTRIES



Stolen asset recovery
between Germany and developing countries.

This project was made possible thanks to the
support of BMZ and GIZ.

Published 2019
CiFAR – Civil Forum for Asset Recovery

Published by
Civil Forum for Asset Recovery e.V.
Lausitzer Str. 37
10999 Berlin
Germany
cifar.eu

Author:
Christoph Trautvetter

Reviewed by:
Agatino Camarda (CiFAR), Lucia Cizmaziova (CiFAR)

CiFAR – Civil Forum for Asset Recovery e.V. and the author are solely responsible for the contents of this publication. The content of this publication does not necessarily reflect the official position of neither BMZ nor GIZ.

INDEX

■	ACRONYMS	2
■	EXECUTIVE SUMMARY	3
■	INTRODUCTION	5
■	1. ESTIMATES OF ILLICIT FINANCIAL FLOWS BETWEEN GERMANY AND DEVELOPING COUNTRIES	7
■	2. INTERNATIONAL ASSET RECOVERY CASES AND ASSET FREEZES INVOLVING GERMANY AND DEVELOPING COUNTRIES	11
	2.1. International asset recovery cases through mutual legal assistance and criminal confiscation	13
	2.2. Implementation of international sanctions by Germany related to stolen assets	16
	2.3. International asset recovery cases using alternative tools in Germany	19
■	3. THE ROLE OF GERMAN DEVELOPMENT COOPERATION	23
■	ANNEXES	29
	ANNEX 1 – Methodology	29
	ANNEX 2 – Detailed information on cases involving germany as receiving country	30
■	ENDNOTES	36
■	BIBLIOGRAPHY	41

ACRONYMS

BaFin:	Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht)
BfJ:	Federal Office of Justice (Bundesamt für Justiz)
BAK:	Federal Criminal Police (Bundeskriminalamt)
BMJV:	Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)
BMWi:	Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie)
BZSt:	Federal Central Tax Office (Bundeszentralamt für Steuern)
FATF:	Financial Action Task Force on Money Laundering
FIU:	Financial Intelligence Unit
IFFs:	Illicit Financial Flows
OECD:	Organisation for Economic Co-operation and Development
MLA:	Mutual Legal Assistance Request
StAR:	Stolen Asset Recovery Initiative of the World Bank and UNODC
TFEU:	Treaty on the Functioning of the European Union
UN:	United Nations
UNCAC:	United Nations Convention Against Corruption

EXECUTIVE SUMMARY

THIS STUDY IDENTIFIES 16 CASES WITH POTENTIALLY ILLICIT ASSETS IN GERMANY THAT ARE LARGELY UNRESOLVED TO DATE AND ARGUES THAT THIS IS MOST LIKELY JUST THE TIP OF THE ICEBERG.

Stolen, unaccounted and untaxed money that finds its way from developing countries –often through secrecy jurisdictions and tax havens– to bank accounts and investments in the developed world, including Germany, has a negative impact on economic development of the source countries far beyond the associated capital outflows. Although the topic of recovering illicit assets is far from new, recent public scandals from the Panama Papers to the major money-laundering investigations around Danske Bank and others have increased public awareness and the availability of information on the issue. Against this backdrop, this study collects evidence on past and ongoing international corruption, grand corruption and asset recovery cases involving selected developing countries as source countries and Germany as the country receiving illicit assets. Through a review of publicly available information, limited investigative research and expert interviews, this study compiles information on 36 cases with evidence of potentially illicit assets in Germany. It includes in-depth analyses for six of these cases as well as information on assets frozen under 26 sanction regimes, published for the first time.. Based on the analysis of this information, this report identifies needs and entry points for technical assistance of German development cooperation when supporting developing countries in asset recovery.

Despite many years of commitments to increase efforts, the results of international asset recovery are dismally low compared to the assets hidden. While estimates put the global total of anonymous and potentially illicit wealth at around 10% of total global wealth (\$7 trillion to \$32 trillion), only \$2.6 billion in illicitly acquired wealth was frozen

and \$423 million returned by OECD countries between 2006 and 2012. Despite a few high-stake cases after 2012, this situation has not changed dramatically, and even in successful grand corruption and asset recovery cases a very large share of the assets allegedly stolen remains unidentified. The situation in Germany is not better. Compared to an estimated €29–100 billion from national and international criminal activities laundered in Germany every year, only €198.6 million – primarily related to national criminal activity – was confiscated in 2017. Germany continues without a high-profile case of successful asset recovery related to illicit assets from developing countries. Notwithstanding its limitations, this study identifies 16 cases with potentially illicit assets in Germany that are largely unresolved to date and argues that this is most likely just the tip of the iceberg.

Mutual legal assistance in support of criminal cases in the source countries can be considered as the traditional standard procedure for international asset recovery. In Germany, there are no official statistics on mutual legal assistance requests, and information on individual requests is confidential. According to estimates from our interviews, Germany receives less than 100 mutual legal assistance requests from developing countries per year and very few of them are related to asset tracing and asset recovery. One of the most prominent examples of mutual legal assistance requests for asset recovery is related to Zine El Abidine Ben Ali, the former president of Tunisia. Despite extensive support and publicly documented details of assets –including a house near Frankfurt– little progress has been made so far. In contrast, Germany arrested and extradited a son of former Nigerian President Sani Abacha to Switzerland and provided mutual legal assistance to a case against him involving €230 million in bribes originating from Germany that were eventually returned by Switzerland and Liechtenstein.

Sanctions have received increased attention as a tool to quickly freeze assets and make them inaccessible for those accused of stealing them following changes in government in Egypt, Tunisia and Ukraine. In Germany, bank accounts with assets totaling €865 million remained frozen at the end of 2018, mostly from Libya (€770 million). A more detailed analysis of the Gaddafi case shows that most of the frozen assets from Libya concerned sovereign assets, such as investments of the state fund, and that assets directly controlled by the Gaddafi family are much harder to trace. In Germany, where one of Gaddafi's sons was living and studying until his return to Libya before his death, assets allegedly included private bank accounts and expensive cars, some of which were confiscated. This study could not confirm the current status of these accounts or the vehicles but found that the two villas in Munich used by the son were not the property of any of the individuals on the sanctions list. With €485,000 from Ukraine, €13,000 from Tunisia and no frozen accounts from Egypt, the overall success of the EU misappropriation sanctions appears small in Germany. The European Commission rejected a freedom of information request to obtain comparable data for the EU.

While several OECD countries have successfully returned assets, often using alternative approaches to asset recovery –including non-conviction-based forfeiture, private civil action, proactive identification of assets and shifting the burden of proof– Germany has only very recently taken steps to catch up. The confiscation of assets worth €50 million, allegedly laundered and invested in Germany in connection to a Russian laundromat in February 2019, is one of the first cases where Germany has acted on complex international money-laundering investigations. The case is proof that constraints can be overcome and that new legislation might have reduced the legal burdens. It also shows that, so far, we might have only seen the tip of the iceberg of illicit assets hidden in Germany. The spontaneous exchange of information in the aftermath of Panama Papers from the tax agency in Hamburg to Argentina give an indication of the wealth of data on illicit assets proactively accessible to German authorities and might be a promising model for further successful international cooperation.

German development cooperation can contribute to successful asset recovery by providing technical assistance in developing countries as well as supporting and advocating for increased recovery efforts at home. Based on the cases studied and the results of expert interviews, this study recommends to:

a) Ensure policy coherence within Germany.

German development cooperation can work with the responsible ministries and institutions in Germany to ensure that policies and administrative practices enable the proactive identification, confiscation and return of illicit assets as well as to facilitate asset tracing in Germany.

b) Raise awareness in Germany and establish national expertise.

German development cooperation can contribute by advocating for increased recovery efforts at the national level and by identifying and supporting national experts.

c) Focus on specific cases and/or selected countries to create success stories.

German development cooperation should liaise with other relevant German authorities and possibly investigative journalists and NGOs to identify further useful leads and use their international presence and network of experts to identify potential partners.

d) Build lasting relationships at the operational level.

German development cooperation can provide the resources, infrastructure and contacts to facilitate necessary exchanges.

e) Coordinate training efforts and avoid overtraining.

German development agencies should carefully coordinate their technical assistance with German ministries, the police and other national and international actors.

INTRODUCTION

DESPITE INCREASED AWARENESS, REPEATED PROMISES AND ENHANCED RECOVERY EFFORTS IN A FEW COUNTRIES, THE SHARE OF ILLICIT ASSETS DISCOVERED REMAINS DISMALLY LOW.

While both the awareness and sheer magnitude of international treaties and commitments on asset recovery have increased in recent years, the topic is not new. The Hague Service Convention regulated mutual legal assistance in civil matters as far back as 1965.¹ Looking at the newly independent African states, the Polish sociologist Andreski already coined the term “kleptocracy” in 1968 and the first anti-corruption convention was drafted for the UN in 1975. Although discussions on this draft stalled, legal assistance on criminal matters and, in particular, asset recovery, took place sporadically on a bilateral basis. In 1986, a few days after the fall of former Philippines President Ferdinand Marcos, Switzerland froze \$684 million of his assets and, in 1991, following a legal assistance request from Mali, Switzerland for the first time returned assets of around \$2.7 million.^{2,3} In the meantime, the United States started working on anti-money laundering provisions and the Financial Action Task Force on Money Laundering (FATF) published its first recommendations, including the topic of international cooperation around asset recovery.⁴

When finally adopted in 2003, the United Nations Convention against Corruption⁵ contained extensive rules on international cooperation to recover stolen assets, and several high-profile cases emerged – including the return of more than \$1 billion linked to Sani Abacha of Nigeria.⁶ A major investigation in 2005 by the CIA and the UN into the Iraqi oil-for-food program publicly exposed the misuse of funds on a huge scale, as well as the international mechanisms of laundering and hiding the proceeds. The case against Frederick Chiluba, former president of Zambia – evolving from a civil case

brought in a London court with the support of DFID in 2007 – was one of the first major corruption cases against a former African head of state in his home country. The Arab spring in 2011 and later the Maidan revolution in Ukraine brought a new wave of high-profile cases and international commitments to recover assets stolen by deposed dictators. Moreover, Switzerland adopted the “Lex Duvalier” in 2011 on the return of illicit assets.⁷

More recently, the pace of public scandals has increased significantly, including leaks like Panama and Paradise Papers of 2016 and 2017. Controversy around the death of Russian prisoner Sergei Magnitsky, a lawyer in a dispute between Russia and a US investment fund manager, resulted in a political and judicial campaign to freeze and recover assets stolen from Russia that were hidden around the world. Additionally, exposure of major money-laundering operations in Russian and Azerbaijani laundromats,⁸ and the money-laundering investigations against ABLV,⁹ Deutsche Bank and Danske bank,¹⁰ among others, shed light on the international mechanisms of money-laundering.

Despite increased awareness, repeated promises and enhanced recovery efforts in a few countries, the share of illicit assets discovered remains dismally low. Several countries are testing alternative ways to tackle the problem, such as efforts of the US Kleptocracy Asset Recovery Initiative to investigate complex international cases, including money allegedly embezzled from the Malaysian state-fund and the oil sector in Venezuela; UK legislation around unexplained wealth orders; and Swiss efforts to combine freezes through sanctions with dedicated confiscation efforts and innovative tools for the return of assets. The second round of mutual review of UNCAC commitments, launched in November 2015, focuses specifically on the element of asset recovery.

Germany has recently introduced several legislative reforms, primarily around the fourth EU anti-money laundering directive, and has started to strengthen its asset recovery capacity in light of increasing public awareness. However, it continues without a high-profile case of successful asset recovery related to illicit assets from developing countries.

This study aims to address a gap in knowledge about asset recovery cases and asset recovery efforts in Germany.¹¹ It compiles existing information on illicit assets in Germany from corruption and kleptocracy originating in developing countries ("source countries") and entry points for German development cooperation based on the analysis of past and current cases. To the best of our knowledge, this is the first time that information on asset recovery cases and related mutual legal assistance requests has been obtained through interviews of experts and public officials in Germany and in the source countries alongside the analysis of publicly available information and independent investigative research (see Annex 1 – Methodology for more details). Where a selection of cases was possible or necessary, particular attention is paid to countries in sub-Saharan Africa, the Middle East and North Africa (MENA), Eastern Europe, Central Asia and Latin America.

