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Out-of-court settlement in the Abacha case - Nigeria to receive more than a billion USD; The countries concerned cooperate in the implementation of the settlement

Berne/Geneva, 17.04.2002 - Switzerland has been informed that Nigeria has signed an out-of-court settlement with some of the defendants in the Abacha case: the Nigerian authorities will discontinue the criminal proceedings against the persons participating in the settlement, and delete their names from the requests for judicial assistance submitted to foreign countries. In return, the largest part of the Abacha assets blocked in foreign countries, in excess of one billion US dollars, are to be transferred to the Bank for International Settlements in Basel in favour of the federal government of Nigeria. All the parties will now cooperate toward the restitution of the assets.

In the autumn of 1999, Switzerland was the first country to block assets in the Abacha case. Apart from Switzerland, further countries received requests for judicial assistance from Nigeria, notably the UK, Luxembourg, Liechtenstein, and Jersey. In these countries, too, partially substantial amounts of money were blocked. In view of the international dimension of the case, the countries concerned soon established close contact with each other. At the initiative of the Federal Office of Justice (FOJ), two international meetings were organised in Switzerland – a first in the field of judicial assistance cases – at which the joint course of action was discussed and coordinated. It soon became evident that the return of the blocked assets to Nigeria would be a lengthy and difficult process. However, the pressure generated by the joint efforts of the countries concerned contributed towards a situation whereby persons involved in the proceeding (relatives and business friends of the former head of state, Sani Abacha) signed an out-of-court settlement with Nigeria. As a consequence of this settlement, most of the Abacha case can now be dealt with speedily.

Proceedings partially abandoned – USD 1 billion to the Nigerian state

The settlement, which was signed recently by both parties, provides that the largest part of the Abacha assets blocked abroad, in excess of one billion US dollars, are to be transferred to the Bank for International Settlements in Basel in favour of the federal government of Nigeria. The government has agreed to release to the Abacha family about 100 million US dollars, which the family acquired prior to Abacha's term of office and which, according to the Nigerian authorities, demonstrably do not derive from criminal acts. The Nigerian authorities, on their part, will abandon various criminal proceedings, particularly against Mohammed Sani Abacha, the son of the former head of state, and against the businessman Bagudu Abubakar. As a consequence, their names will be deleted from the requests for judicial assistance submitted to foreign countries.

On Tuesday, the parties' lawyers presented the settlement to representatives of the countries concerned in Geneva. This meeting also involved a discussion of how the settlement is supposed to be implemented and how the countries concerned will be able to participate in this implementation.

What has happened in Switzerland so far

In late 1999, Nigeria transmitted a request for judicial assistance to Switzerland, which was directed at the former head of state, Sani Abacha, and 14 further persons (relatives, business friends, and representatives of his regime). The Nigerian authorities requested that any assets that had been channelled into Switzerland be blocked and that the relevant banking documents be disclosed. The FOJ blocked assets in the amount of some 83 million US dollars in bank accounts in Geneva and Zurich. On 24 January 2002, the FOJ ordered that the banking documents be handed over to Nigeria. At present, several appeals against this order are pending before the Swiss Federal Court.

In October 1999, Geneva's judiciary initiated various proceedings against family members and business friends of Abacha's on suspicion of money laundering. In the context of the Geneva proceeding, the same accounts were blocked as in the judicial assistance proceeding, as well as further accounts which became known on the strength of the criminal investigation and of indications from the Money Reporting Office. In the course of the proceedings an amount of USD 70 million has already been transferred in 2000 to Bank for International Settlements. At present, a total of USD 535 million is blocked.

Further steps

Geneva's Attorney General will instruct the banks to initiate a proceeding to transfer assets in the amount of about 535 million US dollars, the Swiss part of the global settlement, to the Bank for International Settlements. Some USD 90 million will remain blocked in the context of the criminal proceedings in Geneva which will continue.

In the near future, Nigeria will ask Switzerland to delete the names of the persons involved in the settlement from the requests for judicial assistance. The FOJ will continue the judicial assistance proceeding only against those persons who do not participate in the settlement. In particular, this applies to Abdulkadir Abacha, the former state president's brother. The sum of about 90 million US dollars will also continue to remain blocked in the context of the judicial assistance proceeding.

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