



## EXPERIENCE OF FOREIGN COUNTRIES IN THE APPLICATION OF CRIMINAL-PROCEDURAL MEASURES IN THE RETURN OF "CRIMINAL ASSETS" FROM FOREIGN COUNTRIES

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### **Annotation:**

The article defines cooperation on providing international legal assistance, its legal basis, enforcement of requests for assistance in foreign countries, competent bodies, in particular, recognition of court decisions, requirements for requests, the scope of information to be provided, documents that need to be attached, requests competent bodies for consideration, the basis, procedure and forms of confiscation of assets, the range of assets that can and cannot be confiscated, the grounds for its application in cases where it is not possible to implement confiscation, advanced foreign countries in the application of criminal procedural measures in the return of "criminal assets" from foreign countries experiences, the prospects of their implementation into national legislation are highlighted.

**Keywords:** Cooperation in providing international legal assistance, Requests for international legal assistance, competent authorities, competent authorities, requirements for requests, scope of information, attached documents, confiscation, confiscation grounds, procedure and forms, assets that can and cannot be confiscated, confiscation of its equivalent when confiscation is not possible, best practices of foreign countries on the use of criminal-procedural measures for the return of "criminal assets" from foreign countries.

In recent years, active work has been carried out in our country on the new possibilities of combating crimes related to economic damage by state authorities, in particular by the Legislature, including the liberalization and humanization of criminal legislation, which in a certain sense serves to strengthen the state's prestige in the field of entrepreneurship and investment penetration.

According to United Nations General Secretary – Antonio Guterresh, another global public interest defined in our common agenda is a "more durable, inclusive and sustainable global economy". The main place here is occupied by financial integrity and the fight against tax evasion. Transnational organized crime directly affects state





funding opportunities and can impede economic development through tax evasion as well as illegal financial flows. This is especially devastating for developing countries, depriving public treasuries of much-needed funds to invest in public obligations such as health care, education and infrastructure financing. Transnational organized crime can also undermine the country's economic stability by draining foreign exchange reserves and affecting asset prices.

According to the International Monetary Fund, illegal financial flows involve the transfer of money through borders that are illegal in their source, transfer or use. These flows can have implications for local markets and societies. For example, in a number of advanced economies, illegal financial flows are distorting their property markets, as in Germany and the United Kingdom, further exacerbating the housing problems of local residents. From the subsequent disclosure of the Panama Papers and Pandora papers, it turns out that the huge global offshore economy operates in line with the legitimate international economy, which accounts for ten percent of the world's wealth, and these assets belong to powerful individuals and organizations, including former heads of State, heads of government and civil servants, as well as representatives of the business elite".

The high level of corruption in the monetary system, the illegal cashing of funds, false and deliberate bankruptcy, the outflow of capital and the transfer of financial assets of companies to offshore should be considered as one of the main problems of economic security known to the World Economic Community".

According to Article 15 of the Constitution adopted in the new edition, "international treaties of the Republic of Uzbekistan are a component of the legal system of the Republic of Uzbekistan along with the generally accepted principles and norms of international law".

One of the goals of the United Nations Convention Against Corruption is to promote, facilitate and support international cooperation and technical assistance in the recovery of assets.

"Unfortunately, today the main emphasis in law enforcement practice is not on the withdrawal of all income from criminal activity, taking into account certain exceptions, but on the prosecution of those responsible and the recovery of material damage to victims".

This can also be explained by the norm of a special law related to the return of "Criminal Assets" in the Republic of Uzbekistan, as well as the absence of an authorized state body.

According to Article 65 of the United Nations Convention Against Corruption, each participating state, in accordance with the most important principles of its legislation,





takes the necessary measures, including legal and administrative ones, to ensure the implementation of its obligations under this convention<sup>3</sup>.

When returning "criminal assets" to the state of origin, it is first of all important to have a solid legal base, to study the experience of foreign countries with advanced practice for this purpose.

Since the legal system of the Republic of Uzbekistan belongs to the Romano-Germanic family of law and is the basis for the development of administrative legislation according to existing concepts, it is advisable to conduct a comparative analysis of it with the existing models in the legal system of similar countries.