Chapter 1 proceeds with a review of existing estimates of illicit financial flows and illicit assets from developing countries worldwide and in Germany. It provides an overview of documented cases of illicit assets from developing countries identified in Germany. Chapter 2 analyzes criminal confiscation and mutual legal assistance, on one hand, and sanctions on the other as two partly competing, partly complementary approaches of dealing with illicit assets. Using in-depth case studies on Ben-Ali (Tunisia), Abacha (Nigeria) and Gaddafi (Libya), it examines Germany's experience with these tools. Additionally, it considers alternative methods for confronting illicit assets and their application in Germany using examples from confiscations related to the Russian laundromat case, a settlement paid by Siemens in Nigeria and the exchange of information related to the Panama Papers with Argentina. Chapter 3 identifies entry points for German development cooperation to strengthen asset recovery efforts.

CHAPTER 1.

ESTIMATES OF ILLICIT
FINANCIAL FLOWS
BETWEEN GERMANY
AND DEVELOPING
COUNTRIES

1. ESTIMATES OF ILLICIT FINANCIAL FLOWS BETWEEN GERMANY AND DEVELOPING COUNTRIES

DUE TO THE SIZE OF ITS ECONOMY AND ITS LARGE FINANCIAL SYSTEM, CONSIDERABLE ASSETS ARE SUSPECTED TO BE HELD IN GERMANY.

The stolen, unaccounted and untaxed money that finds its way into bank accounts and investments in other countries –often through secrecy jurisdictions and tax havens– is referred to as illicit financial flows (“IFFs”), meaning money that has been illegally obtained, transferred or utilized.¹² Corruption as an important source of IFFs has a negative impact on economic development in countries far beyond the capital outflows associated with IFFs. The Global Expert Group Meeting on Corruption involving Vast Quantities of Assets recently highlighted corruption involving large quantities of assets “as a threat to global peace and security, the enjoyment of human rights, a liveable climate and biodiversity.”¹³ Significantly reducing IFFs and strengthening the recovery and return of stolen assets is therefore part of the UN Sustainable Development Goals (SDG goal 16.4). However, discussions around SDG 16.4 have shown that IFFs are difficult to define and even more difficult to measure. There are various estimates of proceeds of crime, stolen assets, trade misinvoicing, transfer mispricing, and undeclared offshore wealth. Partly due to the illicit nature of the phenomenon and partly due to the multifaceted source of illicit funds, none of the measurement attempts provide a global picture and all of them suffer from insufficiently robust data to provide breakdowns by country and their development over time.¹⁴

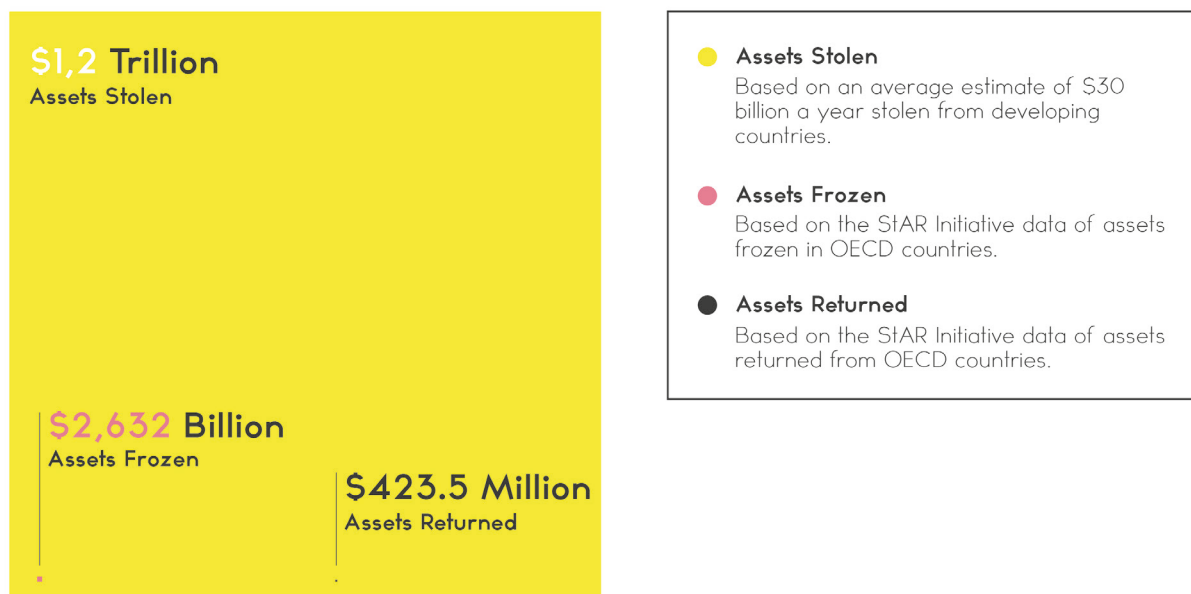
One widely quoted estimate by the Tax Justice Network puts the global total of unrecorded wealth parked offshore at around 10% of global wealth, or \$21 trillion to \$32 trillion, with roughly one third originating in developing countries.¹⁵ Considering financial assets alone, Zucman finds a similar result, putting the total at 8%, or \$7.6 trillion.¹⁶ Using balance of payments data on foreign exchange

flows, Ndikuma and Boyce estimate that between 1970 and 2015 the 30 African countries in their dataset had lost \$1.4 trillion due to capital flight, vastly exceeding the debt stock of around \$500 billion.¹⁷ Global Financial Integrity famously illustrated that for every \$1 in official development assistance that goes into developing countries, approximately \$10 is lost via illicit outflows. They also show that while in absolute terms the biggest source of IFFs is Asia, both Africa and Latin America are suffering the most in relative terms.¹⁸ Finally, in 2007 the Stolen Asset Recovery Initiative of the World Bank and UNODC (“StAR”) estimated conservatively that every year between \$20–40 billion were stolen by public officials from developing and transition jurisdictions.¹⁹

In comparison to these estimates, the actual amount of assets recovered and returned is dismally low. Between 2006 and 2012 OECD member states froze \$2.6 billion and returned \$423.5 million. The majority of asset freezes was executed by Switzerland (32,5%) and, while a total of 10 countries were pursuing asset recovery cases, only four –the US, Switzerland, the UK and Australia– had actually returned assets, with the majority of returned assets coming from the US (42,4%).²⁰ To our knowledge there is no comprehensive data on asset recovery and return after 2012. Over the past few years, several countries have returned a significant amount of assets, and Switzerland puts the total amount of assets returned until 2017 at approximately \$2 billion, with the highest sums returned to Nigeria, Egypt and the Philippines.²¹ In relation to the amounts stolen, this remains insignificant.²²

Figure 1 – Relation of stolen, frozen and returned assets during 43 years between 1970 and 2012

The graphical representation of frozen and returned assets is purely illustrative. In reality the amounts of frozen and returned assets are so small that it is impossible to visualise them inside this image.



Different estimates put the amount of illicit assets laundered in Germany at approximately €100 billion per year based on an extrapolation of suspicious transactions observed by obliged entities under the anti-money laundering legislation,²³ at €43–57 billion based on national crime statistics including tax evasion and avoidance,²⁴ and at €29 billion without tax avoidance.²⁵ All three estimates have serious methodological limitations and do not differentiate whether the illicit assets come from inside or outside Germany; however, they give a rough measure of the extent of the problem. To our knowledge there is no estimate of illicit assets from developing countries in Germany, but due to the size of its economy and its large financial system, considerable assets are suspected to be held in Germany.²⁶ In 2018, German authorities for the first time published statistics on national asset recovery in line with EU legislation adopted in 2014. According to these statistics, Germany froze €646.8 million and confiscated €198.6 million in criminal assets in 2017.²⁷ Although detailed statistics are not publicly available, several interview partners confirmed that most of the cases recorded in these statistics are related to drug crimes and a large share of confiscated assets comprised cash and cars owned by dealers. The StAR database does not record any cases of asset recovery relating to Germany.²⁸

Nevertheless, this study, primarily using publicly available information, interviews and limited independent investigative research, identified 16 cases with evidence of assets in Germany of possibly illicit origin from developing countries. These cases can be found in the table below. Several of the identified cases are described in more detail as case studies throughout this report. For a complete list of examined cases and additional information, please see Annex 2 – Case details.

Table 1 – Overview of cases with allegedly illicit assets in Germany

For a complete list of sources and further details see Annex II

Country / Case	Allegedly illicit assets and relationship to Germany	Process details
Argentina (de Achaval)	Accounts with Deutsche Bank, Hamburg.	Information spontaneously exchanged with Argentina. The case in Argentina is ongoing and a case in Germany has been opened.
Argentina (Macri)	Accounts with UBS Deutschland, Hamburg.	Information spontaneously exchanged with Argentina. The case in Argentina is ongoing and a case in Germany has been opened.
Egypt (Hosni Mubarak)	Alleged bank accounts of Mubarak's sons in Germany. Accounts held at Deutsche Bank, but not in Germany.	MLA request received, efforts to identify assets were started but apparently have been unsuccessful.
Indonesia (Bacharuddin Jusuf Habibie)	Account with Deutsche Bank, Hamburg (alleged bribes from Ferrostaal).	Unknown
Kazakhstan (Rackat Alijev / Nursultan Nasarbajew)	Shares in and loans to Metallwerk Bender Rheinland (2006–2010).	Investigation by prosecutors in Krefeld closed.
Kenya (Nicholas Biwott)	Account in Germany (bank unidentified, brokered by Solomon Muthamia – Trade Bank).	Unknown
Kenya (Solomon Muthamia)	Account in Germany (bank unidentified)	Unknown
Libya (Muammar al Gaddafi)	200 accounts in 13 banks, mostly state-controlled, including €1.98 billion with German central bank. State-owned real estate in Munich (Villa Waldperlach, Dornröschenstr., München), Bogenhausen (Piezenacherstr.) used by his son. Private account(s) at Commerzbank.	Details on frozen assets are not accessible to public. Real estate in Munich is not held in the name of a sanctioned person or entity.
Malaysia (IMDB)	Account with BHF BANK, Frankfurt (\$55 million)	No case has yet been opened in Germany.
Nigeria (Abacha)	Account with Deutsche Bank in Neuss. Account with subsidiaries in Switzerland and Luxemburg of Warburg Bank (Hamburg) with bribes from Ferrostaal.	MLA requests received from Switzerland and Liechtenstein. German investigations on Ferrostaal terminated without any results.
Russia (Magnitsky case)	Real estate in Berlin and other cities held through Netherlands.	No case has yet been opened in Germany.
Russia (Russian Laundromat)	Real estate in Bavaria, real estate companies and their accounts.	Assets confiscated, awaiting confirmation by court.
Tunisia (Ben Ali)	Real estate in Dreieich, near Frankfurt. No substantial accounts found to be remaining frozen.	MLA requests received but not sufficiently substantiated. House said to be paid with state salary (DM650.000). German investigations on the house terminated, status of the house unclear, further assets suspected.
Turkmenistan (Nijazov)	Accounts with Deutsche Bank. Real estate in Berlin.	Case opened in Germany.
Ukraine (Kurchenko)	Shares in German company (Sparschwein Gas GmbH) held through Netherlands/ Curacao.	Case closed without sufficient evidence for confiscation.
Ukraine (Kostiuk and others)	Shares in German company (GermanPowerGroup AG). Bank account in Augsburg, Internationales Bankhaus Bodensee.	Unknown

CHAPTER 2.

INTERNATIONAL
ASSET RECOVERY
CASES AND ASSET
FREEZES INVOLVING
GERMANY AND
DEVELOPING
COUNTRIES

2. INTERNATIONAL ASSET RECOVERY CASES AND ASSET FREEZES INVOLVING GERMANY AND DEVELOPING COUNTRIES

Identifying assets as part of a criminal case in the source country, supported by mutual legal assistance ("MLA") from the destination country, is thought to be the traditional method of asset recovery. In contrast, asset freezes as part of sanctions are initiated independent of the source country and have in the recent past helped to quickly trace and freeze big amounts of illicit assets. Considering that asset freezes usually require a criminal case for confiscation and return but do not automatically lead to criminal investigations, both avenues are complementary. Depending on the approach, a wide range of actors can be involved in asset tracing and asset recovery.

