

Fact Sheet on Study: “Public Wrongs, Private Actions, Civil Lawsuits to Recover Stolen Assets”

November 2nd 2014

Significance of the Study

“**Public Wrongs, Private Actions**” examines how states can use civil lawsuits and remedies to recover assets stolen by former officials and/or get compensation for damages caused by corruption. It shows how civil lawsuits can complement criminal proceedings or provide an effective and efficient alternative in recovering assets. When other avenues, including criminal, non-conviction based or administrative confiscation, are unavailable, civil lawsuits and direct recovery, encouraged by Article 53 of UNCAC, represent a further way to recover assets.

Key Elements

The report gives an overview of the various topics for states to consider when contemplating civil action in foreign court. It describes a step by step, practical approach to the strategic, tactical, and technical issues of a legal action. Each topic is illustrated with case studies showing challenges, best practices and actual examples of successful direct recovery. The main steps to consider are:

- who may sue and be sued,
- where to file a case,
- how to select and pay lawyers,
- what kind of legal actions are available,
- how to collect evidence and secure assets,
- how to use international instruments
- how to estimate amounts to recover
- how to enforce and collect judgements
- how to use insolvency processes

Civil lawsuits can allow for greater possibilities to recover stolen assets. The principal advantages of civil claims include less demanding requirements for linking the assets to the corrupt activities, the ability to claim damages generally, rather than a particular asset, and a wider choice of parties to sue. The study also shows that governments can utilize a range of techniques and avenues to obtain international cooperation, and freeze or seize assets.

Authorities seeking to recover stolen assets can initiate civil lawsuits in domestic or foreign courts to secure or recover the assets. A court in a foreign jurisdiction can be a venue for a civil action under a number of circumstances including if: the defendant is living or has business incorporated within it; if the disputed assets are situated or have passed through the state ; or if a corrupt act was committed in the jurisdiction.

Civil lawsuits may be brought to claim ownership of a specific asset, or compensation for damages. “Ownership” claims target specific assets that previously were owned by the State. Compensation for damages involve actions against the corrupt person or third parties for monetary damages based on torts, breach of contract, illicit enrichment. In these instances, the State must calculate the financial damage caused by corruption.

Civil lawsuits can entail considerable expenses but this can be reduced. Litigating in foreign jurisdictions without the benefit of investigative and legal tools provided by criminal procedures can involve high costs, including in tracing assets and hiring attorneys. The study identifies methods to help reduce or manage these costs through, for example, structured fee arrangements, or international assistance for funding lawsuits.

“Public wrongs, Private Actions” is a publication of [the Stolen Asset Recovery \(StAR\) Initiative](http://www.worldbank.org/star), a partnership of the World Bank and the United Nations Office on Drugs and Crime (UNODC). For more information please visit: www.worldbank.org/star & www.unodc.org

