

Ferdinand and Imelda Marcos (Switzerland)

Case ID:

ARW-61

Jurisdiction of Origin of Public Official or Entity Allegedly Involved:

Philippines

Position of Public Official(s) (yrs in office):

President (F. Marcos, 1965-1986); First Lady, Governor of Metro Manila and Minister of Human Settlements (I. Marcos. Governor and Minister from 1978-1986)

Jurisdiction of Asset Recovery:

Switzerland

Jurisdiction of Asset Recovery ? Description:

Undertaking Recovery Effort, Location of Recovery Effort, Asset Location / Alleged Asset Location

Asset Recovery Start:

1986

Asset Recovery End:

2004

UNCAC Offenses Implicated:

Art.15

Art.16

Art.17

Art.18

Art.19

Art.20

Art.23

Money laundering Implicated:

Yes

Legal Basis for Asset Recovery:

Actions Initiated by Foreign Jurisdiction

Basis for Intl Cooperation:

International Mutual Assistance in Criminal Matters

Contributing Factors in Asset Recovery:

First case under the Federal Act on International Mutual Assistance in Criminal Matters (IMAC) enacted in January 1983 (Source: Stolen Asset Recovery Initiative Case Study, "Ferdinand Marcos"; Voluntary reporting of Marcos assets by Swiss banks immediately after the Marcoses fled the Philippines which led to automatic freezing of the reported funds; International Mutual Assistance in Criminal Matters (Switzerland) (Source: Jovito R. Salonga, Presidential Plunder: The Quest for the Marcos III-Gotten Wealth (Regina Publishing, 2000).

Status of Asset Recovery :

Completed

Agreement for Returned Assets:

Yes

Agreement for Returned Assets - Description:

Monies returned from Switzerland were to be used for the Agrarian Reform Fund and to establish a human rights victims fund; Responsibility for monitoring was placed with the

Committee on Audit of the Republic of the Philippines. (Source: Republic of the Philippines, Commission on Audit, Management Services Report No. 2006-01, "Utilization of the Forfeited Swiss Deposits for the Implementation of the Comprehensive Agrarian Reform Program (CARP)).

Case Summary:

In 2004, Switzerland released \$683 million in funds to the Philippines Treasury, following a July 2003 Philippine Supreme Court decision ordering forfeiture of the Marcos Swiss deposits. The \$683 million represents sum of the \$356 million frozen and accumulated interest. (Source: Merceditas Gutierrez Ombudsman, Republic of the Philippines, "Ferdinand E. Marcos (Philippines): A Case Study," in ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Asset Recovery and Mutual Legal Assistance in Asia and the Pacific, Proceedings of the 6th Regional Seminar on Making International Anti-Corruption Standards Operational (Bali, 5-7 September 2007.) As stated in the Swiss Federal Office of Justice Press Release of August 5, 2003, "The Marcos case began in 1986 when the Federal Council ordered bank accounts to be frozen. In 1990, the Swiss Federal Supreme Court approved the handover to the Philippines of bank documents relating to the Marcos family, but ruled that the actual return of assets would be conditional upon a final and absolute judgment by a Philippine court. In 1997, the Court established that the majority of the Marcos foundation assets were of criminal origin and permitted their transfer to an escrow account in Manila, even though no Philippine court ruling had yet been issued. The Swiss Federal Supreme Court set two conditions for this advance transfer, however. The Philippines had to provide an assurance that the confiscation or repayment of the assets in question would be handled through judicial proceedings that complied with the principles of the International Civil and Political Rights Pact, and the Philippine government also had to undertake to brief the Swiss authorities regularly on the judicial confiscation and repayment proceedings, as well as on the precautions and procedures pertaining to compensation for victims of violations of human rights under the Marcos regime. / No further decision required from Swiss authorities / Once the Federal Office of Justice (at the time: the Federal Office of Police Matters) had declared the guarantee given by the Philippines to be satisfactory and the Swiss Federal Supreme Court had dismissed appeals against the ruling, the assets could be transferred in 1998 to an escrow account with the Philippine National Bank in Manila. Following the confiscation ruling of the Philippine Supreme Court on 15 July 2003, which confirmed the view of the Swiss Federal Supreme Court with regard to the criminal origin of the monies seized, the Philippine government may now dispose of the assets, worth some USD 683 million. No further decisions are due on the part of the Swiss authorities. The Philippine parliament is currently debating legislation under which the Marcos assets would be used for land reform and to compensate the victims of human rights violations." (Source: Federal Office of Justice Press Release, "Philippines given access to over USD 683 million / Confiscation ruling closes Marcos case," August 5, 2003.)