THE ROLES AND RESPONSIBILITIES OF INSTITUTIONS INVOLVED IN ASSET RECOVERY IN GERMANY

- **Police:** The Federal Criminal Police (BKA) is responsible for international cooperation and hosts the national central bureau of Interpol and the German Asset Recovery Office. In 2018 it had 3,200 police officers and 62 liaison officers in 50 countries. The primary responsibility for police investigations lies at the state-level with approximately 260,000 police officers. Since 1997, special units for asset recovery have been installed, employing about 670 asset recovery specialists by 2018. *Responsibility: Ministry of the Interior.*
- **Customs:** The Central Customs Authority, the "Zollkriminalamt" and the eight regional "Zollfahndungsämter" are responsible for investigating serious and organized crime around federal taxes and customs issues as well as international cooperation in that field. *Responsibility: Ministry of Finance.*
- **Financial Intelligence Unit (FIU):** The FIU ("Zentralstelle für Finanztransaktionsuntersuchungen") is the central office responsible for receiving, collecting and evaluating suspicious financial transaction reports related to money laundering and terrorist financing. It was moved from the BKA to the Central Customs Authority in 2017 and currently has a staff of approximately 400. It is the German representative in the Egmont Group of Financial Intelligence Units that connects 159 FIUs and, as an administrative body, can exchange information with its international partners and collate data from various sources as a base for money-laundering investigations by the other investigative bodies.
- **Tax agencies:** The Federal Central Tax Office (BZSt) with 2,200 employees is responsible for central, national and international tax issues, including international administrative assistance. The primary responsibility for taxation lies at the state-level where investigative tasks are organized in different structures. *Responsibility: Ministry of Finance.*
- **Bank oversight** is shared between the **Central Bank** and the **Federal Financial Supervisory Authority (BaFin)**. BaFin is responsible for oversight of anti-money laundering efforts of all financial institutions in Germany, including the group-wide implementation of anti-money laundering policies in foreign branches of German banks. BaFin also administers the bank account register. *Responsibility: Ministry of Finance.*
- **Prosecutors** in Germany are responsible for overseeing investigations but do little investigating themselves. They are organized at state and sub-state levels in line with the organization of the court systems. Several states, such as Lower-Saxony,²⁹ Hesse,³⁰ Berlin,³¹ and Bavaria³² have recently created central agencies assuming responsibility for tasks related to money-laundering and asset recovery. The federal prosecutors are responsible only for terrorism, war crimes and other issues that affect the integrity of the state. *Responsibility: Ministry of Justice.*
- **Courts:** There are primarily three kinds of courts that play a role in asset recovery in Germany: criminal, civil and administrative. Asset recovery is usually related to criminal cases, but local administrative courts can also issue asset freezes on behalf of the FIU and are responsible for the real estate and company registers. *Responsibility: Ministry of Justice.*
- **Institutions involved in Mutual Legal Assistance:** most mutual assistance requests from developing countries arrive in Germany via the diplomatic channel through the **Federal Foreign Office** and are forwarded to the **Federal Office of Justice**, which analyzes and distributes them to the prosecutors in charge.

2.1. INTERNATIONAL ASSET RECOVERY CASES THROUGH MUTUAL LEGAL ASSISTANCE AND CRIMINAL CONFISCATION

GERMANY SEEMS TO RECEIVE FEW MUTUAL LEGAL ASSISTANCE REQUESTS RELATED TO ASSET RECOVERY FROM DEVELOPING COUNTRIES. AT THE SAME TIME, INTERNATIONAL EXPERIENCE SHOWS THAT PROACTIVE INITIATIVES ARE IMPORTANT FOR SUCCESSFUL ASSET RECOVERY.

Germany ratified the European Convention on Legal Assistance in Criminal Matters in 1976 and adopted a dedicated law on International Legal Assistance in Criminal Matters³³ in 1994. In 1998, Germany ratified the OECD Convention on Combating the Bribery of Foreign Public Officials, which has some provisions on MLA. Germany was a founding member of the Camden Asset Recovery Inter-Agency Network in 2004. After several years of delay, in 2014 Germany ratified the United Nations Convention Against Corruption ("UNCAC"), which contains ambitious goals on asset recovery, requiring that "States Parties shall afford one another the widest measure of cooperation and assistance in this regard".³⁴ In 2015, the German government published a guide entitled "Asset Recovery under German Law – Pointers for Practitioners," detailing the applicable laws and procedures.³⁵

According to these procedures, officials from developing countries must usually direct MLA requests through the local German embassy, which passes it through the Federal Foreign Office to the Federal Office of Justice (Bundesamt für Justiz) as the main contact for all requests. The Federal Office of Justice distributes the requests to the ministries of justice at the sub-national level, which in turn distribute the requests to local public prosecutors' offices for a decision by one of the local or regional courts, and, if approved, for implementation by the police. International cooperation in criminal matters is complex and time-consuming, and it usually necessitates that

legal procedures in the source country be accepted and trusted by the courts in the destination country.

There are no official statistics on mutual legal assistance requests, and information on individual requests is confidential. However, estimates show that Germany receives slightly more than 10,000 requests per year for MLA on criminal matters, mostly originating from the EU, the US and Switzerland. Interview partners estimate that very few MLA's –potentially even less than 100– originate from developing countries, but it is apparently not possible to identify those related to asset recovery without a case-by-case search (see Annex 1 – Methodology for more details). Through case research and interviews, this study identified six cases of MLA requests related to asset recovery concerning allegedly corruptly obtained assets from developing countries, but sufficient information for further analysis in only three cases could be obtained.

“ CASE 1 ”

TUNISIA: DOCUMENTED MLA REQUEST WITH SPECIFIC ASSETS

Zine El Abidine Ben Ali was president of Tunisia from 1987 to 2011. It is believed that Ben Ali's family has hidden as much as \$17 billion in bank accounts across the world.³⁶ As Ben Ali fled to Saudi Arabia on January 14th, 2011 following protests in Tunisia, the EU and several other countries implemented sanctions, including an asset freeze against him and 47 other individuals. In June, 2011 Ben Ali and his wife were convicted to 66-years of prison on various charges, including embezzlement and drug trafficking in what was perceived by many as a hasty show trial.³⁷ The confiscation of assets in Tunisia, based on a decree by the new government, was overturned by a Tunisian court in 2015.³⁸ The decision was appealed and by 2019 the Tunisian government had reportedly confiscated a total of \$450 million.³⁹

With help from the StAR Initiative, the Tunisian government established a special committee for the recovery of stolen assets and, at the request of the French government, Eurojust held a coordination meeting at the end of 2011 to exchange information on ongoing cases within the EU.⁴⁰ As a result of these efforts, \$80 million, two airplanes and two yachts were frozen or seized in Switzerland, France, Belgium and Italy.⁴¹ In addition to the planes and yachts, Switzerland had returned €225,000 in 2016, followed by €3.5 million in 2017.⁴² Another \$28.8 million was apparently returned from Lebanon in 2012/13.⁴³

Germany received its first MLA request for the identification and confiscation of assets for 48 individuals subject to EU sanctions as early as January, 2011, and the Federal Police was charged with identifying assets. Despite extensive technical assistance provided by Germany,⁴⁴ these efforts apparently did not result in any asset recovery or return so far. At the same time, the German press reported minute details about a house close to Frankfurt allegedly used and owned by Ben Ali's sister. According to information from the German tax agency, payment for the house was apparently justified by salaries earned by Ben Ali's sister and her husband from positions linked to the Tunisian government.⁴⁵ Investigations by the prosecutors in Darmstadt were closed in March, 2012 without result, due to a lack of evidence on the criminal origin of the assets.⁴⁶ The current ownership and status of the house is unclear. At the end of 2018 only €13,920.30 remained frozen in German bank accounts under the Tunisian sanctions regime, but, according to interviews, local experts claim that more unidentified illicit assets connected to the former ruling family are invested in Germany.

International experience shows that rather than relying on the judicial system of the source country, “[p]roactive initiatives by OECD member governments or law enforcement agencies remain important sources for successful asset freezes and returns”.⁴⁷ This is possible, for example, if the person who committed such a crime is a resident in the

respective country or if the crime, such as money laundering, happened there. Nevertheless, several of the interviewees for this study confirmed that such proactive initiatives are, or at least used to be, very unlikely in Germany. Firstly, this is because the legal burdens for criminal cases related to illicit assets from abroad and for domestic money-laundering

investigations are very high (even though this might be changing, see: chapter 2.3). Secondly, there are objective constraints and a lack of prioritization for the usually complex cases with uncertain outcomes. These limitations have been overcome in cases of war crimes, crimes against humanity and genocide, as in the cases of Onesphore Rwabukombe,⁴⁸ Ignace Murwanashyaka and Straton Musoni,⁴⁹ who were from Rwanda but lived in Germany. In all three cases, judgements were made in German courts after lengthy proceedings, including MLA requests from Germany to Rwanda and extensive judicial cooperation. However, court documents show that

no assets were identified in Germany.⁵⁰ Germany has also been indirectly part of proactive efforts by other OECD countries, as in the case opened in Switzerland against Sani Abacha from Nigeria.

“ CASE 2 ”

NIGERIA: MLA REQUEST FROM ANOTHER DESTINATION COUNTRY

Following a coup d'état, Sani Abacha became president of Nigeria in 1993 and held the position until his mysterious death in 1998. In this short time, he allegedly looted more than €10 billion. Following his death, prosecutors in Switzerland opened a case of money-laundering against him, leading to one of the biggest and most successful asset recovery cases to date, with more than €1 billion returned from Switzerland alone, as well as additional repatriations from Liechtenstein and the US. The case has various important links to German companies, banks and courts.

The German company Ferrostaal AG was a leading contractor for the construction of an aluminum smelter in Nigeria for a total of \$3.2 billion, and it allegedly paid bribes of €230 million through foundations in Liechtenstein and UBS accounts in Switzerland. To receive their illegal loot, the Abachas had apparently opened accounts at the Luxembourg branch of the German bank M.M. Warburg after a planned visit to the bank's headquarters in Hamburg in 1995.⁵¹ In 2004, one of Abacha's sons was arrested in Germany and extradited to Switzerland after he tried to withdraw €70,000 from an account at Deutsche Bank in Neuss.⁵² In addition to the arrest and extradition, Germany has reportedly received various MLA requests related to the case from Switzerland and Liechtenstein.⁵³ A case was reportedly opened against Ferrostaal AG in Essen but there is no record of a conviction and the case seems to be closed. Information on further assets of the Abachas identified in Germany could not be found. Unlike the Nigerian case, in 2011 Ferrostaal AG and two of its managers were fined €140 million, €36,000 and €18,000, respectively, as well as two years probation by a Munich court for paying bribes in relation to submarines sold to Portugal and Greece in 2000.⁵⁴

2.2. IMPLEMENTATION OF INTERNATIONAL SANCTIONS BY GERMANY RELATED TO STOLEN ASSETS

WITH THE EXCEPTION OF 770 MILLION EUROS FROM LIBYA AND SOME FROM SYRIA, IRAQ AND IRAN, GERMANY HAS ALLEGEDLY FROZEN ONLY A SMALL AMOUNT OF ASSETS IN GERMAN BANK ACCOUNTS UNDER APPLICABLE SANCTION REGIMES.

Asset freezes as part of sanctions against countries and individuals are an additional, quick tool for reacting to illicit assets. Especially following the Arab spring and changes in government in Libya, Egypt, Tunisia and Ukraine, asset freezes have received renewed public attention after the EU imposed its first misappropriation sanctions.⁵⁵ Sanctions that include asset freezes can be imposed by the UN, the EU or unilaterally by Germany. Asset freezing obligations generally concern bank accounts controlled by the designated individuals or entities, companies and their subsidiaries as well as real estate and other high-value goods they own. Once decided, the sanctions compel German banks and other actors, such as real estate registries, to freeze assets of the designated individuals and entities as well as to notify the responsible agencies. In theory, this is a quick way to identify potentially illicit assets and make them temporarily inaccessible to the persons in control of them. However, there are two major limitations. First, frozen assets continue to legally belong to the designated individual or entity until proven otherwise, and a criminal case is usually necessary to return assets to the source country or the victims. Unlike Switzerland, EU sanctions do not contain measures for confiscation and restitution or supporting measures, such as technical assistance and information sharing.⁵⁶ Moreover, German law enforcement bodies often do not even receive information on the underlying assets, according to interviews for this study. Secondly, sanctions-related asset freezes might fall short of identifying various assets, including bank accounts with hidden beneficial owners, company ownership and real estate (for more details see chapter 2.3).

Currently there are sanction regimes for 22 countries and two dedicated sanction regimes for terrorism and ISIL/Al-Qaida, totaling around 2,000 individuals and entities subject to asset freezes in Germany. Out of the 22 countries, five are targeted only by UN sanctions, seven are the target of both UN and EU sanctions and ten are targeted by EU sanctions only. Data is not available concerning unilateral sanctions by Germany, but judging from other EU countries, they likely play a very minor role.⁵⁷

UN sanctions must be approved by the Security Council and automatically apply to all member states. They are administered by committees comprised of representatives from all 15 members of the Security Council and a non-permanent member chair. The committees are responsible for implementing, monitoring and providing recommendations to the Security Council on sanctions regimes and have additional support from several working groups and teams.⁵⁸ In some cases, these include a designated panel of technical experts that assists in sanctions monitoring, asset tracing and other tasks, but they usually focus primarily on arms embargos.

