

Zine El Abidine Ben Ali (Switzerland)

Case ID:

ARW-203

Jurisdiction of Origin of Public Official or Entity Allegedly Involved:

Tunisia

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

President (1987-2011)

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:

2011

Asset Recovery End:

Ongoing

UNCAC Offenses Implicated:

Art.17

Art.23

Money laundering Implicated:

Yes

Legal Basis for Asset Recovery:

Case in Investigatory/Asset Restraint Stage

Intl.Cooperation: MLAT/Letter of Request?:

MLAT

Basis for Intl Cooperation:

Mutual legal assistance

Contributing Factors in Asset Recovery:

Ongoing Case

Status of Asset Recovery :

Ongoing

Stage in Asset Recovery Chain:

Investigation/Asset Tracing/Asset Restraint

Assets Frozen or Seized (USD):

\$66,149,000

Agreement for Returned Assets:

Ongoing

Agreement for Returned Assets - Description:

N/A

Case Summary:

According to Swissinfo.ch. in April 2014, the Swiss Federal Prosecutor's Office announced that it would unfreeze US \$40 million being held in Swiss banks: "The decision is the result of good collaboration with the Tunisian authorities," Federal Prosecutor Michael Lauber told Swiss public radio, SRF, on Friday.

The Tunisian authorities were able to provide enough evidence to allow the monies, which were linked to Tunisia's former autocrat Zine el-Abidine Ben Ali, to be returned prematurely.

However, the decision is still not definitive, as an appeal could be lodged at the Federal Criminal Court.

The cabinet blocked around CHF60 million (\$68.5 million) in assets from Tunisia after the fall of Ben Ali in January 2011.

The Federal Prosecutor's Office hopes that the rest of the funds can also be returned soon. "There are other millions that are blocked in Switzerland. We are trying to go forward there as well," Lauber stated." (Source: Swissinfo.ch, "Swiss unfreeze \$40 million of Tunisian assets," April 11, 2014.)

According to a media release by the Swiss Federal Department of Foreign Affairs of January 19, 2011, the Swiss government announced that it had frozen assets connected to Mr. Ben Ali. The ordinances which originally applied for three years was further extended in 2014 for three additional years. (Source: Swiss Federal Department of Foreign Affairs Media Release, "Federal Council orders freeze of any assets held by former Tunisian President Ben Ali in Switzerland," January 19, 2011; Swiss Federal Department of Foreign Affairs, "Freezing of Assets: Tunisia", last updated April 28, 2016.) The Swiss government subsequently announced that it had received a request for assistance from Tunisian authorities, and the January 19th Special Ordinance was amended on January 28th and February 4 with an updated list of individuals whose assets are to be frozen. (Source: Swiss Ordinance, Verordnung über Massnahmen gegen gewisse Personen aus Tunesien, Änderung, February 4, 2011 (amending ordinances of January 28, 2011 and January 19, 2011.) According to a September 27, 2011 statement by the Swiss Federal Department of Foreign Affairs, "Soon after the overthrow of Ben Ali, Switzerland became the first country in the world to freeze the assets of persons associated with the regime. These total some 60 million Swiss francs. 'Returning illicit funds is our first priority, and is a core element in the support that Switzerland would like to provide for Tunisia's transformation process,' said Federal President Calmy-Rey before the conference [of the EU-Tunisia Task Force]." (Source: Swiss Federal Department of Foreign Affairs, "Federal President Calmy-Rey at EU-Tunisia Task Force meeting in Tunis," September 27, 2011.)

Disposition of Criminal Case(s):

According to a January 26, 2011 media release by INTERPOL, Mr. Ben Ali's arrest was sought by Tunisia on charges of alleged property theft and illegal transfer of foreign currency. (Source: INTERPOL media release, "Tunisia seeks ousted President and family via INTERPOL," January 26, 2011, accessed at <http://www.interpol.int/public/ICPO/PressReleases/PR2011/PR007.asp>.) According to secondary sources, Mr. Ben Ali was convicted in absentia in June 2011 on theft and unlawful possession of cash and jewelry; in July 2011, he was convicted of property related charges. (Source: BBC News, "Tunisia's Ben Ali guilty on drugs and gun charges," July 4, 2011 and "Tunisia's Ben Ali guilty of corrupt property deals," July 29, 2011) and in June 2012, he was sentenced by a Tunisian military court to life imprisonment for his complicity in the murder and attempted murder of demonstrators; Human Rights Watch noted that Mr. Ben Ali has been tried and convicted in absentia and if he returned to Tunisia, he would be entitled to a new trial. (Source: Clive Baldwin, "After Ben-Ali's Conviction: The State of Tunisian Justice,"

Human Rights Watch, June 16, 2012.)