Following the August 2012 Singapore Court decision (and in New York in the Arelma Deposit case), the PCGG stated, "Considering these positive developments in 2012, the Commission decided to remit a portion of the [Contingency/Litigation Fund ? specifically US\$10 million or PhP422.83 million ? to the Bureau of the Treasury. (Source: PCGG Annual Report 2012)

In February 2013, the Human Rights Victims Reparations and Recognition Act was approved, creating an independent Human Rights Victims' Claims Board to administer a compensation fund of P10 billion (US\$230.8 million) for Marcos era human rights victims. (Source: Republic Act 10368, AN ACT PROVIDING FOR REPARATION AND RECOGNITION OF VICTIMS OF HUMAN RIGHTS VIOLATIONS DURING THE MARCOS REGIME, DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES,

at <http://www.gov.ph/downloads/2013/02feb/20130225-RA-10368-BSA.pdf>). In November 2014, the Philippines legislature passed Joint Resolution 16, extending to May 2015 the deadline for victims to file claims. (Source: Senate of the Philippines, "Bill passed to give martial law victims more time to file claims; ethnic origin to be included in national census," November 18, 2014, at https://www.senate.gov.ph/press_release/2014/1118_prib1.asp).

Disposition of Criminal Case(s):

A trial in the U.S. District Court for the Southern District of New York on criminal racketeering and fraud charges concluded in an acquittal for Mrs. Marcos. Mr. Marcos had also been indicted in the case, but the court had deemed him too ill to stand trial. (Sources: US v. Tantoco, et al, Case No. 1-87-cr-598-JFK (S.D.N.Y.), Docket Report accessed on January 2, 2011 and Indictment of October 22, 1988, obtained from US National Archives; Craig Wolff, "The Marcos Verdict; Marcos Is Cleared of All Charges In Racketeering and Fraud Case," New York Times, July 3, 1990.) On April 21, 2010, the GMA News reported that "According to records of the Philippine anti-graft court Sandiganbayan as of 2005, Mrs. Marcos continues to face 11 criminal charges and 25 civil cases." (Source: Sophia Regina M. Dedace, "Imelda Marcos and her road to vindication," GMA News, April 21, 2010, accessed at [http://www.gmanews.tv/story/188960/imelda-marcos-and-her-road-to-vindica....](http://www.gmanews.tv/story/188960/imelda-marcos-and-her-road-to-vindica...))

Jurisdiction of Origin: Investigative Agency:

Presidential Commission on Good Government

Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):

Presidential Commission on Good Government

Jurisdiction of Origin: Courts Involved:

Sandiganbayan; Supreme Court of the Republic of the Philippines

Jurisdiction of Asset Recovery: Investigative Agency:

Federal Office of Justice

Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):

Unspecified

Jurisdiction of Asset Recovery: Courts Involved:

Federal Supreme Court

Documents:

Marcos_Imelda_Road_Vindication_GMANEWS_Apr_20_2010.pdf

Marcos_Ombudsman_Case_Study_ADB_2007.pdf




Marcos_Switzerland_BGER_125_II_411.pdf

Marcos_Switzerland_Sandiganbayan_Jul_15_2003.rtf

Marcos_Switzerland_StAR_Briones_Case_Study.pdf

Marcos_Switzerland_US683M_EJPD_PR_Aug_5_2003.pdf

Documents:

Attachment	Size
 PCGG_Annual_Report_2012.pdf	6.07 MB
 Marcos_Phil_Reparations_Act_20130225-RA-10368-BSA.pdf	1.89 MB
 Marcos_Phil_Joint_Resln_16_Nov_2014.pdf	88.57 KB

Other Sources:

Merceditas Gutierrez, Ombudsman, Republic of the Philippines, "Ferdinand E. Marcos (Philippines): A Case Study," in ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Asset Recovery and Mutual Legal Assistance in Asia and the Pacific, Proceedings of the 6th Regional Seminar on Making International Anti-Corruption Standards Operational (Bali, 5-7 September 2007), accessed at <http://www.adb.org/Documents/Books/Asset-Recovery/Asset-Recovery.pdf>;

Swiss federal court decisions, including 125 II 411 (1999 decision on Marcos case and request for judicial assistance by Philippines), as contained in [assetrecovery.org](http://www.assetrecovery.org) case study on Marcos; Swiss Federal Office of Justice Press Releases including, "Philippines given access to over USD 683 million," August 5, 2003, at http://www.ejpd.admin.ch/content/ejpd/en/home/dokumentation/mi/2003/ref_... Republic of the Philippines v. Sandiganbayan, Ferdinand E. Marcos, and others, Republic of the Philippines Supreme Court. G.R. No. 152154, Judgment of July 15, 2003 (Supreme Court of the Republic of Philippines decisions can be accessed at: <http://www.worldlii.org/ph/>); please see also case study by Professor Leonor Briones, in "Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan," at 21; Jovito R. Salonga, *Presidential Plunder: the Quest for the Marcos III-Gotten Wealth* (U.P. Center for Leadership, Citizenship and Democracy & Regina Publishing Co. 2000); PCGG Annual Report 2012;

Philippines Republic Act 10368, Human Rights Victims Reparation and Recognition Act, at <http://www.gov.ph/downloads/2013/02feb/20130225-RA-10368-BSA.pdf>; Senate of the Philippines, "Bill passed to give martial law victims more time to file claims; ethnic origin to be included in national census," November 18, 2014, at https://www.senate.gov.ph/press_release/2014/1118_prib1.asp;

Sophia Regina M. Dedace, "Imelda Marcos and her road to vindication," GMA News, April 21, 2010, accessed at <http://www.gmanews.tv/story/188960/imelda-marcos-and-her-road-to-vindica...>