EU sanctions are decided upon by the European Council (Article 215, TFEU), usually based on suggestions from member states, and apply automatically to all member states. Furthermore, third-party countries can declare adherence to sanctions, and the UK can and often does extend them to its overseas territories by an order approved by Parliament and the Queen. Unlike open-ended UN sanctions, EU sanctions are initially imposed only for a period of 12 months, after which they are subject to an annual review. At any time, depending on new evidence and involvement of a particular situation, the Council can decide to amend, extend or temporarily suspend the sanctions. The European Commission (Service for Foreign Policy Instruments) and the European External Action Service oversee the implementation of the sanctions and collect data on assets frozen

in each member state. However, according to interviews for this study, they only receive total figures without any details on the underlying assets, and the oversight of implementation is limited to administrative questions without any involvement in asset tracing. Data on asset freezes in the EU is not published, and the European Commission rejected a freedom of information request to obtain aggregated data for this study.⁵⁹

National sanctions in Germany are the responsibility of the Federal Ministry for Economic Affairs and

Energy in consultation with the Ministries of Foreign Affairs and Finance and the German Central Bank. The responsibility for the implementation of sanctions is shared between the Central Bank (financial), the Federal Office for Economic Affairs and Export Control (goods) and local administrative courts (real estate and company registers). The Federal Ministry for Economic Affairs and Energy is not responsible for criminal cases possibly connected to frozen assets. Summary data from the Federal Ministry for Economic Affairs and Energy was obtained for this study (see table below).

Table 2 – Overview of asset freezes in Germany by sanction regime

Country	Kind of regime	Bank accounts frozen (in €)
Libya	UN and EU	767,855,800.78
Syria	EU only	89,843,570.22
Iraq	UN only	4,737,670.97
Iran (nuclear proliferation + human rights)	UN and EU	1,311,655.35
Ukraine (Misappropriation)	EU only	485,773.58
Democratic People's Republic of Korea	UN and EU	411,271.88
The ISIL (Da'esh) and Al-Qaida organisations	UN and EU	14,998.35
Tunisia	EU only	13,920.30
Democratic Republic of the Congo	UN and EU	10,618.49
Republic of Guinea-Bissau	UN and EU	4,410.00
Republic of Guinea	EU only	2,669.71
Central African Republic	UN only	250.00
Terrorism and Terrorist Financing	EU only	40.44
Afghanistan	UN only	0
Belarus	EU only	0
Burma	EU only	0
Burundi	EU only	0
Egypt	EU only	0
Somalia	UN only	0
South Sudan	UN and EU	0
Sudan	UN and EU	0
Ukraine (Sovereignty)	EU only	0
Venezuela	EU only	0
Yemen	UN only	0
Zimbabwe	EU only	0
Total		864,692,650

According to interviews, this data only contains information on German bank accounts, while freezing real estate and company assets is under the responsibility of the relevant local courts. According

to our interviews, they have, at least in part, electronic access to sanction lists and are apparently also responsible for reporting frozen assets.

“ CASE 3 ”

LIBYA: LARGE AMOUNTS FROZEN, LITTLE RECOVERED

Muammar al-Gaddafi ruled over Libya after his coup d'état in 1969 until his death in 2011. Press reports estimate that Libyan assets outside the country amount to \$200 billion.⁶⁰ Estimates of Libyan assets initially frozen in Germany put the figure at €10 billion⁶¹ split among 193 accounts in 14 German banks and the German central bank. According to Germany's implementation note to the UN on June 24, 2011, the value at that time was €7.21 billion. The biggest share of these assets was quickly unfrozen when the EU removed the Libyan Central Bank and the state-owned Libyan Arab Foreign Bank from its sanctions list at the end of 2011.⁶² Most recently, Gaddafi's wife was removed from the sanctions list following a judgement by the European Court of Justice in 2017.⁶³ To date, around €770 million remain frozen (see Table 2).

The Panel of Experts on the UN committee on Libyan sanctions explains that a big share of the assets are owned by Libya's sovereign vehicles and not Gaddafi himself, because "[...] the Gaddafi family viewed the funds in Libya's sovereign vehicles as their own, and apparently did not feel the need to transfer these funds into personal accounts," but argues that "locating and repatriating of any proceeds of embezzlement and corruption that Qadhafi, other Libyan politicians, and their families transferred to personal accounts or companies out of the country" is more difficult and most problematic.⁶⁴ Financial experts on the panel (usually one or two out of up to seven members) found evidence that one of the sons "had access to and control of considerable funds that were concealed and not frozen as required by the asset freeze measures". Since they came to the conclusion that it was unrealistic to determine the legitimacy of ownership in Libyan courts, they advise "[...] the Libyan authorities to bring an action in the courts of the Member State concerned, that is, where the assets are frozen" to actually recover the assets.⁶⁵ In 2017, the Panel of Experts visited Wintershall, an important oil producer in the country,⁶⁶ and discovered that investments of \$700 million in three Cayman islands funds were transferred from State Street Bank in London –where they were apparently frozen– to a custodian account at Deutsche Bank in Germany in 2012, apparently without license from Germany.⁶⁷ Information on the status of these funds could not be obtained.

Of the ten children Gaddafi reportedly had,⁶⁸ one of his sons, Saif al-Arab al-Gaddafi, lived and studied in Munich starting in 2006, had access to two villas in Bogenhausen und Waldperlach, several luxury cars and a generous monthly stipend –and he unsuccessfully tried to transfer €1.9 million from his Commerzbank account before leaving to Libya prior to being killed there in 2011.^{69,70} According to the Munich court responsible for real estate registration, the villas were not registered in the name of any of the individuals or entities under sanctions⁷¹ but were apparently owned directly by the Libyan state. Information on the status of the account and the cars could not be obtained.

2.3. INTERNATIONAL ASSET RECOVERY CASES USING ALTERNATIVE TOOLS IN GERMANY

NON-CONVICTION BASED CONFISCATION LAW AND PROACTIVE INFORMATION SHARING ARE SOME OF THE ALTERNATIVE TOOLS ASSET DESTINATION COUNTRIES, SUCH AS GERMANY, CAN USE TO IMPROVE THEIR SUPPORT TO DEVELOPING COUNTRIES IN RECOVERING STOLEN ASSETS.

According to the StAR report, less than 50% of successful asset return cases between 2010 and June 2012 were “traditional” criminal cases and nearly 75% of assets were returned following settlements, mainly from foreign bribery cases.⁷⁸ A review of experience with international asset recovery in Egypt, Libya and Tunisia finds that formal MLAs should be the end rather than the beginning of successful and more direct cooperation through police-to-police communication, financial intelligence units and international organizations.⁷⁹

While Germany continues without any high-profile cases of assets returned to developing countries, several of its OECD peers have successfully used alternative approaches to asset recovery in the past, and Germany has only very recently taken steps to catch up. A report of the StAR initiative from 2014 details a comprehensive set of alternative tools and possible improvements for asset recovery,⁷² ranging from:

a) alternatives to asset confiscation at the end of a successful criminal case, such as **settlements in foreign bribery cases** or **international arbitration**; non-conviction-based forfeiture; and rapid (and lasting) freezing orders, like those available in the UK and Switzerland, where assets can remain frozen quasi indefinitely until the case is resolved;

b) methods to **lower or shift the burden of proof** by using and supporting private civil actions in the destination country, as in the London court case against former Zambian President Frederick Chiluba;⁷³ and by **shifting the burden of proof**, as in the case of the unexplained wealth orders introduced in the UK in 2018;⁷⁴ and tools used in Italian mafia cases since at least 1992⁷⁵ and possibly even since 1982;⁷⁶

c) more proactively **using and sharing information**, as Switzerland does with the information from its sanctions,⁷⁷ and simply to prioritize or provide dedicated resources to international asset recovery, as the US does with its Kleptocracy Asset Recovery Initiative and the UK with the International Corruption Unit.

“ CASE 4 ”

THE POTENTIALS AND LIMITS OF FOREIGN BRIBERY CASES⁸⁰

Siemens AG from Germany was found guilty of paying large amounts of bribes in many countries around the world between 1996 and 2007. Siemens AG and some of the individuals involved faced civil and criminal charges in various countries, most notably two cases of foreign bribery in Germany and the US. Siemens AG paid fines of €400 million in Germany and €600 million in the US⁸¹ and, after a settlement with the World Bank, contributed \$100 million to an integrity fund that supported various initiatives in developing countries.⁸² Nevertheless, only a very small part of the funds was returned to the countries where corruption took place and very little of the bribe payments were recovered from the people who received them. In two major exceptions, Siemens AG reached a settlement with Greece worth €270 million in 2012⁸³ and with Nigeria that collected a total of \$170.8 million, settling bribery cases with various foreign companies in 2010.⁸⁴

Germany reformed its confiscation rules significantly in 2017. The new law allows asset confiscation without a completed criminal case and with a lower burden of proof for cases of organized crime and terrorism.⁸⁵ Several federal states have introduced or strengthened dedicated asset recovery units, and initial evidence points to a significant increase of asset confiscations.⁸⁶ Nevertheless, according to interviews, the reform was not primarily targeted at the recovery of illicit assets from corruption and developing countries, and the impact of these

new provisions in this respect remains unclear. A recent case shows the potential of the new laws.

“ CASE 5 ”

COMPLEX INTERNATIONAL MONEY-LAUNDERING DESTINED FOR GERMANY: THE RUSSIAN LAUNDROMAT

One of the few cases of complex international money-laundering investigations leading to confiscations in Germany is assets worth €49 million confiscated in February, 2019. In this case, the Federal Police and prosecutors from Munich confiscated four German properties, the accounts of two German real estate companies and an account in Latvia allegedly linked to fees earned from a major money-laundering scandal –the Russian Laundromat.⁸⁷ The confiscation is subject to new and easier rules in force since July, 2017 and is based on ongoing investigations of money-laundering against three individuals, including one from Munich. In the Russian laundromat case, at least \$20 billion, mostly from Russia, was laundered using banks in Latvia, courts in Moldova and British shell companies, among others.⁸⁸ It was uncovered in 2014 by investigative journalists, and further documents they obtained in 2017 show that most of the money ended up with Russian businessmen “who own groups of companies involved in construction, engineering, information technology, and banking. All held hundreds of millions of US dollars in state contracts”. According to the journalists, investigations “have been hampered by the reluctance of Russian officials to cooperate”.⁸⁹

Germany also moved its Financial Intelligence Unit (FIU) in 2017 from the Federal Police to the Central Customs Authority, under the Ministry of Finance.⁹⁰ According to interviews, the new FIU can potentially exchange information through administrative channels, analyze suspicious transaction reports without sufficient evidence of a crime and institute administrative asset freezes. Nevertheless, unlike in the UK where such asset freezes can be extended without limits, in Germany they are valid only up to one month.⁹¹ Finally, the German Federal Police has obtained and is evaluating, together with the tax agency from Hesse, comprehensive data from leaks using modern technology, among other tools, to automatically allocate information to source countries based on passport scans contained in the

data, and they have started to proactively share this information with other countries. However, expert interviews reveal that information sharing has so far been largely limited to other EU member states and established partners, such as the US and Switzerland, and information sharing with developing countries is subject to various constraints.⁹²

“ CASE 6 ”

ARGENTINA: THE VALUE OF SPONTANEOUS INFORMATION EXCHANGE

According to Argentinian press reports, the German tax administration identified two shell companies from Panama and Uruguay with accounts in Hamburg. These two companies allegedly belong to brothers of the current president of Argentina, Mauricio Macri. German authorities apparently obtained this information from the Panama Papers and spontaneously exchanged it with Argentina in 2017 together with data on 67 further Argentinians.⁹³ The responsible tax office in Germany did not provide any further information for this study. The fact that UBS took over the former Deutsch-Südamerikanische Bank in Hamburg, including its South American clients,⁹⁴ and that one of the managers responsible for wealth management at Mossack Fonseca had apparently worked at the bank previously –and was recently extradited to Germany where he is reportedly cooperating with German prosecutors⁹⁵– indicates that more information might be forthcoming.

