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Federal Department of Justice and Police

Federal Office of Justice

Abacha assets to be handed over to Nigeria

Switzerland doesn't provide a refuge for funds of criminal origin

Press Release, FOJ, 16.02.2005

Bern, 16.02.2005. USD 458 million of the Abacha assets of USD 505 million that are frozen in Switzerland can be handed over to Nigeria. The Federal Supreme Court has upheld the main points of the Federal Office of Justice (FOJ) decision. The Federal Supreme Court does not regard the remainder of the Abacha assets as being of evidently criminal origin. USD 40 million will thus remain frozen in Switzerland for the time being; USD 7 million will be transferred to an escrow account in Nigeria. Nigeria has undertaken to use the returned assets to fund a variety of development projects. With the Abacha case, Switzerland has once again proven that it doesn't provide a refuge for funds of criminal origin and will take decisive action against the abuse of its financial sector.

In its decision of restitution of 18 August 2004, the FOJ stated that the majority of the Abacha assets frozen in Switzerland were of evidently criminal origin and thus ordered them returned to Nigeria. In its decision of 7 February 2005, the Federal Supreme Court also concluded that the greater part of these assets, worth some USD 458 million, was clearly the proceeds of crime and could therefore be returned to Nigeria without the latter having to issue a confiscation order. This course of action permits the assets in question to be returned quickly to the country to which they are owed, and is also progressive in an international context. Switzerland will be the first country in which Abacha funds were deposited to return these assets to Nigeria on the basis of an official decision.

USD 40 million remain frozen in Switzerland ...

Assets worth USD 40 million remain frozen in Switzerland, because the Federal Supreme Court has ruled that the conditions for return without a confiscation order have not been fulfilled. However, these assets are probably of criminal origin, as a criminal organisation holds power of disposal over them - unless their owners can prove otherwise. Should they be unable to provide this proof, the FOJ will order the assets to be returned to Nigeria.

... and USD 7 million go into an escrow account in Nigeria

A small proportion of the Abacha assets frozen in Switzerland (approx. USD 7 million) is classified as being only probably of criminal origin and will therefore be transferred to an escrow account in Nigeria. The Nigerian authorities will obtain access to this money only after they have issued a confiscation order.

After the decision of restitution from the FOJ has become final and absolute, the public prosecutor's office of Canton Geneva will lift the freeze on Abacha assets that was imposed in connection with criminal proceedings at cantonal level. The FOJ will then order these assets to be transferred to the Bank for International Settlements (BIS) in favour of Nigeria.

Earmarked for development projects

Both President Olusengu Obasanjo and Finance Minister Ngozi Okonjo-Iweala assured the Swiss authorities in spring 2004 that, once transferred to Nigeria, the Abacha assets would be used for development projects in health and education, as well as for infrastructure (roads, electricity and water supplies) to benefit poor and rural populations. Switzerland and Nigeria agree that there should be complete transparency about the way in which the funds are spent. Both sides are currently holding discussions on the details of monitoring how the assets are used.

Years of cooperation

Since 1999, the Swiss authorities have been working closely and successfully together with the Nigerian authorities on the Abacha case thanks to effective legislation (in particular the Money Laundering Act and the Legal Assistance Act). In addition to the handover of many documents gathered in execution of mutual assistance requests, it has been possible to date to return more than USD 200 million from Switzerland to Nigeria, following settlements between the parties concerned and the Nigerian authorities, as well as seizure orders issued by the public prosecutor's office of the Canton Geneva.

Contact / questions

Folco Galli, Federal Office of Justice, T +41 31 322 77 88, [Contact](#)

Paul Seger, Federal Department of Foreign Affairs - DFA, T +41 31 322 30 61 ,
[Contact](#)

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