Differences in evidentiary requirements and standards of proof between legal systems: challenges as well possible solutions and good practices
Even if today is different, confiscation still reminds the abuses of the past!
Despite the international conventions, there are big differences in evidentiary requirements and standards of proof between legal systems.
It is difficult to play without common rules!
The gap between criminal confiscation and civil confiscation is closing.
What is more aggressive for human rights: a confiscation based on the civil balance of probabilities or a confiscation based on a simple presumption in the criminal proceedings?
«The Parties shall cooperate to the widest extent possible under their domestic law with those Parties which request the execution of measures equivalent to confiscation leading to the deprivation of property, which are not criminal sanctions, in so far as such measures are ordered by a judicial authority of the requesting Party in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or other property in the meaning of Article 5 of this Convention (article 23.º, n.º 5).
Best practice: examine the question rather than automatically refuse cooperation!
Thank You very much!

Any Questions?

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