

# **Kingdom of Saudi Arabia's Efforts for Recovery of Assets**

## **Introduction:**

Recovery of assets, resulting from criminal acts, is considered an important and essential matter aiming to prevent their perpetrators from benefits and profits, and not utilizing these assets. However, this matter faces, practically, many complexities and difficulties that hinder the international efforts being made in this field; which include: diversity of legal systems, non-transparent financial systems, weakness of international coordination and cooperation, lack of experience and resources, multiple jurisdictions, and identifying the beneficiary owners identity.

Recognizing the great significance of the subjects of the fight against crime in all its forms, and its effects on the stability of societies, and depletion of development resources; which include: enhancement of the international cooperation in many fields such as: mutual legal assistance, assets recovery, and exchange of information and expertise.

Recognizing the necessity of working effectively with the international community, Saudi Arabia has ratified United Nations conventions against Illicit Traffic in Narcotics Drugs and Psychotropic Substances, against Transnational Organized Crime and its Three Protocols, and against Corruption. Saudi Arabia has taken many procedures and measures on national level, and enacted many laws and regulations for combating crime in all its forms; including corruption crimes.

Saudi Arabia is keen on making the utmost possible effort in international cooperation in the field of recovery of assets through many regulations and procedures such as:

## **The Legal Frame:**

- Article (19) of the Basic Law of Governance issued by the Royal Decree no. 90/A dated on 2/8/1412h provided that public confiscation of property is prohibited, and the penalty of private confiscation is done only through a judicial decision.
- Article (13) of the Law of Judiciary and Bureau of Grievances issued by the Royal Decree no. (m/78) dated on 19/9/1428h provided that the administrative courts are the competent authority in the decision in: requests of implementing the foreign judgments and the foreign arbitrators' judgments.
- Article (12) of the Law of Anti-Money Laundering issued by the Royal Decree no. (m/39) dated on 25/6/1424h provided the following:

"Financial Investigations Unit upon assuring the existence of suspicion, has the right to request the competent authority to apply the preventive seizure on funds, property, and instrumentalities related to money laundering crime for a period of no more than 20 days. If necessary, the period of preventive seizure may continue longer through a judicial order from the competent court".
- Article (15) of the previous law provided that, "If a decision of confiscating property, proceeds or instrumentalities is issued according to the provisions of this law, and they are not to be destroyed, the competent authority has the right to dispose of them according to the law or share them with the states that have with Saudi Arabia binding in force agreements or conventions."
- Article (23) of the mentioned law provided that, "The judicial authority, according to a request from a competent court or authority in other state that has with Saudi Arabia a binding in force agreement or convention or according to the principle of reciprocity, has the right to request seizure of property, proceeds or instrumentalities related to money laundering crime according to the laws applicable in Saudi Arabia.

The competent authority, according to a request from a competent authority in other state that has with Saudi Arabia a binding in force agreement or convention or according to the principle of reciprocity, has the right to order tracing of property, proceeds or instrumentalities related to money laundering crime according to the laws applicable in Saudi Arabia."

