

## Lesotho Highlands Water Project (Germany)

**Case ID:**

ARW-114

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Germany

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

Chief executive of the Lesotho Highlands Development Agency (Masupha Ephraim Sole, 1986-1995) and former delegates of Lesotho on the Highlands Water Commission (Reatile Mochebelele and Letiafua Molapo); Acres International Limited (Canada); Lahmeyer International GmbH (Germany); Impregilo SpA (Italy); Jacobus Michiel Du Plooy (Impregilo intermediary); Spie Batignolles (France)

**Jurisdiction of Asset Recovery:**

Lesotho

**Jurisdiction of Asset Recovery ? Description:**

Undertaking Recovery Effort, Location of Recovery Effort

**Asset Recovery Start:**

1999

**Asset Recovery End:**

2004

**UNCAC Offenses Implicated:**

Art.16

**Money laundering Implicated:**

No

**Legal Basis for Asset Recovery:**

Criminal Prosecution; Criminal Fine

**Intl.Cooperation: MLAT/Letter of Request?:**

Unknown

**Basis for Intl Cooperation:**

NA

**Contributing Factors in Asset Recovery:**

Successful collaboration of OLAF [European Anti-Fraud Office] in prosecuting the European companies involved; mutual legal assistance from Switzerland in the prosecutions (Source: LL Thetsane and GH Penzhorn SC, "Case Study: The Lesotho bribery prosecutions," presented at Conference on the Protection and Optimization of Public Funds - the Cooperation between National and International Authorities, Rabat, May 14-16, 2007); World Bank investigation and debarment of involved companies, Acres International and Lahmeyer International GmbH (Source: World Bank, "World Bank Sanctions Lahmeyer International for Corrupt Activities in Bank-Financed Projects," Press Release No: 129/2007/INT, November 6, 2006, which noted "Once the indictments [in the case] were announced in mid-1999, the World Bank provided extensive evidentiary support to the Lesotho prosecutors and made bank staff available for interviews.")

**Status of Asset Recovery :**

Completed

**Agreement for Returned Assets:**

No

**Agreement for Returned Assets - Description:**

N/A

**Case Summary:**

On April 7, 2004, Lahmeyer International GmbH (Germany)'s conviction was upheld by the Lesotho Court of Appeal and fined R12 million. (Source: In the Matter between Lahmeyer International GmbH (Appellant) and The Crown (Respondent), C of A (CRI) 6 OF 2002 (April 7, 2004)). The case arose out of the Lesotho Highlands Water Project, which the Lesotho Court of Appeal as "[0]ne of the biggest and most ambitious dam projects in the world, which entailed inter alia the construction of the Katse Dam in a remote and inaccessible part of the highlands of Lesotho." (Source: In the matter between: Ephraim Masupha Sole and The Crown, Lesotho Court of Appeals, Case (CRI) 5 OF 2002, Judgment dated April 13, 2003). According to the 2003 Lesotho Court of Appeal judgment, the High Court of Lesotho had found Masupha Ephraim Sole, chief executive of the Lesotho Highlands Development Agency, guilty of accepting bribes from various multinational companies that were attempting to secure contracts related to the project. In an earlier dispute involving Mr. Sole, the government hired Ernst and Young, whose audit discovered that Mr. Sole had Swiss bank accounts into which the project contractors and consultants had placed large sums of money. Four multinational companies were convicted or pleaded guilty in the case, including Acres International Limited. (Please see Lesotho Highlands Water Project entries.)