Case research, even within the limits of this study, reveals a considerable number of cases where there are more or less specific allegations of links to Germany but where no German assets have so far been identified. Some cases with potentially illicit assets in Germany were identified as part of investigations outside of Germany (particularly in the US) and by investigative journalists, but there was no apparent follow-up in Germany (for more details see Annex 2, e.g. Magnitsky and IMDB). Several interviewees mentioned contributing factors, namely that a) without an MLA request from the source countries, it would be difficult to establish that a crime was committed in Germany, to open a case and to start further investigation, primarily because of very restrictive interpretations of the crime of money-laundering, and b) there was a lack of resources and prioritization for this kind of complex cases. Considering the current lack of transparency and of publicly available information, it is difficult to determine whether

the low number of successful international asset recovery cases in Germany is a result of a lower attractiveness for illicit investments from developing countries and weaker historical ties or a sign of insufficient asset recovery efforts. However, the identified limitations in terms of asset tracing and asset recovery efforts in Germany, as illustrated by the unaddressed or unresolved cases presented in this study and the responses to the interviews, might be at least partially responsible for the low number of reported cases and recovered assets.

CHAPTER 3.

THE ROLE OF GERMAN DEVELOPMENT COOPERATION

3. THE ROLE OF GERMAN DEVELOPMENT COOPERATION

Global experience and figures of the last decades show that national and, to a greater extent, international asset recovery processes are largely insufficient and very challenging. It requires strong political will in both the source and destination countries to act against high-level corruption and to invest scarce resources into long and uncertain endeavours. The UN Panel of Experts on Libya clearly identifies one side of the problem, namely that "[t]here was little progress on the effective investigation and recovery of 'stolen assets' by the Libyan authorities [and that] [o]ngoing efforts are not helped by the many changes in personnel, including the replacement of the Attorney General in July 2014".⁹⁶ Several interviewees stressed both the responsibility of the destination countries for having allowed the assets to arrive there in the first place and the lack of resources and political will to prioritize asset recovery on their side. In addition to the political challenges, international asset recovery faces a global financial system where hiding beneficial ownership in secrecy jurisdictions and behind complex legal structures remains very easy, while anti-money laundering efforts progress very slowly. Finally, successful international asset recovery requires mutual recognition and trust between two legal systems and its actors, often with

very different standards, legal history, language and culture, and complex diplomatic relationships.⁹⁷

Despite these challenges, the international development community and Germany have made repeated commitments to increase their efforts around asset recovery. The current combination of international and national scandals and increased public awareness with reforms strengthening the European and the national framework – in addition to the outstanding UNCAC review focusing on asset recovery in Germany – present a window of opportunity to make significant progress in this field. The important role of development assistance in this regard has been repeatedly recognized.⁹⁸ Development cooperation, as part of inter-ministerial cooperation, can play an important role to ensure that national policies around asset recovery are coherent with its commitments and to advocate for increased international asset recovery efforts, especially with regard to developing countries. Additionally, German development agencies can provide technical assistance and support to successful asset recovery.

Through case analysis and interviews, this study identifies **five key recommendations**:

1. Ensure policy coherence to increase proactive asset recovery efforts related to assets from developing countries in Germany and to facilitate asset tracing

Several interviewees stressed that German law enforcement agencies have very rarely proactively initiated money-laundering investigations related to potentially illicit assets from developing countries due to high legal hurdles and that international

asset recovery has not been prioritized or given the necessary resources in the past. German development agencies should therefore liaise with the responsible institutions in Germany to ensure that advances in the legal system around asset

recovery are used to also benefit developing countries and information on illicit assets available from leaks, and to ensure that other resources are proactively shared with developing countries. Several of our interviewees further confirmed that without sufficiently detailed information on German assets to start with, it is very difficult to identify illicit assets in Germany. This shifts the burden to source countries to identify detailed information on companies and tools used for opening bank accounts hiding the money or buying real estate, ideally even with indication of the address. Germany could use German development agencies to fortify

policies that facilitate asset tracing and return from Germany in coherence with developmental goals. This could include a) creating direct or at least quick access to the bank account register for investigative bodies, b) ensuring the effective control of anti-money laundering standards implemented in foreign branches of German banks that repeatedly played a role in laundering money from developing countries in the past, c) creating reliable, linked and searchable registers for corporate ownership and d) increasing access to real estate and beneficial ownership information.

POSSIBLE ISSUES FOR IMPROVED POLICY COHERENCE IN ASSET RECOVERY EFFORTS

- **Quick access to bank account information.** Germany has had a centralized bank account register since 2003. Requests to the register can be made through the German financial oversight body BaFin, among others, by the ministry of economy (BMWi) to implement asset freezes as part of sanctions, by public prosecutors or the police as part of an investigation, or in reaction to a request for mutual legal assistance. However, several interviewees stressed that these requests take unnecessarily long and that direct access to the data would improve investigative capacity. The 5th Anti-Money Laundering directive mandates direct access by competent authorities.

- **Effective anti-money laundering oversight.** Bank account registers depend on the accurate registration and reporting of beneficial ownership information by all banks. Recent scandals and data leaks show that banks, including those in Germany, have in the past failed to identify beneficial owners correctly and have even actively helped their clients hide behind legal arrangements in secrecy jurisdictions, often by using foreign branches.^{99,100} Indeed, many of the cases of illicit assets from developing countries reported in connection with Germany concern foreign branches, very often those of Deutsche Bank (see Annex 2 – Case details). These cases are covered by German anti-money laundering regulations and the oversight role of BaFin extends to branches of German banks abroad, but information on these accounts is not part of the German bank account register and German authorities do not have access to this information.

- **Accessible register of company ownership.** Ownership of companies in Germany is in most cases certified by notaries and recorded by regional administrative courts, but several legal entities do not have to register ownership information. Ownership records are accessible online through a centralized system, but they are stored in a format that is not electronically searchable. To search for companies or subsidiaries owned by foreign companies, beneficial owners under investigation or sanctions, German investigative bodies have to rely on alternative sources, such as private databases of company ownership. The beneficial ownership register introduced as part of the 4th Anti-Money Laundering directive of the EU (Transparenzregister) has several deficiencies.¹⁰¹ For example, in the case of sanctioned Ukrainian businessman Serhiy Kurchenko, who allegedly owns several companies in Germany,¹⁰² German prosecutors apparently failed to establish the “prerequisites for confiscation of assets”, most likely including beneficial ownership.¹⁰³

- **Accessible register of real estate ownership.** Ownership of real estate is certified by notaries and recorded in the real estate register that is administered by the regional administrative courts, which are responsible for the company register in Germany. The regional real estate registers do not contain information on the beneficial owners of the real estate and are not centrally accessible. According to interviews, investigative authorities therefore have to make requests to separate registers at the sub-national or even sub-state level and, if only the name of the beneficial owner or a foreign company is known but not the name of the company or the subsidiary used to hold the real estate, there is no tool to link the legal owners registered in the real estate registers to databases of company ownership.

2. Raise awareness in Germany and establish national expertise

International experience shows that proactive recovery efforts require both political awareness and public pressure. Interview partners from source countries stress that it is the duty of the receiving countries to support asset recovery because, to a certain degree, it is their responsibility that assets could be transferred to and hidden in their country in the first place. German development cooperation can contribute by advocating for increased recovery efforts in Germany by both demonstrating

Germany's obligation and the potential of international asset recovery. Given the lack of recent and successful recovery cases involving developing countries, German development agencies should work with national institutions to raise awareness on the issue, to identify national experts and to spread knowledge on regarding best practices.

3. Focus on specific cases and/or selected countries to create success stories

Nearly all of the interviewees agree that the combination of scarce resources and big challenges make it necessary to focus activities. To build national expertise and to raise awareness about best practices, efforts should therefore be focused on establishing exemplary success stories. To make this possible, the biggest challenge is to identify suitable cases and partner countries. As the case overview assembled for this study demonstrates, too few publicly known and suitable cases exist. Germany could use German development agencies to further liaise with German authorities

and possibly investigative journalists and NGOs to identify further useful leads in the documentation of investigations conducted in other countries and recent data leaks. German development agencies should also use their international presence and their network of experts to identify potential partners. Once successful cases are identified, German development agencies can help disseminate best practices and support the return of assets according to international best practice.

4. Build lasting relationships at the working level

Most interviewees agree that establishing direct contacts beyond the cumbersome channels of official mutual legal assistance, as well as relationships of trust and mutual understanding, have been pivotal for judicial cooperation. They should be created around concrete cases to incentivize collaboration and should include cooperation at the working level. Considering that asset recovery efforts usually take many years and are often longer than the span of one elected government, lasting relationships

below the level of political appointees is important. German development cooperation can provide the resources, infrastructure and contacts to facilitate such exchanges and to bridge cultural gaps. German development agencies can further provide technical assistance around ongoing asset recovery cases.

5. Coordinate training efforts and avoid overtraining

Countries like Tunisia and Ukraine can serve as examples of the kind of assistance that is possible with extensive efforts from various German authorities. German development agencies can provide technical assistance with the preparation of MLAs and support legal actions in Germany, as recommended by the Panel of Experts for Libya. Nevertheless, several interview partners describe personal deception when extensive resources dedicated to training efforts have not led to the improvement of relations and joint recovery effort and situations where absorption capacity

in the receiving countries was overstrained by repeated, parallel and sometimes uncoordinated training efforts. To avoid “overtraining,” German development agencies should carefully coordinate their technical assistance with the German Ministry of Justice and the Deutsche Stiftung für internationale rechtliche Zusammenarbeit e. V., the Ministry of the Interior and the police, as well as other national and international actors.

ANNEXES

ANNEX 1 METHODOLOGY

To identify existing asset recovery proceedings various approaches were employed.

1. Obtaining information on existing MLA requests related to asset recovery from developing countries.

Among those contacted were the institutions and individuals responsible for handling MLA requests, both at the federal level and at the state-level for a select sample of states. Most institutions and individuals contacted were responsive but did not point to existing cases because:

a) MLA requests and the criminal investigations arising out of them are registered in a database at the prosecutor's offices at the state-level, which is electronically searchable. Nevertheless, the nature of the MLA is not registered and it is not possible to identify MLAs related to asset tracing or asset forfeiture without a case-by-case analysis. Keyword searches and sample-based case analyses by two of the contacted ministries responsible at state-level did not identify any asset-related MLA requests from developing countries.

b) None of the individuals interviewed were aware of ongoing cases or could not share case-specific information due to confidentiality.

2. Analyzing publicly reported cases

Existing collections of cases were used, such as the lists compiled by Markus Henn in 2017¹⁰⁴ and by Markus Meinzer in 2015.¹⁰⁵ Further case specific information on assets in relationship to Germany, as well as the current status of the case, was obtained via internet research and, where possible and warranted, attempts were made to obtain additional information through contacts to the responsible authorities. Relevant asset recovery proceedings were not able to be identified in most cases, because only a few cases were publicly reported and, in many cases, available information was unreliable.

3. Independent case search and contacts to local experts

Searches for additional cases were conducted using desk-based research via internet-search and US court documents and through direct contacts with experts, including investigative journalists, members of the international tax justice community and local authorities. This search was limited by time and capacity constraints, and attempts to contact local experts were limited to a small selection of countries that were discussed during interviews relevant to section 1. (Argentina, Brazil, Kenya, Tunisia, Nigeria, North Macedonia), and informative contacts could not be established in some of these countries.

4. Interview requests to specialized units of prosecutors at the state-level and other relevant experts

The list of experts for the UNCAC review in the 2nd review cycle (including asset recovery)¹⁰⁶ and the results of research in sections 1-3 were used to identify potential interview partners, request background interviews and provide questions via email.

In total, substantial information was received from more than 40 experts, who do not wish to be named, through in-person or phone interviews and in some cases through Q&As via email. They included experts from:

- The Federal Ministry of Justice (Bundesamt für Justiz) and ministries of justice at the state-level;
- Prosecutors from specialized units, a judge and police investigators;
- Foreign officials and experts;
- Other experts.