The Romano-Germanic legal family (or continental system of law) unites the legal systems of continental Europe, all of Latin America, an important part of Africa and the states of the Middle East. The influence of this legal family is reflected in the legal systems of Japan, Indonesia and other states. Here, the main emphasis is placed on the normative regulation of social relations, the creation of more progressive legislation.

The most ancient system of law, which is part of this legal family, is undoubtedly the Federal Republic of Germany, and its criminal and criminal procedural codes are not fully codified. Therefore, other legislation regulates the issues of international legal assistance in the search, correspondence and confiscation of "Criminal Assets" in the GFR.

The GFR Criminal Procedure Code established a clear system of measures for confiscation, which makes it possible to confiscate any property collection, as well as "criminal assets".

The GFR law of 7 July 1997 "On cooperation between Federation and lands in matters of the Federal Criminal Office and criminal police" (BKAG) establishes the powers of German police authorities to fulfill requests from law enforcement agencies of foreign states. According to him, the police bodies of the GFR perform the tasks of searching, obtaining information, identifying cases of obtaining property rights on the territory of the country of authorized bodies of foreign countries, conduct operational-search activities, carry out the tasks of the prosecutor.

The principles and procedures of international cooperation of law enforcement agencies with the competent authorities of foreign countries are established by the law "On international legal assistance in criminal cases" (IRG), adopted in a new revision on June 27, 1994, the law covered issues of confiscation and extradition to foreign states. According to him, requests from foreign states to confiscate objects (or evidence) that are the subject of a crime and income from criminal activity are





fulfilled, providing for the possibility of enforcing the judgments (decisions) of foreign courts about the confiscation of property (articles 48-58).

The Criminal Procedure Code of the GFR provides for the implementation of all measures provided for by law to ensure the safety of property. It should be noted that these make it possible to ensure the implementation of criminal harassment and the execution of the sentence in a state that seeks international assistance in the implementation of confiscation. According to Article 32 of the Basic Law of the GFR, the conduct of relations with foreign countries is the prerogative of the Federation. Accordingly, international legal assistance in criminal cases is carried out through the Ministry of foreign affairs of the GFR.

The issue of providing international-legal assistance is resolved by the Federal Minister of Justice of the GFR, in agreement with other ministries, according to necessity, as applicable.

Ensuring the execution of the request for international legal assistance by the Federal Minister of Justice is assigned to the prosecutor under the Supreme regional court, at the same time he is also given the authority to attract District Prosecutors and other agencies (police, customs service, financial control bodies, etc.) at these events.

Procedural actions such as reports of a crime are carried out on a request for international legal assistance received by the prosecutor's office or another body, and cases can also be investigated (Pp. 158-160).

Within the framework of the above procedural actions in the territory of the GFR, legal assistance is provided in the search for "criminal assets".

It should be noted that if "criminal assets" are acquired as a result of various tax or customs crimes, the actions of their search are transferred to the federal tax police of the GFR or the anti-smuggling departments of customs authorities. These bodies have the same rights and obligations as police officers in accordance with the CPSU of the GFR in the direction of investigation, while investigators from the anti-smuggling departments, in addition, are considered employees of the state prosecutor's office.

The international legal aid in criminal cases Act (IRG) allows for the misappropriation of funds and seizure of property in order to ensure that they are kept safe, as long as the GFR believes that there are grounds for JPG norms, cash or property to be confiscated in accordance with future court judgment.

The procedural actions of seizure and delinquency of assets for the purpose of compensating for other deductions in the history of the fine and in the criminal proceedings are carried out at the direction of the District Court of first instance, based on the petition of the prosecutor. In the case of non-deferred cases where assets may be alienated, asset forfeiture and misdemeanor procedural actions may be





conducted on the prosecutor's instructions, but subject to the filing of a petition to the court for confirmation of his statement within a week.

With the aim of ensuring the safe storage of assets, the seizure consists in preventing their alienation and is carried out as follows, regardless of the form of ownership (JPK Article 111:

1. If the origin of the asset is income from criminal activity or the specific object must be confiscated, it is necessary to withdraw the assets from the owner and place them in the police office;
2. Movable property is seized sealed or otherwise enclosed;
3. Correspondence of a land plot is carried out by making records about it in a document confirming land ownership, and correspondence of other real estate (residential, etc.) is made by entering it in the court register;
4. Confiscation of ships, shipbuilding enterprises and air transport is carried out by making appropriate entries in the court register, the shipyard register or the collateral register of air transport.

