INTERNATIONAL COOPERATION IN TRANSNATIONAL CORRUPTION CASES: EXPERIENCE OF KAZAKHSTAN

Presented by Baurzhan Kurmanov, the PGO of Kazakhstan, at the seventh Open-ended intergovernmental expert meeting to enhance international cooperation under UNCAC in Vienna, Austria, on 8 June 2018
10 BILLION $ = 10 YEARS

1/6 OF THE NATIONAL FUND OF KAZAKHSTAN
SEARCH FOR CRIMINALS AND STOLEN ASSETS

1,5 THOUSAND ARE ESCAPING FROM JUSTICE ABROAD

IN SWITZERLAND – FORMER GOVERNOR OF ALMATY KHRAPUNOV SOLD GOVERNMENTAL LANDS AND TRANSFERRED THE STOLEN MONEY - 300 MILLION USD ABROAD

IN GREAT BRITAIN – FORMER GOVERNOR OF ATYRAU REGION RYSKALIEV EMBEZZLED OVER 500 MILLION USD OF PUBLIC FUNDS

IN AUSTRIA – HEAD OF CONSTRUCTION COMPANY TAIZHANOV DECIEVED OVER 2 THOUSAND CITIZENS, WHO ENTRUSTED HIM 100 MILLION EURO FOR HOUSES CONSTRUCTION
«STOLEN ASSET RECOVERY» PROJECT
Stolen asset recovery project

Developed:

- **Clear and short guidelines** for the investigators and prosecutors;
- **Unified MLA, FIU requests templates**;

The guidelines and the templates are:

- a) based on the **best international experience** (UNODC, the StAR initiative, PC-OC of the Council of Europe, UK, Australia, Singapore and other recommendations and databases).
- b) **locally adapted** to be easily applied by any investigators in Kazakhstan
Stolen asset recovery project

- 200 investigators and 10 national trainers were trained with the support of UNODC and of the StAR Initiative
The StAR initiative support

- Facilitated our contacts with different jurisdictions involved in asset recovery.
- Helped us to join asset recovery interagency networks: CARIN, ARIN AP;
- Provides assistance in further development of our guidelines and templates.
SEARCH AND SEIZURE OF THE CRIME PROCEEDS ABROAD

Baurzhan Kurmanov, Unit Head on protection of state interests abroad
Issatai Zhahanger, Prosecutor of Department of the PGO
4 TOOLS

- Egmont
- Interagancy Networks
- Open Sources
- MLA requests
TOOL NO 1
REQUESTS VIA EGMONT

EGMONT GROUP: - exchange of information by financial intelligence units of more than 150 countries

Requests are submitted electronically.
Speed of execution is sometimes very high – 1-20 days

WHAT CAN BE REQUESTED?

A) Freeze or suspend alleged crime proceeds transactions
B) Obtain information on transfers of alleged crime proceeds
C) Suspicious transactions reports on persons under investigation

How to make: get an approval from General Prosecutor’s Office and apply to the Committee on Financial Monitoring

Use request form in the CFM (Annex No 1)
Tool No. 2
Interagency Networks

1. «CARIN» (EUROPE) и ARIN-AP (ASIA)
2. INTERPOL: The Global Focal Point Network on Asset Recovery

It is possible to submit preliminary unofficial request, and:

1) Receive certain information;
   a) Eg. Information about shareholders and directors of a company
   b) Voluntary witness statements

2) Establish direct contacts with foreign colleagues
FOLLOWING INFORMATION CAN BE OBTAINED:

1. On companies, directors, finances (Opencorporates.com);
2. About offshore companies and their accounts (Offshoreleaks.icij.org);
3. To check photos of addresses (Google earth). About photos – date of photo, brand of camera, ip and location through Doxing method (Iconsquare.com, Tineye.com);
4. About owner of web-site domain (Whoisology.com), to check e-mail addresses (Hexillion.com, Ip-address.com) and to find location of user through ip (Maxmind.com);
5. Find IIN, date, place of birth, promissory notes through government databases (Egov.kz, Nationalbank.kz);
6. Search through meta-systems (TurboScout.com, Dogpile.com, Exalead.com);
7. Get information about the person's contacts, work places, interests, movements and a friend through social networks (Facebook, LinkedIn, Instagram).
8. Ability to see archived and deleted versions of web pages through (Archive.org, Waybackmaschine.com, Cachedview.com).
What can it give to you?:
A. An opportunity to use in court information received informally in the framework of tools No. 1,2,3.
B. Request searches, seizures, interrogations, etc.
B. Obtain information that constitutes banking secrecy
C. To request the seizure / confiscation of crime proceeds