ANNEX 2 DETAILED INFORMATION ON CASES INVOLVING GERMANY AS A RECEIVING COUNTRY

Case classification:

- 1 – MLA/sanctions case with confirmed assets and/or activities
- 2 – Potential MLA/sanctions case but assets or activities not confirmed
- 3 – Substantial evidence/allegations of assets but status unclear
- 4 – No assets identified so far, but relationship identified
- 5 – No assets in or relationship to Germany identified so far, using German banks
- 6 – No assets in or relationship to Germany identified so far

Classification	Case/country	Alleged assets in Germany	Relationship to Germany	Status/process details	No.
1	Tunisia (Ben Ali)	Real estate in Dreieich, close to Frankfurt apparently paid with state salary (650,000DM), further assets allegedly hidden in "associations"	Sister was temporarily living close to Frankfurt with husband and children	MLA requests received but still not sufficiently substantiated, no substantial investments found/remaining frozen, German investigations on the house terminated, status of the house unclear	1
1	Libya (Muammar al Gaddafi)	200 accounts in 13 banks, mostly state-controlled, including €1.98 billion with German central bank: State-owned real estate in Munich (Villa Waldperlach (Dornröschenstr., München), Bogenhausen (Piezenacherstr.) used by son, private account(s) at Commerzbank, assets of Palladyne moved to Deutsche Bank in Frankfurt after sanctions	Son was living in Munich	Details on frozen assets not accessible to public, real estate in Munich not in the name of a sanctioned person or entity	2
1	Nigeria (Abacha)	Account with subsidiaries in Switzerland/Luxemburg of Warburg Bank (Hamburg), Account with Deutsche Bank in Neuss	Planned visit at German bank, son arrested in Germany	MLA requests received from Switzerland and Liechtenstein, German investigations on Ferrostaal apparently terminated without results	3
1	Argentina (Macri)	Accounts with UBS Deutschland, Hamburg		Information spontaneously exchanged with Argentina, case in Argentina ongoing	4
1	Russia (Russian Laundromat)	Real estate in Bavaria, real estate companies and their accounts		Assets confiscated under new legislation, awaiting confirmation by court	5

Classification	Case/country	Alleged assets in Germany	Relationship to Germany	Status/process details	No.
1	Argentina (de Achaval)	Accounts with Deutsche Bank, Hamburg (through Nevada LLC)		Information spontaneously exchanged with Argentina, case in Argentina ongoing, case in Germany opened	6
2	Egypt (Hosni Mubarak)	–	According to news reports Mubarak's sons had bank accounts in various countries, including in Germany but various asset lists don't include any reference to Germany. There seem to be accounts held at Deutsche Bank, but not in Germany.	MLA request received, efforts to identify assets started but apparently unsuccessful	7
2	Kenya (Solomon Mutharia)	Account in Germany		Unknown	8
2	Kenya (Nicholas Biwott)	Account in Germany (bank unidentified, brokered by Solomon Muthamia – Trade Bank)		Unknown	9
2	Indonesia (Bacharuddin Jusuf Habibie)	Account Deutsche Bank, Hamburg (bribes from Ferrostaal)	Studied and lived in Germany for 19 years, worked at MBB	Unknown	10
2	Kazakhstan (Rackat Alijev/ Nursultan Nasarbajew)	Shares in + loans to Metallwerk Bender Rheinland (2006–2010)		Unknown	11
2	Turkmenistan (Nijazov)	Accounts Deutsche Bank, Real estate Berlin		Case opened in Germany	12
2	Ukraine (Kurchenko)	Shares in Sparschwein Gas GmbH held through Netherlands/Curacao	Borys Tymonkin arrested in Berlin–Schoenefeld, in prison in Cottbus	Case closed without sufficient evidence for confiscation	13
2	Ukraine (Kostiuk and others)	GermanPowerGroup AG, bank account in Augsburg, Internationales Bankhaus Bodensee		Unknown	14
2	Russia (Mnitsky case)	Berlin real estate held through Netherlands		Apparently no case opened in Germany yet	15
2	Malaysia (IMDB)	Account with BHF (Frankfurt) \$55 million		Apparently no case opened in Germany yet	16

Classification	Case/country	Alleged assets in Germany	Relationship to Germany	Status/process details	No.
3	Cameroon (Paul Biya)	–	Apparently continues to travel to Germany (Baden-Baden), but according to OCCRP spent only 27 days in country during his regency	The hospital that he allegedly invested in has been state-owned since 2006	17
3	Chile (Augusto Pinochet)	\$250,000 transferred to the Pinochet Foundation from German account of Ivoryseas Marine Co. Ltd (Cyprus)		Unknown	18
3	North Korea and others (Daimler bribery case)	Account in Hamburg of Mangyong Trading Corporation, controlled by the North Korean government, allegedly received commissions for exports of buses by MB Turk, the Turkish subsidiary of Daimler.		n.a.	19
4	Rwanda (Onesphore Rwabukombe)	–	Fled to Germany, convicted for war crimes in 2015	Convicted, in prison in Germany	20
4	Rwanda (Ignace Murwanashyaka)	–	Allegedly living in Germany since 80s, steering FDLR party from there, according to court judgment no substantial assets identified	Convicted in 2015, revised by federal court in 2018	21
4	Rwanda (Straton Musoni)	–	Allegedly living in Germany since 80s, steering FDLR party from there	Convicted in 2015, in prison in Germany	22
4	Iraq (Oil for Food) (Saddam Hussein)	–	Bribe payments of \$12 million from Germany to accounts in Jordan and Lebanon by 57 companies	Court cases against several of the companies in Germany	23
4	Yugoslavia (Milosevic)	–	Transfers to German companies from accounts in Cyprus and Greece (probably as payment for imports circumventing sanctions)	n.a.	24
4	Moldavia (Oleg Voronin)	FinComBank		n.a.	25

Classification	Case/country	Alleged assets in Germany	Relationship to Germany	Status/process details	No.
4	Russia (Leonid Reimann)	Eurokapital (Company in Frankfurt) allegedly used for money-laundering, possibly in relation to indirect share of Commerzbank in Telecominvest (Russian company)		n.a.	26
5	Kenya (Chris Okemu)	–	Accounts with Deutsche Bank in Mauritius. No relationship established to Germany.	n.a.	27
5	Kenya (Samuel Gichuru)	–	Accounts with Deutsche Bank in Mauritius. No relationship established to Germany.	n.a.	28
5	Brazil (Paulo Maluf)	–	Account with Deutsche Bank in Jersey. No relationship established to Germany.	n.a.	29
5	Kenya (Daniel Arap Moi)	–	Correspondent bank of Transnational Bank (Kenya) in Frankfurt	n.a.	30
5	Pakistan (Sharif)	–	Accounts held at and loan from Deutsche Bank Geneva related to UK real estate and investments	n.a.	31
6	Congo (Mobutu Sese Seko)	–	Allegedly held accounts with Deutsche Bank but relationship/ assets could not be confirmed	n.a.	32
6	Liberia (Charles Taylor)	–	Germany mentioned in Comité catholique contre la faim et pour le développement (CCFD) report, but no explicit reference to accounts/assets	n.a.	33

Classification	Case/country	Alleged assets in Germany	Relationship to Germany	Status/process details	No.
6	Central African Republic (Jean-Bédél Bokassa)	–	Relationship/ assets could not be confirmed	n.a.	34
6	Gabon (Omar Bongo)	–	Germany mentioned in CCFD report, but no explicit reference to accounts/assets	n.a.	35
6	Indonesia (Suharto)	–	Relationship/ assets could not be confirmed	n.a.	36

Sources for Annex 2

1. See case example 1
2. See case example 3
3. See case example 2
4. See case example 4
5. See case example 5
6. <https://www.lanacion.com.ar/1886114-el-presidente-de-hipodromos-de-palermo-nego-ser-el-verdadero-dueno-de-val-de-loire>
7. <http://dawa-news.net/2011/02/13/die-schweiz-lasst-mubarak-nicht-mehr-an-sein-geld>, <http://www.eubusiness.com/news-eu/egypt-politics.95j>
8. <https://groups.google.com/forum/#!topic/kbs-informed-group-/IKmAQ5KjRUw>
9. <https://groups.google.com/forum/#!topic/kbs-informed-group-/IKmAQ5KjRUw>
10. <http://www.spiegel.de/spiegel/print/d-14906731.html>
11. <https://www.impulse.de/management/schmutzige-millionen/1030798.html>
12. See case example 7
13. See case example 6
14. <https://pep.org.ua/en/company/11024>, <https://pep.org.ua/en/countries/DE?page=2#y>
15. US v. Prevezon etc., United States District Court for the Southern District of New York, 1:13-cv-06326-TPG
16. <https://www.justice.gov/opa/press-release/file/1134371/download>
17. <http://www.cameroonintelligencereport.com/former-minister-marafa-hamidou-yaya-says-president-biya-is-the-richest-man-in-cameroon/>
18. www.hsgac.senate.gov/download/report-money-laundering-and-foreign-corruption-enforcement-and-effectiveness-of-the-patriot-act_-case-study-involving-riggs-bank
19. US v. Daimler, United States District Court for the district of Columbia, 1:10-cr-00063-RJL
20. <http://www.taz.de/15118097/>, <https://trialinternational.org/latest-post/oneshore-rwabukombe/>
21. <https://dejure.org/dienste/vernetzung/rechtsprechung?Gericht=OLG%20Stuttgart&Datum=28.09.2015&Aktenzeichen=3%20StE%206/10>
22. <https://dejure.org/dienste/vernetzung/rechtsprechung?Gericht=OLG%20Stuttgart&Datum=28.09.2015&Aktenzeichen=3%20StE%206/10>
23. <https://www.welt.de/wirtschaft/article922988/Alle-von-Transparency-beschuldigten-Firmen.html>
24. Antoine Dulin / Jean Merckaert: Biens mal acquis – à qui profite le crime? Paris: CCFD, 2009. http://ccfd-terresolidaire.org/MG/pdf/BMA_totalBD.pdf
25. <http://www.moldova.org/en/oleg-voronin-under-criminal-investigation-for-fiscal-evasion-and-money-laundering-206441-eng>.
26. <https://www.juve.de/nachrichten/verfahren/2012/04/commerzbank-geldwasche-verfahren-frankfurter-verteidigerriege-erreicht-einstellung-nach-sieben-jahren>, <https://www.mopo.de/banken-commerzbank--geldwaesche-verdacht-schlaegt-wellen-19569076>
27. Antoine Dulin / Jean Merckaert: Biens mal acquis – à qui profite le crime? Paris: CCFD, 2009. http://ccfd-terresolidaire.org/MG/pdf/BMA_totalBD.pdf
28. [IMG/pdf/BMA_totalBD.pdf](http://ccfd-terresolidaire.org/MG/pdf/BMA_totalBD.pdf).
29. <http://www.u4.no/publications/overview-of-asset-recovery-in-germany>
30. <https://de.scribd.com/document/269039/Looting-in-Kenya-Kroll-Report-Hapa-Kenya-Version>
31. <https://www.pakistantoday.com.pk/2016/04/06/nawaz-sharifs-children-raised-7m-against-uk-flats-owned-offshore-report/>
32. Emmanuel Dunga: Mobutu et l'Argent du Zaïre. Revelations d'un diplomate, ex-agent des Services Secrets, Paris 1993, S. 152 (quoted in Markus Meinzer, Steueroase Deutschland–Warum bei uns viele Reiche keine Steuern zahlen, C.H. Beck, 2015: S. 68)
33. <https://sz-magazin.sueddeutsche.de/politik/die-neue-eiszeit-77947>
34. <https://sz-magazin.sueddeutsche.de/politik/die-neue-eiszeit-77947>
35. CCFT, <https://sz-magazin.sueddeutsche.de/politik/die-neue-eiszeit-77947>
36. <https://sz-magazin.sueddeutsche.de/politik/die-neue-eiszeit-77947>

ENDNOTES

¹ HCCH 1965

² Crawford 2018

³ StAR – Asset Recovery Watch 2017

⁴ FATF 1990

⁵ UNODC 2004

⁶ Related cases were recorded in the UK, Jersey, Switzerland, Liechtenstein, US, Bahamas, France, Ireland, Luxembourg and some of them are still ongoing. See the Corruption Cases database at: <https://star.worldbank.org/corruption-cases/assetrecovery/abacha?term=abacha>

⁷ A summary of the law and its history can be found at: <https://www.humanrights.ch/de/menschenrechte-schweiz/aussenpolitik/aussenwirtschaftspolitik/diverses/lex-duvalier-grossem-verabschiedet> (in German)

⁸ Organized Crime Corruption Reporting Project (OCCRP) 2017

⁹ Reuters 2018

¹⁰ Deutsche Welle (DW) 2018

¹¹ For the only available past research looking at asset recovery in Germany see Oldfield, J., Camarda, A., 2016 and Henn 2017.

¹² For a recent and exhaustive overview of the issue see: Kahler et al. 2018

¹³ UNODC 2018

¹⁴ The results of the expert consultation prepared for UNCTAD in 2017 (see Cobham et al, 2017) summarize the issues and available estimates but until now, no indicator has been agreed on and the SDSN instead looks at proportion of legal persons and arrangements for which beneficial ownership information is available: <http://indicators.report/targets/16-4/> For an overview of the issues see Inter-Agency Task Force on Financing for Development (IATF) at <https://developmentfinance.un.org/illicit-financial-flows>

¹⁵ Henry 2012

¹⁶ Zucman 2015

¹⁷ Ndikumana and Boyce 2018.