It is also implied that the seized (implied) asset may be given by the owner for the purpose of having its value paid or used until the end of the process.

The misrepresentation of property and funds consists in the Prohibition of any operas associated with them (CPC article 111d). In certain circumstances, the injunction imposed may be lifted on the grounds that the defense, in accordance with the defendant's complaint, is in need of his own and his family's support.

Assets seized and exchanged before the judgment of the court comes into law can be sold in the following cases, in which money is confiscated (CPC article 111l:

1. Long-term storage of an asset leads to its degradation (e.g. food nausea);
2. If long-term storage of an asset leads to a significant decrease in its value;
3. When the long-term storage of an asset is inconsistent with its value.

GFR also provides that article 111k CPC shall be issued to the victim as a measure to secure the claim if the seized and correspondence movable property belonging to the suspect or defendant in a criminal case is not necessary in the case.

Under the GFR "International Legal Aid in Criminal Cases Act" (IRG), several options for the provision and confiscation of "criminal assets" are envisaged:

1. By fulfilling a request to detain a person who is on the territory of a foreign state, objects of evidential importance directly related to a criminal case can also be presented without a request if they are acquired by a suspect, accused or a partner of it (s) as a result of the crime. A notable aspect is that the provision of assets is not excluded even when a person is refused withholding.



In the event of a complaint by a suspect, defendant, or partner of u (s), the case is heard by the Supreme regional court based on the petition of a person whose rights are violated in the presentation of a prosecutor's petition or "criminal asset".

When presenting an asset for further confiscation, a search is allowed to be carried out in accordance with the decision of the court or the prosecutor, the search is viewed by the court in a separate proceedings within the framework of the seizure case.

2. The provision of assets acquired as a result of criminal activity and of evidential importance for the case based on the request is decided in the above order. However, the request of the competent authority must also be accompanied by substantiated documents that the assets should be seized in the event that they are located in the requesting state (decision, court order, ruling, etc.).

3. The decision of the foreign state court on confiscation is allowed to be executed in relation to the following assets of other categories specified in the GFR jpk:

- income received as a result of criminal activity;
- assets from income received as a result of criminal activity;
- the amount of money that corresponds to the value of the asset acquired in return for the income received as a result of criminal activity, if it is not possible to withdraw the asset itself due to damage or destruction;
- items used or intended to commit a crime or prepare for it;
- items used in the commission of a crime or intended for this purpose.

The following cases are also taken into account when executing a request for confiscation of "Criminal Assets" in the GFR:

1. Criminal liability must also be provided for under GFR law, based on the legally entered into force verdict of the foreign state court "Criminal Assets";

2. If there is no decision on the transfer of property or property in favor of other persons in the civil-legal procedure in relation to the asset subject to confiscation.

The request for legal assistance in the execution of the sentence of a foreign court on confiscation in the territory of the GFR is received by the Corresponding Regional Court of the territory where the confiscated property is located.

It confirms that there are no claims of third parties to the property to be confiscated in the first place. If available, the court will review them and make a decision.

If the party or person who makes their claim provides reliable information that until the court decision on confiscation comes into legal force in a foreign state, they have the right to what will be confiscated and cannot participate in the proceedings in the prescribed manner, they are entitled to apply for a request to consider the case anew in order to find Having considered this petition, the court does not check the conviction, but makes a decision to delay its execution in this part and sends the



relevant materials to the competent authorities of the Requesting Party for verification, decision-making and submission of additional documents.

Based on the peculiarities of the legislation and practice of the GFR, attention should be paid to:

1. The court decision to make a "criminal asset" a letter or a mosoadar can be made on the basis of consular exequatura (consent of the state in which the consular institution is located), according to the requirements of Article 48 of the law "On international legal assistance in criminal cases" (IRG). In this case, it does not matter whether the request for international legal assistance was carried out in criminal, civil or administrative cases, and whether the judicial verdict entered into legal force.
2. The decision of the foreign state court on confiscation must have been made within the framework of a criminal case.

According to Article 49, There are also the following three requirements for the enforcement of the request for international legal assistance in the issue of musoadara in the territory of the GFR:

- the mandatory legal force of a court decision;
- compliance with the requirements of relevant European conventions;
- Even under the legislation of the GFR, an error or confiscation of the case must be provided for.

