ASLAN YUSUFOV

Prosecutor General’s Office of the Russian Federation
Directorate for countering corruption
Deputy Head

«Challenges and barriers in International cooperation on asset recovery: differences in legal systems»
Major International Anti-Corruption Legal Instruments on Asset recovery

01 UN Convention Against Corruption (UNCAC, 2003)

02 UN Convention on transnational organized crime

03 COUNCIL OF EUROPE CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME (ETS N 141), Strasbourg, 1990

04 COUNCIL OF EUROPE CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME AND ON THE FINANCING OF TERRORISM (CETS N 198), Warsaw, 2005
Stages of Asset Recovery

1. PREVENTIVE MEASURES
   (financial disclosures, prevention of conflict of interest etc.)
   - Detection of assets

2. CRIMINAL PROCEEDINGS
   (criminal investigation, provisional measures, sentencing)
   - Control over assets

3. LIQUIDATION OF DAMAGES AND ASSET RECOVERY
   (seizure, confiscation orders, return of stolen assets to the victims and country of origin)
   - Assets management
On national level there is usually electronic communication between AC Agency and other stakeholders which provides for the online access to different registries and data sources. No special conditions required for the exchange of information.

Internationally, similar exchange of information is being provided between tax authorities. However the use of such information is limited to tax evasion offences.
Enquiries and information sharing during search for assets on International level

**Ministry of Justice, PGO, Foreign Ministry**
Channeling of the requests to the relevant authority

**Banking authorities**
- bank accounts, financial instruments
  - a link to financial offences required

**INTERPOL**
- Income, property, bank accounts, FI, rights, relations between persons, groups, businesses
  - legalization of disclosure required

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**Foreign Registry keepers**
- Ownership rights for realty, shares

**Tax authorities**
- Income, bank accounts, involvement in businesses
  - a link to tax offences required

**FIU**
- Income, property, bank accounts, FI, rights, relations between persons, groups, businesses
  - (only for MLA purposes)

In 2019, PGO RF issued 34 int'l requests on 12 cases.

Over 9 months of 2020, PGO RF issued 35 int'l requests on 11 cases.
Challenges and barriers in search for assets in other countries

**Most often reasons for refusals**

- No national provisions on information sharing without criminal case
- Additional information or link to some other Int’l instruments or bilateral agreements required
- No possibility for lifting banking secrecy even for foreign PEPs

**Challenges**

- The need to receive personal information on early stage vs risks of “fishing”
- Sharing of the information under conditions preventing its use on the merits of the case
- Different responses to requests from various country sources (some foreign authorities might satisfy the requests and some might refuse)
Challenges and barriers in criminal proceedings

- Differences in legal systems, procedures and terminology
- Differences in the scope of the protection of rights of the participants of criminal proceedings
- Problems with the execution of court orders on confiscation in criminal and administrative proceedings
- Confiscation, return of evidence, compensation of damages, payment of fines: conflicting approaches
- Challenges in sharing of the confiscated assets