¹⁸ Kar & Freitas 2011; Kar & Curcio 2011; Global Financial Integrity 2017. The methodology used by Global Financial Integrity is based on trade data and has been repeatedly criticized, for example here: <https://www.cgdev.org/blog/illicit-financial-flows-and-trade-misinvoicing-time-reassess>. The method has been slightly adapted for the latest report but the numbers have not changed significantly

¹⁹ StAR Initiative 2007: The estimate doesn't contain information on how much of these funds are actually channeled through the international financial markets.

²⁰ Gray et al. 2014

²¹ Federal Department of Foreign Affairs, Presence Switzerland n.d.

²² Only a part of the funds stolen actually make their way through the international markets into investments or bank accounts in the OECD countries and big parts of it might have been spent or reinvested in the home countries in the meantime, so the total recoverable amount might be significantly

smaller. On the other hand the StAR estimate of 2007 does not cover all sorts of IFFs and more comprehensive estimates of offshore assets from developing countries actually indicate that the total amount might be even bigger. The graph is therefore not exact science but purely illustrative.

²³ Bussmann 2016.

²⁴ Financial Action Task Force 2010, p.39

²⁵ Unger et al 2013.

²⁶ See for example Meinzer 2015

²⁷ Federal office of statistics 2018.

²⁸ StAR – Asset Recovery Watch 2016

²⁹ <https://www.generalstaatsanwaltschaft-celle.niedersachsen.de/startseite/informationen/zok/zentrale-stelle-organisierte-kriminalitaet-und-korruption-zok-151356.html>

³⁰ <https://staatsanwaltschaften.hessen.de/staatsanwaltschaften/gsta-frankfurt-am-main/aufgabengebiete/zentralstelle-f%C3%BCr-die-bek%C3%A4mpfung-der>

³¹ <https://www.berlin.de/generalstaatsanwaltschaft/ueber-uns/zustaendigkeit/zentralstellen/>

³² <https://www.justiz.bayern.de/gerichte-und-behoerden/starkeantworten/index.php>

³³ BGBl. I S. 1537 *Gesetz über die internationale Rechtshilfe in Strafsachen*

³⁴ UNODC 2004, Art. 51.

³⁵ German Federal Ministry of Justice and Consumer Protection 2014

³⁶ Byrne 2012a

³⁷ Byrne 2012b

³⁸ Amara 2015

³⁹ MEMO 2019

⁴⁰ EUROJUST 2011

⁴¹ Brun 2014

⁴² Hughes Neghaiwi 2017

⁴³ <https://star.worldbank.org/corruption-cases/node/20311>

⁴⁴ For background on the MLA requests and a detailed list of technical assistance in 2011 and 2012, see Deutscher Bundestag 2013

⁴⁵ Ritz 2011

⁴⁶ Confirmed via Email by the press speaker on 5.2.2019

⁴⁷ Gray et al. 2014

⁴⁸ TRIAL International 2013

⁴⁹ Spiegel 2011

⁵⁰ Oberlandesgericht Stuttgart 2015

⁵¹ Der Spiegel 2000

⁵² RP 2005

⁵³ Monfrini 2008

⁵⁴ Der Spiegel 2011

⁵⁵ Portela 2019

⁵⁶ Portela 2019

⁵⁷ For more details see www.sanctionsmap.eu and for a searchable list see: <http://hmt-sanctions.s3.amazonaws.com/sanctionsconlist.xls> (from the UK)

⁵⁸ For more details see: <https://www.un.org/securitycouncil/sanctions/information>

⁵⁹ https://www.asktheeu.org/en/request/statistics_on_asset_freezes_unde

⁶⁰ The Intelligence 2011

⁶¹ Der Spiegel 2011

⁶² Der Spiegel 2011

⁶³ Case T-681/14, *El-Gaddafi v Council*, 28 March 2017

⁶⁴ Panel of Experts 2013

⁶⁵ Panel of Experts 2015

⁶⁶ <https://www.wintershall.com/worldwide/libya.html>

⁶⁷ Panel of Experts 2018 – A case brought before a US court by a former employee in 2014 describes the company behind the investment as “a kickback and money laundering operation for the former dictatorial Ghaddafi regime” which the company refutes in a press statement issued in 2015 (Palladyne 2015)

⁶⁸ Blick 2015

⁶⁹ Neubacher et al. 2011

⁷⁰ Kettinger 2011

⁷¹ Information received via Email on 29.1.2019

⁷² Gray 2014

⁷³ A civil case against assets stolen by Frederick Chiluba, former Zambian president, in a London court and with the support of DFID resulted in the confiscation of \$50 million and public documentation of an extravagant lifestyle, even though Chiluba was eventually cleared of criminal charges in Zambia in 2009 (Smith 2009). One reason was that the standard of proof required in the civil case in the UK (balance of probability) was lower than in the criminal case in Zambia (beyond reasonable doubt).

⁷⁴ Unexplained wealth orders and interim freezing orders allow several UK enforcement authorities to freeze assets of politically exposed persons outside the European Economic Area or of individuals involved in or connected to a person involved in serious crime until they prove the legitimate source of funds for these assets. (UK Home Office 2018). It was first used against the wife of a banker from Azerbaijan imprisoned for fraud and embezzlement there. (Out-Law, 2018)

⁷⁵ Seminar Tracing, Seizing and Confiscating Criminal Assets. Achievements and challenges in the Italian experience available here: <https://www.osce.org/eea/93412?download=true>

⁷⁶ http://www.europeanrights.eu/public/commenti/bronzini-Cardamone-Criminal-prevention_in-Italy-2.0.pdf

⁷⁷ Portela 2019

⁷⁸ Gray et al. 2014

⁷⁹ Martini 2014

⁸⁰ With 316 out of 560 individuals and 11 out of 184 companies sanctioned for foreign bribery between 1999 and 2017, Germany is one of the more active OECD member countries (for more details see: OECD 2018)

⁸¹ Schrag 2019

⁸² <https://star.worldbank.org/corruption-cases/printpdf/20153>

⁸³ <https://star.worldbank.org/corruption-cases/printpdf/20156>

⁸⁴ <https://star.worldbank.org/corruption-cases/printpdf/20149>

⁸⁵ https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/DE/Reform_strafrechtlichen_Vermögens_abschoepfung.html

⁸⁶ See for example Berlin: <https://www.berlin.de/sen/justva/presse/pressemitteilungen/2018/pressemitteilung.726913.php>, Bayern: <https://www.justiz.bayern.de/gerichte-und-behoerden/starkeantworten/index.php>

⁸⁷ <https://www.justiz.bayern.de/gerichte-und-behoerden/staatsanwaltschaft/muenchen-1/presse/2019/02.php>

⁸⁸ For more details see: <https://www.reportingproject.net/therussianlaundromat/>

⁸⁹ OCCRP 2017b

⁹⁰ Bundesministerium der Finanzen 2017

⁹¹ See §40, GWG for details: https://www.gesetze-im-internet.de/gwg_2017/___40.html

⁹² Bundeskriminalamt 2018

⁹³ Lukin 2016

⁹⁴ Ethische Banken, n. d.

⁹⁵ Obermaier and Obermayer 2019

⁹⁶ Panel of Experts 2016

⁹⁷ More details on challenges of international asset recovery can be found in Martini, 2014

⁹⁸ Gray et al. 2014

⁹⁹ See §40, GWG for details: https://www.gesetze-im-internet.de/gwg_2017/___40.html

¹⁰⁰ Bundeskriminalamt 2018

¹⁰¹ See for example Süddeutsche Zeitung, 2019 (in German)

¹⁰² Theise, 2016

¹⁰³ Statement received via Email on 15. February 2019.

¹⁰⁴ Henn 2017

¹⁰⁵ Meinzer 2015

¹⁰⁶ https://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/SecondCycle/Germany_E.pdf

REFERENCES

Amara, T. (2015). Tunisian court annuls confiscation of ousted president's assets. Retrieved March 20, 2019, from <https://www.reuters.com/article/us-tunisia-corruption-idUSKBN00Q19A20150610>

Blick. (2015). Saif al-Islam soll hingerichtet werden: Was wurde aus dem Rest des Gaddafi-Clans? Retrieved March 20, 2019, from <https://www.blick.ch/news/ausland/saif-al-islam-soll-hingerichtet-werden-was-wurde-aus-dem-rest-des-gaddafi-clans-id4020128.html>

Brun, J. P. (2014). Tracking Tunisia's stolen assets: the balance sheet three years on. Retrieved March 20, 2019, from <http://blogs.worldbank.org/arabvoices/impac evaluations/publicsphere/nasikiliza/endpovertyinsouthasia/health/voices/tracking-tunisias-stolen-assets-balance-sheet-three-years>

Brun, J.-P., Gray, L., Scott, C., & Stephenson, K. M. (2011). *Asset Recovery Handbook A Guide for Practitioners*.

Bundeskriminalamt. (2018). "Panama Papers" – BKA fördert Auswertung auf EU-Ebene [Pressemitteilung].

Bundesministerium der Finanzen. (n.d.). Monatsbericht des BMF Juni 2017 – Die neue Financial Intelligence Unit des deutschen Zolls. Retrieved March 21, 2019, from <https://www.bundesfinanzministerium.de/Monatsberichte/2017/06/Inhalte/Kapitel-3-Analysen/3-2-Die-neue-Financial-Intelligence-Unit-des-deutschen-Zolls.html>

Bundesamt für Statistik. (2018). Staatsanwaltschaften – Fachserie 10 Reihe 2.6, Table 1.2.2.2. Available online at: https://www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/_inhalt.html;jsessionid=3AE81C6FB2B4AE1CC3BA6FFCA41EE500.internet722#sprg235918

Bussman, Kai. (2016). *Der Umfang der Geldwäsche in Deutschland und weltweit*. Friedrich-Naumann-Stiftung für die Freiheit.

Byrne, E. (2012a). Tunisia struggles to trace up to £11 billion hidden abroad by Ben Ali regime. *The Guardian*. Retrieved March 20, 2019, from <https://www.theguardian.com/world/2012/jan/13/tunisia-11bn-hidden-funds-ben-ali>

Byrne, E. (2012b). Zine al-Abidine Ben Ali gets life sentence for role in Tunisian killings. *The Guardian*. Retrieved March 20, 2019, from <https://www.theguardian.com/world/2012/jun/13/tunisian-court-punishment-zine-al-abidine-ben-ali>

Cobham, A., & Janský, P. (2017). *Expert consultation on the SDG Indicator on Illicit financial flows. Measurement of Illicit Financial Flows*. Available online at: https://www.unodc.org/documents/data-and-analysis/statistics/IFF/Background_paper_B_Measurement_of_Illicit_Financial_Flows_UNCTAD_web.pdf

Der Spiegel. (2000). AFFÄREN: Berühmte Kundschaft. Retrieved March 20, 2019, from <http://www.spiegel.de/spiegel/print/d-16525418.html>

Der Spiegel. (2011a). Sanktionen aufgehoben: EU gibt libysche Gelder frei. Retrieved March 20, 2019, from <http://www.spiegel.de/politik/ausland/sanktionen-aufgehoben-eu-gibt-libysche-gelder-frei-a-805118.html>

Der Spiegel. (2011b). Prozess in Stuttgart: Mutmaßliche ruandische Kriegsverbrecher stehen vor Gericht – SPIEGEL ONLINE. Retrieved March 20, 2019, from <http://www.spiegel.de/panorama/justiz/prozess-in-stuttgart-mutmassliche-ruandische-kriegsverbrecher-stehen-vor-gericht-a-760593.html>

Der Spiegel. (2011c). Schmiergeld: Gericht verurteilt Ex-Ferrostaal-Manager zu Bewährungsstrafen. Retrieved March 20, 2019, from <http://www.spiegel.de/wirtschaft/unternehmen/schmiergeld-gericht-verurteilt-ex-ferrostaal-manager-zu-bewaehrungsstrafen-a-804944.html>

Der Spiegel. (2011d). Sanktionen gegen Gaddafi: Brüderle friert Libyen-Milliarden ein. Retrieved March 20, 2019, from <http://www.spiegel.de/politik/ausland/sanktionen-gegen-gaddafi-bruederle-friert-libyen-milliarden-ein-a-750535.html>

Deutsche Welle. (2016). A Ukrainian gas piggy bank: Money laundering made easy. Retrieved January 22, 2019, from <https://www.dw.com/en/a-ukrainian-gas-piggy-bank-money-laundering-made-easy/a-19211699>

Deutsche Welle. (2018). Danske Bank money laundering is Europe's 'biggest scandal'. Retrieved March 21, 2019, from <https://www.dw.com/en/danske-bank-money-laundering-is-europes-biggest-scandal/a-45584105>

Deutscher Bundestag. (2013). *Politik der Europäischen Union und der Bundesregierung gegenüber Libyen und Tunesien in den Bereichen Justiz und Innered.*

Ethische Banken. (n.d.). Panama Papers: Liste der deutschen Banken. Retrieved March 20, 2019, from <https://ethische-banken.de/panama-papers-liste-der-banken/>

EUROJUST. (2011). Investigation into European assets of former Presidents Ben Ali and Mubarak coordinated by Eurojust. Retrieved March 20, 2019, from <http://eurojust.europa.eu/press/PressReleases/Pages/2011/2011-12-16.aspx>

Federal Department of Foreign Affairs, P. S. (n.d.). *No Dirty Money. The Swiss Experience in Returning Illicit Assets.*

Financial Action Task Force (FATF). (1990). *The Forty Recommendations of the Financial Action Task Force on Money Laundering.* Available online at: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%201990.pdf

Financial Action Task Force (FATF). (2010). *Mutual Evaluation Report Anti-Money Laundering and Combating the Financing of Terrorism. GERMANY.*

German Federal Ministry of Justice and Consumer Protection. (2014). *Asset Recovery under German Law. Pointers for Practitioners.*

Global Financial Integrity. (2017). *Illicit Financial Flows to and from Developing Countries: 2005–2014 Global Financial Integrity.*

Global Witness. (2006). *It's a gas. Funny business in the Turkmen-Ukraine gas trade.*

Gray, L., Hansen, K., Recica-Kirkbride, P., & Mills, L. (2014). *Few and Far. The Hard Facts on Stolen Asset Recovery.* The Stolen Asset Recovery Initiative.