A special place in the issue of returning "criminal assets" from foreign countries, along with correspondence or confiscation, is also occupied by the issue of disposing of assets that are undoubtedly confiscated. A special place in the issue of returning "criminal assets" from foreign countries, along with correspondence or confiscation, is also occupied by the issue of disposing of assets that are undoubtedly confiscated.

According to Section 56 of the "international legal aid in Criminal Matters Act 1 (IRG)", it is established that it has the right to seek mutual legal assistance in confiscation to return "criminal assets" to its country of origin. However, if the GFR provides such assistance, this usually leads to the transfer of confiscated property in favor of the GFR (not the country of origin). It does not provide for asset allocation. In accordance with GFR Criminal code, the right of possession of property or the right of confiscation and possession under the relevant foreign court decision passes to the requesting state when the decision is executed in legal force.

One of the similar systems of law within the Romano-german family of law is the legislation of the Republic of Austria (which is next referred to as Austria).

Despite the fact that Austria attaches great importance to international treaties in regulating international legal aid in criminal cases, all their actions are carried out through national legislation and cannot go beyond its scope. In this regard, the basis





for providing international legal assistance in the search, correspondence and confiscation of "Criminal Assets" is, above all, the norms of material law.

According to the Austrian Criminal Code, there are the following measures of influence on the return to "criminal assets": 1. Withdrawal of income from criminal activity (any asset or income) (Article 20. withdrawal of income); 2. confiscation as one of the types of criminal penalties for any economic crime or crime committed by a criminal group (articles 20b, 26, 144-148, 278 and 279).

In accordance with Article 143 of the Austrian Criminal Procedure Code, objects that are weapons of crime or are intended for this purpose, of evidential importance in a criminal case, objects that are prohibited for free circulation, must be seized and destroyed (drugs, ammunition, prohibited polygraph products, etc.) must be confiscated.

In accordance with the review of this article, the CPC serves the purposes of ensuring the preservation of confiscated evidence, the correspondence of property, the destruction of what and products prohibited from free circulation, and the execution of a court verdict.

According to Austrian CPC article 144A, when there are sufficient grounds for the confiscation of assets or objects, the following measures are used to ensure their safety: 1. The procedure for temporary disposal in order to ensure the safety of property or funds is established (Austrian CPC Article 259); 2. In order to obtain a movable property received and sold and otherwise alienated, a ban is imposed on it; 3. The right to bank accounts, to the production of one or another item in relation to legal entities, to the disposal of funds from the sale of items, is prohibited by a court decision; 4. A ban is imposed on the sale, write-off or foreclosure of movable property on the basis of a court decision.

According to the content of Articles 9 and 50 of the Federal law "On extradition and legal assistance in criminal cases", Austrian law enforcement has the right to provide legal assistance if its content does not extend beyond the scope of the Austrian Jpg, at the request of foreign courts, prosecutor's office or other competent authorities in the search, correspondence and confiscation of "Criminal Assets". According to the CPC, legal assistance is provided both in connection with the issuance and extradition of a person (Articles 25 and 41), without which it is impossible to carry out a holding or for objective reasons (Articles 25, 52).

The confiscation and transfer of these items to foreign law enforcement agencies is carried out even at the stage of investigation until the verdict on the case is issued, however, the decision on the confiscation must be approved by a foreign court or an Austrian court.





The issues of confiscation, execution of judgments of foreign countries and ensuring the safety of confiscated objects are regulated by the Austrian JPCG, allowing all procedural actions and operational-search activities provided for by this code to be carried out in the process of searching for "criminal assets". However, under Austrian law, in some cases, it is not allowed to carry out operational-search measures to ensure the safety of confiscated objects (if it can lead to the disclosure of a separate protected secret, in particular, state secrets CPC article 51).

According to the content of the decision of the Supreme Court of Austria of April 26, 1995, only Austrian law is used in the provision of international legal assistance on the territory of the country.

