

## Vladimiro Montesinos (Switzerland)

**Case ID:**

ARW-195

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

Peru

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

De facto chief of intelligence and main advisor of former Peruvian President Alberto Fujimori (1990?2000)

**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:**

2000

**Asset Recovery End:**

2002

In part

**UNCAC Offenses Implicated:**

Art.15

Art.16

Art.17

Art.18

Art.23

**Money laundering Implicated:**

Yes

**Legal Basis for Asset Recovery:**

Actions Initiated by Foreign Jurisdiction

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

MLAT

**Basis for Intl Cooperation:**

International Mutual Assistance in Criminal Matters

**Contributing Factors in Asset Recovery:**

"The return of the assets in the Montesinos case was made possible by efficient cooperation between the Swiss and Peruvian authorities and in particular by Swiss laws against money laundering. On the basis of an obligation arising from the Money Laundering Act, the banks informed the Money Laundering Reporting Office at the Federal Office for Police Matters in October 2000 about the assets belonging to Montesinos and Hermoza Rios. The Money Laundering Reporting Office forwarded this information immediately to the Examining Magistrate's Office IV Canton of Zurich, which blocked the funds and initiated a criminal investigation. The knowledge gained in Zurich was transferred by the Federal Office for Justice to the Peruvian judicial authorities, which in turn made investigations and submitted the corresponding request for legal assistance to Switzerland."

**Status of Asset Recovery :**

Completed (in part) and Ongoing (in part)

**Stage in Asset Recovery Chain:**

Assets Returned to Victim or Requesting Jurisdiction (in part)

**Assets Frozen or Seized (USD):**

\$17,000,000

**Agreement for Returned Assets:**

Yes

**Agreement for Returned Assets - Description:**

Establishment of Special Fund for Management of Illegally Obtained Money against Interests of the State; a board comprised of representatives of Peruvian government agencies involved in the fight against corruption (Source: StAR Case Study, "Vladimiro Montesinos.")

**Case Summary:**

According to the Swiss Ministry of Foreign Affairs, as of September 30, 2009, \$93 million have been returned to Peru and \$17 million remain frozen. (Source: Swiss Ministry of Foreign Affairs, September 30, 2009.) An August 20, 2002 Swiss Federal Department of Justice press release had stated that, "The account at Banco de la Nacion del Peru at Citibank in New York today received a credit of 77.5 million US dollars from Switzerland. This consisted largely of the blocked assets of Vladimiro Montesinos Torres and the former Peruvian general, Nicolas de Bari Hermoza Rios. The investigations carried out by the Examining Magistrate's Office IV Canton of Zurich revealed that the funds belonging to Montesinos that were frozen in Switzerland (totalling 49.5 million US dollars) originated from corruption-related crimes. Since 1990 Montesinos received "commissions" on arms deliveries to Peru and had this bribe money paid to his bank accounts in Luxembourg, the USA and Switzerland. Montesinos received bribes for at least 32 transactions, each worth 18% of the purchase price. Montesinos also collected 10.9 million US dollars in "commissions" on the purchase of three MIG29 planes, bought by the Peruvian airforce from the state owned Russian arms factory "Rosvoorouzhenie". In return, Montesinos used his position to ensure that certain arms dealers were given preference when these orders were issued. On the basis of these facts, the Examining Magistrate's Office IV Canton of Zurich issued a decision on 12 June 2002 ordering the transfer of the assets belonging to Montesinos to Peru. This decision was not appealed and has since come into force. / Voluntary return / One of the arms dealers who enjoyed preferential treatment is voluntarily repatriating his commission from these transactions (7 million US dollars), hitherto held in Swiss bank accounts. General Nicolas de Bari Hermoza Rios also accepted bribes relating to arms deliveries to Peru. He too misappropriated funds from the military budget. All unlawfully obtained funds were ultimately paid into his bank accounts in Switzerland. Nicolas de Bari Hermoza Rios has agreed to this money (21 million US dollars) being returned to Peru." The press release also stated that, "In the Montesinos case, assets totalling 33 million US dollars remain blocked in Switzerland." (Source: Swiss Federal Department of Justice Press Release, "Switzerland transfers 77 million U.S. dollars to Peru," August 20, 2002.)

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

According to a case study by Professor Guillermo Jorge, as of September 2007, Mr. Montesinos had been convicted in 13 different trials and more than 70 trials were ongoing. (Source: Guillermo Jorge, "The Peruvian Efforts to Recover Proceeds from Montesinos's Criminal Network of Corruption," 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 Held in Bali, Indonesia, on 5-7 September 2007 and hosted by the Corruption Eradication Commission, Indonesia, accessed at <http://www.adb.org/Documents/Books/Asset-Recovery/Asset-Recovery.pdf>.)

**Jurisdiction of Origin: Investigative Agency:**

Office of the Special State Attorney for the Montesinos/Fujimori Case, Peru

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

Office of the Special State Attorney for the Montesinos/Fujimori Case, Peru

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

The Money Laundering Reporting Office at the Federal Office for Police Matters; Examining Magistrate's Office IV Canton of Zurich; Federal Office for Justice

**Documents:**

Montesinos\_Jorge\_Case\_Study\_ADB\_2007.pdf

Montesinos\_StAR\_Dumas\_Case\_Study.pdf

Montesinos\_Switzerland\_Court\_Decision\_129\_II\_462\_2003.pdf

Montesinos\_Switzerland\_EJPD\_Press\_Release\_Aug\_20\_2002.pdf

Montesinos\_Switzerland\_EJPD\_Press\_Release\_Nov\_3\_2000.pdf

**Documents Links:**

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_Jor...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_Jor...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_StA...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_StA...)

[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_Swi...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_Swi...)

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[http://www1.worldbank.org/finance/star\\_site/documents/arw/Montesinos\\_Swi...](http://www1.worldbank.org/finance/star_site/documents/arw/Montesinos_Swi...)

**Other Sources:**

Swiss Federal Supreme Court (BGE) decision, 129 II 462, 8 September 2003, posted as part of Montesinos case study at [www.assetrecovery.org](http://www.assetrecovery.org); Montesinos case: Swiss Federal Department of Justice Press Releases, "Switzerland transfers 77 million U.S. dollars to Peru," August 20, 2002, posted at

<http://www.bj.admin.ch/content/bj/en/home/dokumentation/medieninformatio...> and

"Montesinos Torres affair: U.S.D 50 million blocked in Switzerland, November 3, 2000, posted at [http://www.bj.admin.ch/content/bj/en/home/dokumentation/medieninformatio....](http://www.bj.admin.ch/content/bj/en/home/dokumentation/medieninformatio...)

Montesinos Case study by Victor A. Dumas, in "Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities and Tasks Ahead"; Professor Guillermo Jorge, "The Peruvian efforts to recover proceeds from Montesinos' criminal network of corruption," Background paper presented at the Asian Development Bank's Regional Seminar for Asia-Pacific, "Making international anti-corruption standards operational: Asset Recovery and mutual legal assistance," September 5-7, 2007 (Bali, Indonesia), at 1 and 23 and fn 56, accessed at

<http://www.adb.org/Documents/Books/Asset-Recovery/Asset-Recovery.pdf>.