

Reference CU 2018/78/DTA/CEB/CSS – Information from Norway

1. Experiences and best practices on criminal and civil measures and remedies to enhance international cooperation and asset recovery related to corruption, when it involves vast quantities of assets.

Norway has no experience with investigating cases of corruption involving “vast quantities of assets”, if by this is intended cases that may constitute a substantial proportion of the resources of States, that threatens the political stability and sustainable development of that state (UNCAC preamble paragraph 3). Neither have we received any requests for mutual legal assistance regarding seizing/confiscation or return of assets in Norway related to such corruption cases in other jurisdictions.

We will therefore limit our answer to information on best practices that may enhance international cooperation - particularly related to asset recovery - based on general practices, and experiences from other cases.

i) International cooperation and asset recovery

Confiscation of proceeds of crime is a priority in the investigation of all profit-motivated crime in Norway. In 2012 The Norwegian National Authority for Investigation and Prosecution of Economic crime (ØKOKRIM) issued a *Guide to more efficient confiscation* in order to strengthen the focus on this measure in law enforcement. International cooperation and asset recovery, is part of this guide. In the chapter concerning this, relevant conventions are listed and an introduction to the practical approach is given.

According to this guide a key element to success in asset recovery is to immediately establish contact with the relevant authorities in the state where you believe assets/proceeds of crime could be found. In this phase of the investigation, and also when it comes to figuring out the correct approach for securing the assets in the state in question, practitioners in Norway have very positive experience with use of the CARIN-network (Camden Asset Recovery-network). Through the CARIN-contacts in the state in question one can get necessary information on whether there are assets to be found in another jurisdiction, and how to proceed in the securing of these assets. Also, the Egmont-network of FIUs has proved very useful in providing information that may be of importance in tracing and establishing ownership to proceeds of crime.

In the next step of the process - sending the formal letters rogatory – our experience is that active use of the network of judicial practitioners at Eurojust, may enhance the efficiency of the process considerably. Also the network of law enforcement officers established through the Working Group on Bribery in the OECD has proved to enhance the efficiency of international cooperation.

Finally, conventions making it possible to establish direct contact with the judicial authorities in the requested state, such as the conventions used within Europe, always make international cooperation much more efficient.

Another experience that may be worth sharing concerning asset recovery, is that if there are more efficient ways than seizing and confiscation that can be used to get the assets back to the rightful owner, such as for instance compensation or vindication, such measures should be explored. In cases concerning assets found in Norway, we have experience from some cases showing that it has been easier to return seized assets directly to the victim or rightful owner in another jurisdiction (the practical experience in question is limited to situations where the victims were natural persons, not states).

As for case examples regarding corruption, the most serious corruption case in Norway considering the size of the bribes, is the so called Fertilizer-case, concluded in the supreme court in 2017. It involved extensive international investigation; ØKOKRIM received assistance from 13 jurisdictions in this case. The network established through OECDs Working Group on Bribery, was a key element in making this cooperation more efficient. As for confiscation and asset recovery in this case, the confiscation order was directed towards the Norwegian company and paid as part of the penalty writ that was issued in the case, hence confiscation of assets in other jurisdictions was not an issue.

Another example that could be mentioned is the Waterworks-case, concluded in 2010. The indictment in the case included several counts of gross corruption and serious breach of trust. The proceeds of the crime was partly transferred to South Africa, invested in property. The former CEO was sentenced to imprisonment and confiscation of all his African properties, in addition to paying over NOK 63 million in compensation to the victim. The attorneys of the victim handled the claim for compensation and secured and sold the assets using civil measures. As for the confiscated property, this was also used to cover the compensation; The victim company in Norway took over the shares in the company owning the farms, and later sold the property. In 2013, through cooperation with Swiss police, another 34 million NOK was found in a bank account in Switzerland. These money were frozen by Swiss authorities, and later transferred to and secured in Norway based on an agreement with the convicted CEO.

2. Best practices in the identification of legal and natural persons, involved in the establishment of corporate entities, including shell companies, trust and other similar arrangements which may be abused to commit or conceal crimes of corruption or to hide, disguise or transfer their proceeds of corruption to countries that provide safety to the corrupt and/or their proceeds.

The identification of persons and companies involved in a certain criminal activity, is a fundamental part of most investigations of economic crime. Hence, the information provided to this question is also of general nature, and not related to corruption cases in particular.

The basic approach to such “financial investigation” is also described in the guide issued by ØKOKRIM in 2012. This investigation is necessary both to establish the question of guilt and the ownership of assets involved - that may possibly be subject to confiscation.

A first step in this investigation is identifying possible sources for information about ownership and the economy of the persons and companies involved. Information could be

collected from the tax (and other) authorities, registers and financial institutions, both national and in other jurisdictions.

In Norway we have *trustworthy registers* providing information on companies (both on ownership and natural persons involved in the management), ownership to real estate and to shares in companies. In addition to this, we have a currency register providing information on transactions from Norway to other countries, that also is very useful in all financial investigation.

When analysing the information collected, *access to technology* that is able to process the data collected, is off course of importance. Also, working in *multidisciplinary teams*, as is done when investigating the most serious economic crime in Norway, has proved very fruitful in investigations concerning identification of persons and companies involved in complex company-structures.

The teams at ØKOKRIM are composed of police investigators, auditors/accountants and prosecutors, that work closely together throughout the whole investigation process. Auditors and accountants can make full use of the information collected from accounts and company records that is necessary to identify information that may lead to successful identification of involved natural and legal persons.