According to Section 56 of the law "On extradition and legal assistance in criminal cases", assistance is provided by Austria only when a request for international legal assistance is sent in written form. While this law does not impose a concrete requirement on the form and content of the request, it is necessary to comply with the following:

1. Legal assistance can be provided only when it is possible to assess the circumstances of the case from the content of the request for its provision and the necessary decisions and draw conclusions about the legal assessment of the action being investigated. In the survey, there should be references to the norms of the Criminal code applied by the state that carried it out or applied to the circumstances under investigation;
2. The request for the search of a person or premises, confiscation of property, search for telephone and postal-telegraph dispatches and correspondence should be accompanied by an original, certified copy or photocopy of the corresponding decision of the competent foreign state authorities;
3. If the Requesting Party does not submit a court decision, the request must contain explanations from the state competent authorities seeking legal assistance regarding compliance with all the requirements specified in the legislation.

In addition, there must also be the following guarantees when applying for legal assistance in the search, correspondence and confiscation of "Criminal Assets":

1. When the Austrian side also applies for legal assistance, the request is a guarantee of assistance;
2. Compliance with the warranty on the provision of return on assets transferred based on the relevant request, as well as the rights of dishonest third parties in relation to assets transferred, when the requested assets are born necessary in Austria.

According to the content of articles 139, 140, 143, 144 and 144A of the Austrian CPC, requests for search for "criminal assets" and legal assistance in correspondence



should be considered by the court of First Instance with a full assessment of all the evidence on the basis for conducting these actions.

In addition, Article 140 of the Austrian CPC contains a request that the person in question must be requested before conducting a personal search. In itself, this requirement implies that an interrogation statement is also attached to the request for legal assistance.

In order to send a request for legal assistance to Austria, diplomatic channels should usually be used unless otherwise provided by international treaties or agreements. In cases where there is a bilateral agreement, the foreign state is sent by the Ministry of Justice directly to the Austrian Federal Minister of justice for legal assistance, allowing direct communication between the ministries. In cases where there is no such agreement, copies of legal aid requests must be sent to the Federal Ministry of Justice as confirmation of formality through Interpol.

A request to provide legal assistance in cooperation through diplomatic channels was sent by the embassy of the requesting state with a note to the Austrian Foreign Ministry, and the ministry referred the request to the Federal Minister of Justice. The Federal Ministry of Justice Submits the request to the provincial or district courts for review after examining whether the request complies with the requirements of the Austrian law "on extradition and legal assistance in criminal cases".

After the court has decided that international legal assistance should be allowed, the request is made directly to the police, the prosecutor's office or the corresponding judicial investigator for enforcement.

The immediate executors of requests related to the search for "criminal assets" are the Economic police units of the Austrian Federal Police or prosecutor's office.

In the case of crimes committed by an organized criminal group, as well as those related to illegal enrichment, units to combat organized crime (EDOC) are involved in providing legal assistance.

The EDOC has broad powers in combating the legalization of income from criminal activities, and all banks and credit organizations must report suspicious contracts to the Edoc. For this purpose, special units are established in banks and credit organizations, and a duty unit is established within the EDOC to receive information around the clock.

In accordance with the Austrian JPK and the federal law "on extradition and legal assistance in criminal cases", the application of the norms of foreign state procedural legislation on the territory of Austria is not allowed.

The request for international legal assistance to the prosecutor's office or other competent authority should be considered as a basis, such as an examination on the





news of the crime, and the circumstances of the case should be checked. The examination can be carried out by the prosecutor's office or with the help of the police. In accordance with Article 26 of the Federal law "on extradition and legal assistance in criminal cases" for obtaining information and documents constituting a bank or other commercial (personal) secret, for correspondence, the court of First Instance on criminal cases has the right to issue an order on the results of consideration of documents submitted by the jury and on the results of The search is carried out in this order.

In accordance with the content of Article 26 of the federal law "on extradition and legal assistance in criminal cases" in the disclosure of information that constitutes a bank or other commercial (personal) secret, the obligation to comply with the secret is canceled during a judicial investigation, and the beginning of a judicial investigation in accordance with Article 83 of the In this case, other procedural actions are carried out by the acting body directly without a court decision.

In the following criminal cases, the decision on confiscation by Austria on the request of the Competent Authority of a foreign state to provide international legal assistance is not enforceable : 1) in the political and military sphere; 2) in connection with violation of the rules of taxation, customs rules and foreign exchange operations in foreign trade (Articles 14 and 15). Except for crimes committed within a foreign state. The issue of providing legal assistance in the enforcement of a foreign court's decision on the confiscation in Austria of the territory where the "criminal asset" is located is also considered by the court of first instance in open court with the participation of the prosecution and, if necessary, a lawyer, along with other cases of this case.

