Kazakhstan’s experience and recommendations for strengthening international and multilateral cooperation in times of emergency and crisis

Twelfth open-ended intergovernmental expert meeting to enhance international cooperation under the UNCAC (4 - 8 September 2023)
Electronic transmission of MLA is already in place with several jurisdictions via emails.

Electronic transmission requests provisions are added to the new draft bilateral treaties we negotiate with partners around the world.

We are considering to join the Treaty on the Electronic Transmission of Requests for International Judicial Cooperation between Central Authorities (known as the "Treaty of Medellín").
Electronic transmission of requests

➢ CARIN, GlobE or other similar networks are used as a platform to exchange information on registers of beneficial ownership and other information which may be obtained without judicial authorization via electronic requests. If that is possible then there will be no need to send MLA requests to get this information.

➢ A lot of technical and security questions arise in connection with electronic transmission of requests

➢ We propose to create a Working Group which would learn best practices worldwide on electronic transmission of requests and then would develop relevant guidelines
INTERNATIONAL TREATY RELATIONS

MULTILATERAL TREATIES ABOUT 100 ON THE FIGHT AGAINST CRIME AND OBSERVANCE OF HUMAN RIGHTS

UNITED NATIONS TREATIES MORE THAN 40 ON HUMAN RIGHTS AND IN CRIMINAL LAW SPHERE

BILATERAL AGREEMENTS WITH 72 COUNTRIES, INCLUDING USA, UK, SPAIN, ITALY, MONACO, CZECH REP., HUNGARY AND OTHERS

INTER-AMERICAN CONVENTION ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS (1992)

CONVENTION OF COUNCIL OF EUROPE ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME (STRASBOURG, 8 NOVEMBER 1990)

AGAINST TRANSNATIONAL ORGANIZED CRIME (PALERMO, 13 DECEMBER 2000)

AGAINST CORRUPTION (NEW YORK, 31 OCTOBER 2003)

THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (NEW YORK, 10 DECEMBER 1984)

ENHANCED PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN KAZAKHSTAN AND EUROPEAN UNION (DECEMBER OF 2015)

IN THE LAST 5 YEARS, THERE HAVE BEEN CONCLUDED 23 AGREEMENTS WITH 12 STATES
STOLEN ASSET RECOVERY

ACCORDING TO THE REGISTERED CRIMINAL CASES MORE THAN $10 BILLION WERE STOLEN AND ILLEGALLY MOVED ABROAD FROM KAZAKHSTAN

ACCORDING TO THE ESTIMATES OF THE MINISTRY OF NATIONAL ECONOMY OVER 10 YEARS $100 BILLION WERE TRANSFERRED FROM KAZAKHSTAN
PROBLEMS

➢ Investigators didn’t have **Clear Algorithm** of actions
➢ Financial transactions were **not always tracked**
➢ Asset recovery events in most of the cases were **initiated late**

Requests for evidences, seizure or recovery of assets in the EU and the US: **Low rate of execution**
THE «STOLEN ASSET RECOVERY» PROJECT

INITIATED BY THE PROSECUTOR GENERAL’S OFFICE

- 200 INVESTIGATORS WERE TRAINED
- KAZAKHSTAN JOINED GLOBAL NETWORKS: CARIN, ARIN AP, ARIN-WCA, INTERPOL FOCAL POINT
- DEVELOPED METHODOLOGY FOR CONDUCTING SEARCH AND SEIZURE OF THE PROCEEDS OF CRIME ABROAD
- DEVELOPED MLA REQUEST AND OTHER TEMPLATES
SIMPlicity of the METHOdology

Guiding materials on stolen asset recovery (on websites and other resources of international organizations) were found to be helpful, but voluminous and complicated for understanding to a regular investigator in Kazakhstan.

Based on world’s best practices, we’ve developed short and clear guidelines, which were specifically adapted for investigators and prosecutors in Kazakhstan.
"It is important to provide colleagues with procedural documents that would be adapted to the international standards."

- Based on the best international experience (UNODC, PC-OC of the Council of Europe, recommendations of the EU countries, the UK, the USA and Southeast Asia)
- Request approved by UN and World Bank experts
- MLA request sample translated into 6 UN languages
- Efficiency increased
Interdepartmental Commission on Countering the Illegal Concentration of Economic Resources was established by the Presidential Decree on 5 June 2022

Return of funds illegally transferred out the country

Detection of monopoly (oligopolistic) concentration of illegally obtained economic resources, their return to the state

The commission analyze what conditions create unreasonable advantages for individuals to privatize and acquire high-margin assets of the state, eliminate or restrict competition, and unlawfully increase the profitability of individual companies in different sectors of the country’s economy

The Commission’s target is to contribute to equitable income distribution and rise in living standards of Kazakh people
THE COMMISSION RECOVERED OVER 1.7 BILLION OF USD TO THE STATE

MORE THAN 500 MILLION OF USD ARE RECOVERED FROM ABROAD
The Law “On the return of illegally acquired assets to the state” was adopted in Kazakhstan on 12 July 2023

- The new legislation establishes a framework to recover assets acquired through corruption and illegal activities, involving high-profile individuals potentially from government or quasi-public sectors.