Henn, M. (2017). Politisch exponierte Personen und ihre (vermuteten) illegitimen Gelder in Deutschland und bei deutschen Banken. Retrieved March 22, 2019 from <https://www.weed-online.org/show/9876874.html>

Henry, J. S. (2012). *The Price of Offshore Revisited.* Tax Justice Network.

High Level Panel on Illicit Financial Flows from Africa. (2015). *Illicit Financial Flows.*

Hughes Neghaiwi, B. (2017). Swiss return funds from Ben Ali relative to Tunisia. Retrieved March 20, 2019, from <https://www.reuters.com/article/us-tunisia-swiss-assets/swiss-return-funds-from-ben-ali-relative-to-tunisia-idUSKBN18MIRN>

IATF. (n.d.). Illicit Financial Flows. Retrieved March 20, 2019, from <https://developmentfinance.un.org/illegal-financial-flows>

Kahler, M., Forstater, M., Findley, M. G., Vittori, J., Westenberg, E., & Fanusie, Y. J. (2018). *Global Governance to Combat Illicit Financial Flows. Measurement, Evaluation, Innovation.*

Kar, D., & Curcio, K. (2011). *Illicit Financial Flows from Developing Countries: 2000–2009 Update with a Focus on Asia.*

Kar, D., & Freitas, S. (2011). *Illicit Financial Flows from Developing Countries Over the Decade Ending 2009.*

Kettinger, N. (2011). Sohn von Gaddafi: Papa hat alles bezahlt: Gaddafis Münchner Luxus-Fuhrpark! Retrieved March 20, 2019, from <https://www.abendzeitung-muenchen.de/inhalt.sohn-von-gaddafi-papa-hat-alles-bezahlt-gaddafis-muenchner-luxus-fuhrpark.feb5c739-90e4-4d41-825d-02a64b506929.html>

Lukin, T. (2016). Cuentas y firmas que se inflan como globos. Retrieved March 21, 2019, from <https://www.pagina12.com.ar/8867-cuentas-y-firmas-que-se-inflan-como-globos>

Martini, M. (2014). Lessons learnt in recovering assets from Egypt, Libya and Tunisia. U4-helpdesk. Retrieved March 22, 2019 from <https://knowledgehub.transparency.org/helpdesk/lessons-learnt-in-recovering-assets-from-egypt-libya-and-tunisia>

Meinzer, M. (2015). *Steueroase Deutschland : Warum bei uns viele Reiche keine Steuern zahlen.* Beck.

Middle East Monitor (MEMO) (2019). Tunisian minister: ‘\$450 million expropriated from Ben Ali and his family. Retrieved March 28, 2019 from <https://www.middleeastmonitor.com/20190220-tunisian-minister-450-million-expropriated-from-ben-ali-and-his-family/>

Monfrini, E. (2008). The Abacha Case. In: Pieth, M. (Ed.): *Recovering Stolen Assets.*

Ndikuma, L.; Boyce, J. (2018). Capital flight from Africa. Updated methodology and new estimates. Retrieved March 21, 2019 from https://www.peri.umass.edu/economists/leonice-ndikumana/item/download/778_fa29a05ba7daf180c272fa04f428f372

Neubacher, A., Schmitt, J., & Schulz, T. (2011). SCHWARZGELDER: Schrilte Reserven. Retrieved March 20, 2019, from <http://www.spiegel.de/spiegel/print/d-78522279.html>

Oberlandesgericht Stuttgart (2015). Case 28.9.2015, 5 – 3 StE 6/10. Retrieved March 22, 2019 from http://lrw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&nr=22092 (in German)

Obermaier, F., Obermayer, B. Schwarzgeld ausgeliefert. *Sueddeutsche Zeitung.* Retrieved March 22, 2019 from <https://www.sueddeutsche.de/wirtschaft/schwarzgeld-ausgeliefert-1.4291678> (in German)

OECD. (2018). 2017 Enforcement of the Anti-Bribery Convention. Retrieved March 22, 2019 from: <http://www.oecd.org/daf/anti-bribery/data-on-enforcement-of-the-anti-bribery-convention.htm>

Oldfield, J., Camarda, A. (2016) U4 Expert Answer, Overview of asset recovery in Germany. Retrieved from https://knowledgehub.transparency.org/assets/uploads/helpdesk/Asset_recovery_in_Germany.pdf

Organized Crime Corruption Reporting Project (OCCRP). (2017a): The Azerbaijani Laundromat. Retrieved March 21, 2019 from <https://www.occrp.org/en/azerbaijanilaundromat/>

Organized Crime Corruption Reporting Project (OCCRP). (2017b): The Russian Laundromat Exposed. Retrieved March 22, 2019 from <https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>

Out-Law. (2018). Courts uphold "ground breaking" UK first unexplained wealth order. Retrieved March 21, 2019, from <https://www.out-law.com/en/articles/2018/october/uk-first-unexplained-wealth-order/>

Palladyne International Asset Management. (2015). Formal Statement from Palladyne International Asset Management B.V. Retrieved March 20, 2019, from <http://www.palladyne.com/press.html>

Panel of Experts. (2013). Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya. Annual report 2012 (S/2013/99). Retrieved March 22, 2019 from <https://www.undocs.org/S/2013/99>

Panel of Experts. (2015). Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya. Annual report 2014 (S/2015/128). Retrieved March 22, 2019 from <https://www.undocs.org/S/2015/128>

Panel of Experts. (2016). Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya. Annual report 2015 (S/2016/209). Retrieved March 22, 2019 from <https://www.undocs.org/S/2016/209>

Panel of Experts. (2018). Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya. Annual report 2017 (S/2018/812/corr.1). Retrieved March 22, 2019 from <https://www.undocs.org/en/S/2018/812/corr.1>

Portela, C. (2019). *An assessment of EU misappropriation sanctions*. CiFAR.

Ralf, R., & Gut, T. (2014). *Asset Recovery under German Law-Pointers for Practitioners*.

Reuters (2018). U.S. proposes sanctions on the Latvian ABLV Bank over money-laundering concerns. Retrieved March 21, 2019, from <https://www.reuters.com/article/us-ablvbank-sanctions-idUSKCNIFX31M>

Ritz, A. (2011). Das geheime Leben der Ben-Alis. Retrieved March 20, 2019, from <https://www.fr.de/rhein-main/polizei-org27586/geheime-leben-ben-alis-11423511.html>

RP. (2005). Abba Abacha festgenommen: Sohn von Ex-Diktator in Düsseldorfer Auslieferungshaft. Retrieved March 20, 2019, from https://rp-online.de/nrw/staedte/duesseldorf/sohn-von-ex-diktator-in-duesseldorfer-auslieferungshaft_aid-17199651

Rübenstahl, M. (2015). Vermögensabschöpfung bei Korruptionsstraftaten in Deutschland. *ERA Forum*, 16(3), 309-329. <https://doi.org/10.1007/s12027-015-0385-0>

Schrag, W. (2009). Korruption in Deutschland – der Fall Siemens. *Deutsche Welle*. Retrieved March 27, 2019, from <https://www.dw.com/de/korruption-in-deutschland-der-fall-siemens/a-4996892>

Smith, D. (2009). Former Zambian president Frederick Chiluba cleared of corruption charges. Retrieved March 21, 2019, from <https://www.theguardian.com/world/2009/aug/17/zambia-chiluba-cleared-corruption>

StAR Initiative–Asset Recovery Watch. (2017a). *Ferdinand and Imelda Marcos (Switzerland)*. Retrieved March 21, 2019, from <https://star.worldbank.org/corruption-cases/printpdf/18497>

StAR Initiative–Asset Recovery Watch. (2017b). *Home Moussa Traore*. Retrieved March 21, 2019, from <https://star.worldbank.org/corruption-cases/printpdf/18555>

StAR Initiative–Asset Recovery Watch. (2016). *Paulo Maluf / Brazil–Deutsche Bank/* Retrieved March 21, 2019, from <https://star.worldbank.org/corruption-cases/printpdf/20319>

Süddeutsche Zeitung (2019): Der Eigentümer bleibt geheim. Retrieved April 12, from: <https://www.sueddeutsche.de/wirtschaft/transparenzregister-firmeneigentuemer-eu-1.4317342>

Tagesspiegel. (2018). Gedenkstätte in Berlin: Investor für Checkpoint Charlie hat heikle Partner. Retrieved March 21, 2019, from <https://www.tagesspiegel.de/berlin/gedenkstaette-in-berlin-investor-fuer-checkpoint-charlie-hat-heikle-partner/23693394.html>

Tax Justice Network. (2018). *Financial Secrecy Index 2018. Narrative Report on Germany*.

The Intelligence. (2011). "Gaddafis Vermögen": 200 Milliarden Dollar. Retrieved March 20, 2019, from <https://www.theintelligence.de/index.php/politik/international-int/3444-gaddafis-vermoegen-200-milliarden-dollar.html>

The World Bank. (2007). *StAR Initiative: Challenges, Opportunities, and Action Plan*.

The World Bank. (2016). *The World Bank Group's response to illicit financial flows: a stocktaking*.

Theise, E. (2016). Der Fall "Sparschwein Gas": Geldwäsche leicht gemacht. Retrieved March 20, 2019, from <https://www.dw.com/de/der-fall-sparschwein-gas-geldwaesche-leicht-gemacht/a-19208290>

Theise, E. (2016, April). A Ukrainian gas piggy bank: Money laundering made easy. *Deutsche Welle*. Retrieved March 20, 2019, from <https://www.dw.com/en/a-ukrainian-gas-piggy-bank-money-laundering-made-easy/a-19211699>

Transparency International. (2015). *Legislation Meets Practice: National and European Perspectives in Confiscation and Forfeiture of Assets*. Sofia.

TRIAL International. (2013). Onesphore Rwabukombe. Retrieved March 20, 2019, from <https://trialinternational.org/latest-post/onesphore-rwabukombe/>

UK Home Office, Circular 003/2018: *unexplained wealth orders*. Retrieved March 20, 2019, from <https://www.gov.uk/government/publications/circular-0032018-criminal-finance-act-unexplained-wealth-orders/circular-0032018-unexplained-wealth-orders>

UN. (2017). *Subsidiary Organs of the United Nations Security Council*.

Unger, B., Henk, A., Walker, J., Ferwerda J., Broek, v.d. M., Deleanu, I. (2013). Project 'ECOLEF' – The Economic and Legal Effectiveness of Anti-Money Laundering and Combating Terrorist Financing Policy. Final Report. Universität Utrecht 2013. Retrieved March 25, 2019, from [http://www2.econ.uu.nl/users/unger/ecolef_files/Final%20ECOLEF%20report%20\(digital%20version\).pdf](http://www2.econ.uu.nl/users/unger/ecolef_files/Final%20ECOLEF%20report%20(digital%20version).pdf)

UNODC. (2004). *United Nations Convention Against Corruption*. New York.

UNODC. (2018). *Lima Statement on Corruption involving Vast Quantities of Assets*. Lima.

Zucman, G. (2015). *The hidden wealth of nations – the scourge of tax havens*. Chicago University Press.

CIFAR.EU