- Article (24) of the referred law provided that, "It is allowed to recognize and implement any judicial decision providing confiscating property, proceeds or instrumentalities related to money laundering crime issued from a competent court in other state that has with Saudi Arabia a binding in force agreement or convention or according to the principle of reciprocity, if these property, proceeds or instrumentalities stated in this decision are subject to confiscation according to the laws applicable in Saudi Arabia."
- Article (15) of Anti-bribery Law issued by the Royal Decree no. (m/36) dated on 29/12/1412h provided that, "In all situations, property, privilege or benefit subject of crime must be confiscated when feasible."
- Articles from (86) till (94), and articles (83 & 84) of the Law of Criminal Procedures issued by the Royal Decree no. (m/2) dated on 22/1/1435h indicated how to dispose of the seized items.
- Article (24) of the Law of Procedure Before Shari'ah Courts issued by the Royal Decree no. (m/1) dated on 22/1/1435h provided the following, "Saudi Arabia's courts are specialized in considering the claims against the Saudi national even if he does not have a public or chosen residence place in Saudi Arabia, except the real claims related to real estate outside Saudi Arabia."
- Article (25) of the previous law provided the following, "Saudi Arabia's courts are specialized in considering the claims against Non-Saudi who has a public or chosen residence place in Saudi Arabia, except the real claims related to real estate outside Saudi Arabia."
- Article (26) of the same law provided that, "Saudi Arabia's courts are specialized in considering the claims against Non-Saudi who doesn't have a public or chosen residence place in Saudi Arabia in the following situations:
  - a) If the claim is related to a property in Saudi Arabia, or a commitment Saudi Arabia is considered its origin or execution.
  - b) If the claim is related to a bankruptcy declared in Saudi Arabia.
  - c) If the claim against more than one person, and one of them has a residence place in Saudi Arabia."
- Article (29) of the mentioned law provided the following, "Saudi Arabia's courts are specialized in taking the seizures and timing measures implemented in Saudi Arabia, even if they are not related to the original claim."

#### **Recovery of Assets Stages:**

1. Identifying and tracing of assets, and collecting the evidence.
2. Seizure.
3. Final confiscation.
4. Disposing of the assets or turning them back.

### **Procedures of the Legal Assistance Request of Recovery of Assets:**

1. The assistance request shall include the following data:
  - a) Name and competence of the authority that the request is issued by, charged with the investigations, prosecutions, or legal procedures, and the direct contact channels if available.
  - b) The subject of the request explaining the case kind, detailed data related to the case facts, and the procedure required or certain requirements the requesting State Party desires to follow.
  - c) Identifying names of the concerned persons, their residence places, nationalities, and the questions required to be addressed to them as much as possible.
  - d) Determining a time period, if needed, that the execution of a request shall be done within, especially if it is related to the presence of a person before the judiciary.
  - e) A written undertaking by the requesting State Party not to use the information or evidence provided in investigations, prosecutions, or legal procedures other than the ones mentioned in the request, without prior consent by Saudi Arabia.
2. The competent authorities in Saudi Arabia may require additional information or documents upon realizing that these information are necessary for executing the request or facilitating it.
3. Saudi Arabia is making every possible effort to verify the existence of proceeds and instrumentalities of the crime within its territorial jurisdiction, and it shall inform the requesting State Party of the result of this matter.
4. Assistance request for seizing and confiscating of crime proceeds or instrumentalities is to be submitted by the appropriate means according to Saudi Arabia laws and regulations. Legal assistance may include:
  - a) Executing orders by a court or a competent official body in the requesting State; or
  - b) Submitting requests to the competent official body in Saudi Arabia to issue a seizing order of those proceeds and instrumentalities or confiscation.
5. When receiving a request from other states, Saudi Arabia takes measures to identify crime proceeds, property or other equipment to be traced and frozen or seized for eventual confiscation pursuant to a submitted order according to Paragraph 4 of these procedures, due to the competent bodies order in Saudi Arabia.
6. In addition to the specific information in this mechanism, requests pursuant to this Paragraph shall include:
  - a) In the case of a request pertaining to paragraph 4 (b) of these procedures, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable Saudi Arabia to seek the order under its domestic law;
  - b) In the case of a request pertaining to paragraph 4 (b) of these procedures, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested;
  - c) In the case of a request pertaining to paragraph 5 of these procedures, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