**Disposition of Criminal Case(s):**

According to the Lesotho Court of Appeal, Mr. Masupha Ephraim Sole, chief executive of the Lesotho Highlands Development Agency, was found guilty of accepting bribes from various multinational companies in connection with the Lesotho Highlands Water Project. (Source: In the matter between: Ephraim Masupha Sole and The Crown, Lesotho Court of Appeals, Case (CRI) 5 OF 2002, Judgment dated April 13, 2003). According to the Lesotho Court of Appeal, two other Lesotho officials, Reatile Mochebelele and Letiafua Molano, were also found guilty of accepting bribes. (Source: R v Mochebelele and Another (C of A (CRI) 02/08) [2008] LSCA 30 (17 October 2008)). Four foreign companies were convicted or pleaded guilty in Lesotho to corruption related charges: Acres International Limited (Canada); Lahmeyer International GmbH (Germany); Spie Batignolles (now Schneider Electric SA, France), and Impregilo SpA (Italy) (and Jacobus Michiel Du Plooy (Impregilo intermediary). (Sources: In the matter between: Schneider Electric S.A. (formally Spie Batignolles) (Applicant) and Director of Public Prosecutions (Respondent), High Court of Lesotho, CRI/APN/751/2003; In the Matter between Lahmeyer International GmbH (Appellant) and The Crown (Respondent), C of A (CRI) 6 OF 2002 (April 7, 2004); Crown v Impregilo Spa (Registration Number 104217) Tribunal of Milan (CRI/T/174/2004 CIV/APN/437/05) [2006] LSHC 48 (3 February 2006); and Acres International Limited v The Crown, Lesotho Court of Appeal, case number C of A (CRI) 8 of 2002. Judgment of August 15, 2003.)

**Jurisdiction of Origin: Investigative Agency:**

European Anti-Fraud Office (OLAF)

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

Director of Public Prosecutions of Lesotho

**Jurisdiction of Origin: Courts Involved:**

High Court of Lesotho; Court of Appeal of Lesotho

**Jurisdiction of Asset Recovery: Investigative Agency:**

European Anti-Fraud Office (OLAF)

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

Director of Public Prosecutions of Lesotho

**Jurisdiction of Asset Recovery: Courts Involved:**

High Court of Lesotho; Court of Appeal of Lesotho

**Documents:**

Lesotho\_Highlands\_EU\_Anti\_Fraud\_Case\_Study\_Thetsane\_Penzhorn\_May\_2007.pdf

Lesotho\_Highlands\_Ipocafica.org\_Docs\_List\_Oct\_2010.pdf

Lesotho\_Highlands\_Lahmeyer\_Intl\_Appeals\_Ct\_6\_OF\_2002.pdf

Lesotho\_Highlands\_OLAF\_Press\_Release\_Oct\_3\_2006.pdf

Lesotho\_Highlands\_OLAF\_Press\_Release\_Oct\_3\_2006.pdf

**Documents Links:**

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Lesotho\\_Highla...](http://www1.worldbank.org/finance/star_site/documents/arw/Lesotho_Highla...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Lesotho\\_Highla...](http://www1.worldbank.org/finance/star_site/documents/arw/Lesotho_Highla...)

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[http://www1.worldbank.org/finance/star\\_site/documents/arw/Lesotho\\_Highla...](http://www1.worldbank.org/finance/star_site/documents/arw/Lesotho_Highla...)

**Other Sources:**

In the Matter between Lahmeyer International GmbH (Appellant) and The Crown (Respondent), C of A (CRI) 6 OF 2002 (April 7, 2004), accessed at

<http://www.saflii.org/ls/cases/LSHC/2004/60.pdf>; In the Matter between Ephraim Masupha Sole and the Crown, in the Appeal Court of Lesotho, C. of A. (CRI) 5 of 2002, CRI/T/111/91, Judgment dated April 13, 2003; "Case Study: The Lesotho bribery prosecutions," Paper presented by LL Thetsane and GH Penzhorn SC, at the Conference on the Protection and Optimization of Public Funds - the Cooperation between National and International Authorities," Rabat, May 14-16, 2007. World Bank, "World Bank Sanctions Lahmeyer International for Corrupt Activities in Bank-Financed Projects," Press Release No:

129/2007/INT, November 6, 2006, accessed at

<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21116129~pag...>

European Anti-Fraud Office Press Release, "Three European Companies Guilty in African Aid Fraud Case," October 3, 2006, accessed at [http://ec.europa.eu/anti\\_fraud/cases/aid\\_en.html](http://ec.europa.eu/anti_fraud/cases/aid_en.html). Lesotho Highlands Water Project, at <http://ipocafica.org> which also provides a list and links to relevant documents.