When the decision is made by the Austrian court to recognize the decision of a foreign state court, the court makes a petition about it, attaching the necessary documents to the Federal Minister of Justice.

In cases where the Federal Minister of Justice finds it necessary, the court may request relevant documents and explanations.

After that, the Federal Minister of Justice, having informed the relevant body of a foreign state about this, instructs the competent authorities on the provision of legal assistance. It also provides information on the execution of the request to the relevant body of a foreign state.

When legal assistance is provided by enforcing the decision of a foreign court, all assets that must be confiscated are transferred in favor of the state. The foreign state is entrusted with funds, property and objects received as a result of committing a crime.





While researching the issue of the origin of "criminal assets", we found it necessary to dwell on the legislation of the Swiss Confederation (next – referred to as Switzerland), which has long been one of the banking centers of the world, in this area, since a significant part of the "criminal assets" withdrawn from Uzbekistan are precisely in this state.

Switzerland has one such difficult state structure, consisting of twenty-six cantons (member states), with each canton having its own basic law (similar to the Constitution), Legislature (Parliament), government and courts . This indicates the existence of federal and cantonal legislation.

The basis of Switzerland for providing international legal assistance is primarily established in the Constituent Assembly of the Confederation, according to which the determination of the procedural rules of interstate cooperation between law enforcement agencies and courts in the process of criminal proceedings falls within the exclusive competence of the Federal Assembly of the Supreme federal Authority of the Swiss Confederation.

The norms of material law of the mechanisms for the return of "criminal assets" are given in the Swiss Criminal Code.

In the Swiss Confederation, the procedural procedure for the search, delinquency (seizure) and confiscation of "Criminal Assets" is established by the Swiss Criminal Procedure Code the Federal law "On administrative judicial proceedings", "On the organization of the judiciary", the Federal law "On combating money laundering in the financial sectors" and several legislation on real estate, securities, banking, finance and exchange activities.

The Criminal-Procedural Law of Switzerland and the cantons provides for a procedural procedure in the search, correspondence (seizure) and confiscation of "Criminal Assets" as follows:

1. Search for funds and property directly through the implementation of investigative procedural actions or perform the tasks provided by the court. Based on the decision or instruction of the court, as in most European states, information is claimed, interrogated, facetized, examined, seized, searched, and other procedural actions.
2. Documents that can be used as material evidence in a criminal case (status: "written (withdrawn) to verify), objects and values, or documents, objects and values acquired as a result of committing a crime;
3. Any documents, objects, and valuables that have been mailed (withdrawn) in a criminal case may be held at the disposal of the relevant law enforcement agency or court until the final deadlock on the case (judgment or conclusion of the investigation). In this case, the recorded items are allowed to be stored at their





location or in places intended for storage, based on the decision of the court or the relevant law enforcement agency.

4. The rights of dishonest owners of confiscated assets are also protected. Restitution, i.e. return to the owner, should the person (as well as third parties) provide reasonable evidence (in particular, documents) confirming the right of ownership in relation to the confiscated asset.

Since Swiss legislation cannot fully cover the fight against crime at the international level, along with national legislation, the European Convention on mutual legal assistance in criminal cases of 1959 applies to the search, detection, correspondence and confiscation of "Criminal Assets". Switzerland was added to this convention from 1967 with conditions permitting it to refuse to provide legal assistance if other comprehensive requirements arise (such as conducting investigative actions in banks).

The documents that initiated a mutual agreement in the sphere of states are the agreement "On mutual legal assistance in criminal cases" with the United States of Switzerland, which was the first between continental European and Anglo-American States, entered into force from 1977. The main difficulties in the development of this document were the discrepancies between the secrecy of the bank under Swiss banking law and the US investigative actions. It even coincided with the formation of letters of guarantee between the two states in order to moderate the desire of US courts to obtain information that goes beyond the agreement and is not disclosed.

At the same time, the European Convention of August 11, 1990 "On the laundering, detection, seizure and confiscation of money received from criminal activity" was ratified in Switzerland on November 5, 1993.

