Intl. expert meeting on the management and disposal of recovered and returned assets: Decision making processes on asset return

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From Küsnacht …

• Both/all parties have shared interest that **stolen assets are returned** to country of origin
• Asset recovery is a **partnership** from A-Z – constructive and early dialogue advisable
• All stakeholders have interest that assets are not stolen again (**transparency, accountability**)
• Manage expectations and ensure desired symbolic impact through **cross-government dialogue** and **engagement with concerned citizen groups**
• Factors to determine end use:
  • Nature of original crime and **concerned victims**
  • Expectations of requesting and requested (**r/r**) states and their citizens
  • Socio-economic context, quality of governance
  • **Volume, sustainability and long-term impact**
  • Provision in final court order (if applicable)
  • Relationship between requesting state’s authorities and perpetrators
• No one size fits all – at least five basic models are available
• Consider role of **third parties** in planning, implementation and monitoring
… to Reggio Calabria …

• Asset return should benefit the development of the country of origin for the purpose of the general public
• Agreements are not a condition but considered good practice
• Some areas may be more suitable to spend returned assets than others (public interest)
• Use existing systems for monitoring when possible and suitable (because expensive)
• Reggio Calabria recommendations:
  • Guidelines for countries to which assets are returned: General policy considerations on monitoring, use, identification of beneficiaries or victims in light of the type of crime
  • More discussion needed on how to define victims (individuals, broader public…)
  • Policy study/survey on experience with consultation processes — ICAR paper for Addis Ababa
... to Addis Ababa and beyond: Study results (1)

• Methodology:
  - Semi-structured interviews with decision-makers in r/r states
  - Case studies from Kazakhstan, Peru, Philippines (and Nigeria) involving Liechtenstein, Switzerland, UK and USA on requested states side

• Objective(s):
  - Understand motivations, considerations and processes in decision-making processes and dialogue about end-use of returned assets between r/r states
  - Explore questions relating power balance/imbalance in dialogue between r/r states

• Underlying assumption (confirmed in interviews):
  - While asset recovery is technical/normative, political dimension cannot be underestimated
  - Different motivations may dominate in r/r states but common objective
... to Addis Ababa and beyond: study results (2)

- Dialogue on asset return – why, when and how?
  - Jointly facilitating an effective AR process is beneficial to both r/r states
  - Early engagement can expedite the AR process, which is in the interest of both parties and can send a strong symbolic message in both states
  - Dialogue helps build trust and understand each other’s and shared interests
  - Through dialogue requesting states may be able to harness expertise in requested states if so required
- Safeguarding sovereignty and balancing interests
  - Power imbalances are likely to affect asset return discussions (and other bilateral discussions) – they can go both ways
  - Issues of sovereignty give more rise to concern in political discussions than at operational level where pragmatic arguments prevail
  - Dialogue helps frame respective interests and working towards a constructive solution that satisfies all parties
• Considerations informing end-use of returned assets
  • Agreement was typically found quickly when assets were to be utilised to redress victims, advance national development objectives or address corruption and other root causes
  • The objective of the end use should inform the modalities for managing the assets
  • Local context matters greatly and should influence the modality for end use implementation
• Asset return – lessons learnt from outcomes in past cases
  • Considerable impact was achieved through asset return
  • While decisions should be objectives driven, the feasibility of implementation must be assessed carefully
  • Local context is critical, including an analysis of potential change in local context
  • Monitoring mechanisms help mitigate risks for r/r states
More guidance needed?

• Agreement among interviewees about usefulness of guidance/guidelines
• Potential to depoliticise, structure and expedite the engagement between r/r states
• Helps safeguard sovereignty of requesting state while giving adequate consideration to requested states’ considerations and finding common ground
• Should not be normative/prescriptive but outline options
• Points to be included may include:
  • Stakeholders to be involved in decision-making and implementation, and their respective expectations
  • What is the common ground of all concerned stakeholders
  • Local absorption capacity
  • Quality of local civil society
  • Existing vs. new accountability and monitoring mechanisms
  • Need to define detailed operationalization of implementation mechanism