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Contribution by Germany

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

The Act on International Legal Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen* - IRG) allows for non-treaty based mutual legal assistance. Section 59 of the IRG is a broadly-framed provision which enables investigative acts for tracing assets; in principle, this is allowed in the same scope as the mutual legal assistance which German courts or authorities could provide to one another. In addition to the IRG, the provisions of general German criminal procedure law apply to acts of mutual legal assistance. Within that context, measures to trace assets are possible even if there is merely an initial suspicion; this means that there are adequate factual indications that allow the conclusion that an offence has been committed.

The requirements needing to be met for MLA to be granted are, inter alia, laid out in the [Step by Step Guide on Requesting Mutual Legal Assistance in Criminal Matters from G8 Countries](#), in the [Step by Step Guide on Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries](#) as well as in [UNODC's Mutual Legal Assistance Request Writer Tool](#). Requirements needing to be met in order to obtain MLA in civil and administrative proceedings are laid out in the [Guide on Requesting International Cooperation in Civil and Administrative Proceedings relating to Corruption](#).

With the Federal Office of Justice and the Federal Criminal Police Office, Germany has established two asset recovery offices which can provide information to domestic and foreign authorities and, due to the special skills and experience of those officials, can facilitate and effectively promote cooperation. Coordination takes place through an expert meeting of the heads of the asset recovery offices at the Criminal Police Offices of the Länder, the Federal Police Headquarters, the Central Customs Authority and the BKA. As designated central authority, the Federal Office of Justice cooperates and communicates with its foreign counterparts. Direct communication and consultations between practitioners are possible if necessary and useful in the specific circumstances of a case. The German FIU also shares information with its foreign counterparts. The sharing of tax information is regulated by a great number of bilateral treaties. Contact points have been designated to StAR, the Interpol Asset Recovery Focal Point Initiative, the Camden Asset Recovery Network (CARIN), and the network of asset recovery offices. Germany has also designated an Asset Recovery Office within the EU framework. At EUROPOL level, the Anti- Money Laundering Operational Network (AMON) meets annually. For the first time in 2017, there was also a meeting of all participants of the Analysis Project (AP) Sustrans.

In addition, Germany is a signatory to the important multilateral agreements which are designed to facilitate cross-border asset recovery. Relevant in this regard are primarily Conventions of the European Union, of the Council of Europe (e.g. the European Convention on Legal Assistance in Criminal Matters with its additional protocols, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, and the Criminal Law Convention on Corruption) and the United Nations (e.g. UNCAC and UNTOC). These are complemented by various bilateral agreements (please cf. German SACL for first review cycle).

Germany provides technical assistance by organizing workshops for practitioners in foreign countries and participating in bilateral and multilateral conferences on asset recovery. Germany established a [guide to asset recovery and provided for translations into other languages](#) (please note that the 2017 reform of asset recovery is not yet included in the bro-

chure). On the bilateral level, Germany has supported capacity building for national authorities that are responsible for asset recovery.

2. Best practices in the identification of legal and natural persons, involved in the establishment of corporate identities, including shell companies, trusts 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 corruption and/or their proceeds

Germany has created a Guide to Beneficial Ownership Information regarding legal entities and legal arrangements that is available for download on the [StAR website](#).

The purpose of the guide is to provide assistance to investigators on the type of information that is available on the natural persons who control legal persons and arrangements or otherwise play an important role in a legal person and arrangement in Germany, and the conditions that need to be met to be able to access such information.

In addition, Germany has introduced a register of beneficial owners (transparency register) in 2017, which complements the commercial register, business register, register of associations and other registers already in place. The law establishing the transparency register entered into force on 26 June 2017, fulfilling Germany's obligation under the 4th Anti-Money Laundering Directive (EU/2015/849). The scope of the register applies to private legal persons and registered private companies as well as to trusts and similar legal arrangements. Regarding legal ownership of private legal persons and registered private companies, the register, in substance, provides a link to the already existing registers containing up-to-date and reliable information on legal ownership. Where the beneficial owner is different from the legal owner, entities are obliged to register the beneficial owner in the transparency register. In addition, foundations as legal persons are not yet recorded in any other register. With regard to them, the transparency register contains genuinely new information on the beneficial ownership. Also, trusts and similar legal arrangements had not yet been contained in any other register. Trustees that are residents of Germany need to notify the transparency register regarding beneficial ownership of a trust; this also applies to similar legal arrangements as defined in the new Money Laundering Act. Three groups have access to the register: (1) competent authorities and financial intelligence units, (2) obliged entities when fulfilling the customer due diligence obligations under the Money Laundering Act, and (3) any person or organisation that can demonstrate a legitimate interest. However, the EU Directive amending the 4th Anti-Money-Laundering Directive (which is expected to enter into force in May 2018) foresees a wider access regime. Except for the information of certain kinds of trusts, beneficial ownership information must be publicly accessible. The transposition deadline for most rules of the new Directive is 18 months after its entry into force; Germany will transpose the Directive accordingly.

Germany's Federal Financial Supervisory Authority (BaFin), working together with the German Banking Industry Committee, has developed "Interpretative notes and guidance on the prevention of money laundering, terrorist financing or other criminal offences". These provide financial institutions with detailed guidance on how the due diligence requirements under anti-money-laundering rules are to be fulfilled, including the identification of customers and the clarification of beneficial owners, as well as the treatment of PEPs. These interpretative notes and guidance are currently being revised by BaFin in the light of the new version of the Money Laundering Act that came into force on 26 June 2017.

The German federal states (*Länder*), which are responsible for the supervision of the non-financial sector, have also drawn up a series of guidance notes (available online), which are intended to assist persons trading in goods, real estate agents and other obliged entities in the non-financial sector in fulfilling their due diligence obligations.