- The Law may be applied only to persons who have in aggregate assets in excess of the threshold set by the Law - approximately 100 million USD.

- In cases where there are valid suspicions regarding the lawfulness of assets – such as when the worth of the assets greatly exceeds legal earnings or other credible origins, the designated authority has the power to recommend the addition of such entities and their partners to a specific Register managed by the Commission on Asset Recovery.
The Law “On the return of illegally acquired assets to the state” was adopted in Kazakhstan on 12 July 2023

✓ This Commission, comprising legislators, notable individuals from the public and governmental representatives, makes a decision on whether there the inclusion of persons to the Register is in conformity with the legislation.

✓ Should the Commission include those entities to the Register they are notified and may be required to legally justify their asset acquisitions within a set timeframe. If they fail to do so, the authorized body makes an application to the court asking to confiscate those assets as of "unexplained origin".

✓ Recovered assets will be channeled into the Special State Fund to support social and economic projects in Kazakhstan.
STAGES OF IMPLEMENTATION OF THE E-CRIMINAL CASE SYSTEM

2018
FOR CRIMINAL MISCONDUCTS AND CRIMES OF LESSER GRAVITY (MINOR OFFENCES)

2019
IN ALL CRIMINAL CASES OF MODERATE GRAVITY (MODERATE OFFENCE)

2020-2023
IN CRIMINAL CASES OF GRAVE AND SPECIAL GRAVE OFFENSE CATEGORY; ON MULTI-EPIsODE CASES AND INVESTIGATIONS AS PART OF THE INVESTIGATIVE GROUP

>94%
ELECTRONIC CASES FROM ALL REGISTERED STAGES OF IMPLEMENTATION OF THE E-CRIMINAL CASE SYSTEM
DIGITALIZATION OF CRIMINAL PROCEEDINGS: ADVANTAGES

- To minimize the risks of falsification in pre-trial investigation and to make sure the criminal cases would not be lost
- Procedural time saving
- To decrease the period of investigation
- To obtain electronic sanctions
- Transparency of the criminal proceedings
- Access to the criminal case in online mode
- Budget savings
- Relevant legal statistics
INVESTIGATOR`s WORKING AREA

- Personal Computer
- Additional Monitor
- Multifunctional Device (Printer+Scanner)
- The Stylus
- Bio-Sensor
- Web-Camera
TEMPLATES OF PROCEDURAL DOCUMENTS WERE AGREED WITH RELEVANT LAW ENFORCEMENT AGENCIES
A PARTICIPANT OF THE CRIMINAL PROCESS SIGNS A PROCEDURAL DOCUMENT WITH THE ASSISTANCE OF GRAPHIC TABLET (STYLUS)
ACCESS TO STATE INFORMATIONAL DATA BASES AND OBTAIN PERSONAL INFORMATION

CRIMINAL RECORD

DRUG AND PSYCHO RECORDS

SIO PSO: a single information "window" of law enforcement agencies to 49 databases of various state bodies

REAL ESTATE REGISTRIES

BORDER CROSSING INFORMATION

INVESTIGATOR

REQUEST

UNIFIED REGISTER OF PRE-TRIAL INVESTIGATIONS (ERDR)
THE PUBLIC SECTOR OF THE ERDR (Unified Register of Pre-Trial Investigations) FOR PARTICIPANTS IN THE CRIMINAL PROCESS

- Submission of an application, petition, complaint and view the statuses of them

- Monitor the process of conducting a criminal investigation which reduces the risks of falsification

- Access to the case materials: familiarization, view and obtain documents via the internet

- Save time due to the availability of services in online mode

Police determines the amount of necessary materials, that are available online to participants of the process, in accordance with the criminal procedure code.
FUNCTIONALITY OF ELECTRONIC-CRIMINAL CASE

OPTION: INTELLIGENT INVESTIGATOR ASSISTANT
 IMPLEMENTED: 2021

OPTION: «OFFLINE APPLICATION»
 IMPLEMENTED: 2021
INFORMATIONAL SECURITY PROTECTION AGAINST UNAUTHORIZED INFLUENCES

USER’S ACCESS TO THE SYSTEM VIA AN ELECTRONIC DIGITAL SIGNATURE, LOGIN/PASSWORD AND FINGERPRINT

FUNCTION OF THE "EVENT LOGGING"
THANK YOU FOR THE ATTENTION
Do not hesitate to contact me should you have any questions:

THE PROSECUTOR GENERAL’S OFFICE OF THE REPUBLIC OF KAZAKHSTAN,
BAURZHAN KURMANOV
b.kurmanov@mfa.kz
baur.gpo@gmail.com