Use request form – Annex
**Recommendation No 1**

**USE TOOLS No 3 (Open Sources), No 1 (EGMONT) and No 2 (EXCHANGE NETWORKS) TO SUPPLEMENT MLA REQUESTS (No 4)**

**Why:**

a) MLA requests must contain specific information about the subject of the request (numbers of bank accounts, location of assets);

b) In most cases, requests "to seize any bank accounts of a suspect" **will not be enforced in EU, US, Canada and other countries.**

**EXAMPLE of an unsuccessful request:** "Mr. X is suspected of taking bribes. Please provide a complete list of accounts that he has in your country, and immediately arrest them."

**The real answer from Switzerland:**
"We ask you to provide us correct information about bank accounts and real estate. Information can be provided only if you give either the name of the depositor and the bank or the account number and the bank. Otherwise, we cannot process your request."

**IT IS IMPORTANT TO UNDERSTAND THAT THE INFORMATION RECEIVED WITHIN TOOLS No. 1, 2, 3 IS INTELLIGENCE. IT CANNOT BE USED IN A COURT**
**RECOMMENDATION No 2**

**USE SIMPLE SENTENCES IN YOUR REQUESTS**

**WHY:**
Complex sentences are difficult to translate. As a result, foreign colleagues may not understand them.

**THE WAY YOU SHOULD NOT DO:**
Having left the borders of our state, V.I. Nikolayev and other individuals formed an organized criminal group from among the citizens of the Republic of Kazakhstan and other countries whose activities are aimed at the committing illegal acts on the legalization of money and assets obtained through criminal means in the neighboring countries and beyond.

**THE WAY YOU SHOULD DO:**
V.I. Nikolaev fled the Republic of Kazakhstan. Then V.I. Nikolayev established an organized criminal group. The criminal group was created to legalize (launder) funds and assets obtained by criminal means. Illegal money and assets were legalized (laundered) in the neighboring countries and beyond. The criminal group included citizens of the Republic of Kazakhstan and other countries.
CASE STUDY: БТА BANK

Why did we choose this case?
» It is the biggest fraud in the history of Kazakhstan.

» In 2009 more than 7.5 billion USD were embezzled by a former top-manager of the BTA Bank – Mukhtar Ablyazov.

» Mainly through loans to offshore companies he secretly owned and controlled

CREATION OF A TRANSNATIONAL SCHEME OF EMBEZZLEMENT AND OF MONEY LAUNDERING
» It were the money of citizens and of foreign investors.
» The Government had to rescue the bank **using public funds**.
» That is why it was extremely important to recover stolen assets.
What was the international cooperation and asset recovery STRATEGY?
Embezzlement scheme of the BTA Bank's funds
Difficulties

- The crime Syndicate laundered the stolen money via thousands of shell companies in numerous jurisdictions around the world.

- It was almost impossible to establish a link between the predicate crime and the stolen assets.
Law enforcement via MLA requests gathered evidence and froze assets of the crime syndicate where it was possible.

More than 400 MLA requests were filed around the world.
ASSISTANCE BY OUR COLLEAGUES

- Most of the involved jurisdictions provided assistance
- Special gratitude to the **Prosecutor offices of:**
  - RUSSIA
  - UAE (DUBAI)
  - UKRAINE

who provided us evidence and froze assets very fast
- It allowed to prevent the **dissipation of assets**
Role of the BTA Bank

- BTA as a victim filed civil claims against Ablyazov and other members of the criminal enterprise to recover damages
- In London BTA filed claims of fraud in excess of 4 billion dollars
In 2010-2012 the High Court of Justice of London, in its decisions (Drey, AAA and Granton) found that Ablyazov embezzled Bank’s money by fraud.

Justice Teare: "... This is a fraud on a global scale"
Asset recovery results

Assets worth more than $1 billion of USD were recovered in UK, Russia, Ukraine and other jurisdictions.