Jurisdiction of Origin: Investigative Agency:

Commission for the Investigation of Corruption and Embezzlement; Attorney Enrico Monfrini (asset recovery)

Jurisdiction of Asset Recovery: Investigative Agency:

Federal Prosecutors Office

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

Federal Prosecutor's Office

Jurisdiction of Asset Recovery: Courts Involved:

Geneva

Documents:

Ben_Ali_INTERPOL_Alert_Jan_26_2011.pdf

Ben_Ali_Switzerland_Asset_Freeze_Swissinfo_Jan_19_2011.pdf

Ben_Ali_Switzerland_Fed_Council_Press_Release_Jan_19_2011.pdf

Ben_Ali_Switzerland_Ordinance_Change_Feb_4_2011.pdf

Ben_Ali_Switzerland_Ordinance_Change_Jan_28_2011.pdf

Ben_Ali_Switzerland_Ordinance_Jan_19_2011.pdf





EU_Tunisia_Task_Force_Meeting_Swiss_Statement_Sep_27_2011

Ben_Ali_Conviction_Property_BBC_Jul_29_2011

Ben_Ali-Conviction_Drugs_Weapon_BBC_Jul_4_2011

Ben_Ali_Switzerland_Assets_Frozen_Swissinfo_May_2_2011

Documents:

Attachment	Size
 Ben_Ali_Switzerland_Time_Needed_Swissinfo_May_2_2011.pdf	293.83 KB
 Ben_Ali_Switzerland_Asset_Freeze_Extended_Swiss_Admin_News_Dec_18_2013.pdf	112.71 KB
 Ben_Ali_Switzerland_Funds_freed_Swiss_unfreeze_\$40_million_of_Tunisian_assets_Swissinfo_April_2014.pdf	354.99 KB
 Tunisia_Swiss_OAG_Statement_Oct12_2015.pdf	105.83 KB

Other Sources:

Swiss Federal Department of Foreign Affairs, "Freezing of Assets: Tunisia," last updated April 28, 2016, at <https://www.fdfa.admin.ch/eda/en/fdfa/foreign-policy/financial-centre-ec...> Media Release, "Federal Council orders freeze of any assets held by former Tunisian President Ben Ali in Switzerland," January 19, 2011, accessed at <http://www.eda.admin.ch/eda/en/home/recent/media/single.html?id=37285>;
Swiss Ordinance, Verordnung über Massnahmen gegen gewisse Personen aus Tunesien, Änderung, February 4, 2011 (amending ordinances of January 28, 2011 and January 19, 2011 which are also included here, all accessed at <http://www.admin.ch/dokumentation/gesetz/00068/index.html?lang=de&unters....> See also Luca Beti, "Freezing of presidential accounts welcomed," Swissinfo.ch, January, 19, 2011 and Eveline Kobler, "Time needed before Ben-Ali assets returned," Swissinfo.ch, May 2, 2011, accessed at http://www.swissinfo.ch/eng/specials/the_arab_spring/Time_needed_before_... INTERPOL Alert, "Tunisia seeks ousted President and family via INTERPOL," January 26, 2011, accessed at <http://www.interpol.int/public/ICPO/PressReleases/PR2011/PR007.asp>; Swiss Federal Department of Foreign Affairs, "Federal President Calmy-Rey at EU-Tunisia Task

Force meeting in Tunis," September 27, 2011, accessed at <http://www.eda.admin.ch/eda/en/home/recent/media/single.html?id=41409>; SwissInfo.ch, "Tunisia launches new bid for Ben Ali assets," October 5, 2011, accessed at http://www.swissinfo.ch/eng/politics/Tunisia_launches_new_bid_for_Ben_Al... BBC News, "Tunisia's Ben Ali guilty on drugs and gun charges," July 4, 2011, accessed at <http://www.bbc.co.uk/news/world-africa-14014757> and "Tunisia's Ben Ali guilty of corrupt property deals," July 29, 2011, accessed at <http://www.bbc.co.uk/news/world-africa-14340863>; Swiss Federal Administration, "The Federal Council extends the freezing of assets of several individuals from Tunisia and Egypt," December 18, 2013, at <https://www.news.admin.ch/message/index.html?lang=en&msg-id=51477>; Swissinfo.ch, "Swiss unfreeze \$40 million of Tunisian assets," April 11, 2014 at [http://www.swissinfo.ch/eng/politics/Swiss_unfreeze_\\$40_million_of_Tunisian_assets.html?cid=38369152](http://www.swissinfo.ch/eng/politics/Swiss_unfreeze_$40_million_of_Tunisian_assets.html?cid=38369152);

See also, Swiss Office of the Attorney General press statement, "Stärkung der Geldwäschereiverfahren," October 12, 2015, at <https://www.news.admin.ch/message/index.html?lang=en&msg-id=59054>