According to Beat Frey, head of the International Legal Aid Department of the Swiss Federal Police Department, there are three exceptional cases when providing legal assistance regarding tax violations:

- a) if the request for the provision of legal assistance is sent within the framework of the work carried out on issues of justification of the person;
- b) if the request was sent by the United States, within the framework of the case against the criminal criminal criminal association operating (operated) on the territory of the same state;
- c) the objective aspect of the crime to which the request is sent is if it corresponds to the crime of tax fraud in Switzerland.

Having fulfilled the request for the provision of Swiss international legal assistance and sending the relevant documents and assets to the requested state, the Federal Police Department of the Department of Justice and the police of the Swiss





Confederation send a written document on behalf of the state. It explains how to use the help results shown in it and focuses on inappropriate ways to use the help results shown in terms of Swiss law.

All requests by Switzerland for the seizure (seizure) or confiscation of "criminal assets" from Switzerland, either by a foreign state, are made to the Federal Police Department of the Department of Justice and through the Swiss Confederation Police. The search for "criminal assets" is carried out by investigators of the police authorities, judges of the investigation and employees of the Federal prosecutor's office.

While Japan does not have a special law norm regarding the return of "Criminal Assets" to the state of origin, Article 9 of the Criminal Code provides for the issue of confiscation as an additional punishment.

According to Article 19 of the Criminal code, the following may be confiscated:

1. objects that are considered an integral element of crime;
2. objects used or intended for the commission of a crime;
3. material values arising from the commission of a crime, acquired or acquired in exchange for the commission of a crime;
4. any assets received (exchanged) in exchange for the objects specified in the above items.

The confiscation of an asset is carried out if it belongs to the person convicted of the case, and can also be confiscated if, after the start of the crime, the person has alienated the asset and the buyer (or otherwise the recipient) has information about the illegality of the asset.

When an asset cannot be confiscated, its equivalent value is also allowed to be confiscated (Article 192 CC). Also, in Japan, confiscation is carried out in civil order. In accordance with Law No. 69 of 1980 "On international legal assistance in conducting investigations and other matters", international legal assistance is allowed to be provided to the competent authorities of a foreign state.

In recent years, some positive work has been carried out among the states of the Commonwealth of independent states on the issues of returning "criminal assets" in the Republic of Kazakhstan, in particular, the formation of a normative-legal and organizational base.

In particular, Article 48 of the Criminal Code of Kazakhstan included the Institute of confiscation, the procedure for conducting confiscation proceedings, which is considered the main tool in the return of Criminal Assets issued abroad in Chapter 71 of the Criminal Procedure Code, international cooperation in the field of criminal proceedings in Section 12, The Return of illegally found property in articles 25-26 of the "Anti-corruption law",





In accordance with the Criminal Code of Kazakhstan, if it is not possible to confiscate assets as a result of alienation or destruction, it is allowed to confiscate funds or other asset corresponding to its value.

In Kazakhstan, the prosecutor's office has the necessary powers as a central body in the Proceedings of criminal justice (CPC article 559). The prosecutor general's office or authorized prosecutor of the Republic of Kazakhstan makes requests (orders, petitions) to provide legal assistance in the implementation of procedural actions requiring the sanction of the investigative judge (court), criminal prosecution, extradition of persons. It also considers the recognition of judgments, enforcement and the relevant requests of foreign competent authorities.

The procedure for conducting a case of confiscation of illegally obtained property before the sentencing in Kazakhstan is also established (articles 667-672 of the CPC).

In Kazakhstan, the organizational mechanisms of the issues of repatriation of "criminal assets" from abroad were further strengthened. By Resolution No.908 of the President of the Republic of Kazakhstan, the commission for the fight against illegal concentration of economic resources was established. The main task of this commission is to return the proceeds illegally smuggled out of the territory of the country.

In Kazakhstan, in order to later confiscate assets, haam was envisaged on the issues of freezing measures, using the capabilities of the Financial Intelligence Units "Egmont", the information exchange networks "Karin" and "Arin AP". These were joined by the World Bank and the UN narcotics and crime management initiatives (Star). Today, a draft law "on the state return of illegally acquired assets" has been developed and is widely discussed in Kazakhstan.

We consider it appropriate to consider the issues of improving the criminal and criminal procedure codes of the Republic of Uzbekistan in order to develop the processes of Return of "Criminal Assets" based on the international framework mentioned and the advanced experience of foreign countries.

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