7. An assistance request may be submitted for banning the disposal of property described as proceeds or instrumentalities of the crime to ensure availability when a recovery order is issued.
8. Any confiscated proceeds or instrumentalities are returned to Saudi Arabia, unless agreed upon otherwise on case-by-case basis.
9. In all circumstances where assistance is provided, Saudi Arabia acquired rights shall not be prejudiced, and bona fide third parties rights shall be observed.
10. Saudi Arabia may require that the requesting State Party keep confidential the information, given evidence or source, and may require not to be disclosed or used except under circumstances and conditions that it specifies.
11. Saudi Arabia competent authorities shall keep confidential the assistance request, its content, supporting documents and any procedure taken according to this request, except the extent necessary for the request to be executed when the requesting State Party desires, with undertaking to keep confidential the request and its fact and substance.
12. Mutual legal assistance may be refused:
  - a) If the request is not made in conformity with the request data requirements stated in Paragraph 1 of these procedures;
  - b) If Saudi Arabia considers that execution of the request is contrary to the Islamic Law or likely to prejudice its sovereignty, security, public order or its other essential interests;
  - c) If the authorities of Saudi Arabia would be prohibited by its domestic law and regulations from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
  - d) If it would be contrary to the applicable laws and regulations of Saudi Arabia relating to mutual legal assistance for the request to be granted.
13. Saudi Arabia may decline to render mutual legal assistance on the ground of absence of dual criminality. However, Saudi Arabia may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under Saudi Arabia applicable laws and regulations.
14. Mutual legal assistance may be postponed by Saudi Arabia on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
15. Before refusing a request or postponing its execution, Saudi Arabia shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary.
16. When it decides not to execute the request, in whole or in part, or postpone its execution, Saudi Arabia promptly informs the requesting State Party with setting the reasons behind that.
17. Saudi Arabia does not charge any fees or expenses for affording mutual assistance, and shall bear the ordinary costs of executing a request. If expenses of a substantial or extraordinary nature are required to fulfil such assistance, an agreement shall be made with the requesting State Party to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

18. These procedures shall not affect the obligations under any other treaty or convention, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance in criminal matters with Saudi Arabia.
19. If a number of requests for assistance were made by various States, priority would be given, first, to the State that is bound by a bilateral agreement with Saudi Arabia, then to the State bound by a multilateral agreement with Saudi Arabia, then to other States according to the principle of reciprocity.
20. Legal assistance requests are addressed through diplomatic channels and, in urgent circumstances, through the Ministry of Interior Interpol Department.
21. Legal assistance requests and its supporting documents shall be made in writing, in Arabic.
22. In exceptional circumstances, requests submitted to Saudi Arabia may be in writing, in English, but shall be translated into Arabic.
23. The Permanent Committee on Legal Assistance Request may receive requests through any communication means that provides the request in writing, including fax or email.
24. In urgent circumstances, legal assistance requests may be made orally, but shall be confirmed in writing within ten days fulfilling all requirements.
25. Before submitting the legal assistance request officially, the requesting State Party may provide Saudi Arabia a draft for review and opinion to assure that the request fulfills the legal assistance conditions.
26. The request and all attached papers shall be written according to the requesting State Party laws, and to be signed as well as stamped with the requesting body stamp.

**Competent bodies:**

1. **The Legal Assistance Request Permanent Committee:** Tasked with multi-functions, including requests of recovery of assets.
2. **National Anti-corruption Commission:** Through a competent department, it follows up, with the competent bodies, the recovery of property derived from corruption crimes.
3. **The Interpol Liaison Department:** It is one of the channels where requests can be submitted through.
4. **The Financial Investigation Unit:** It receives suspicious financial operations reports, analyzes them, prepares reports and refers them to competent bodies, then archives them in a data base. In addition, it exchanges information with related bodies in Saudi Arabia and abroad in order to combat money laundering and terrorism financing. It is a member of Egmont Group.

## Contact Bodies:

- **Ministry of Foreign Affairs**  
Web: [www.mofa.gov.sa](http://www.mofa.gov.sa)  
Address: P.O. Box 55937  
Riyadh, Saudi Arabia 11544  
Phone: +966 11 4067777  
+966 11 4055000  
Fax: +966 11 4079110  
+966 11 4079235  
+966 11 4079131
- **The Permanent Committee on Legal Assistant Requests/ General Department of Legal Affairs and International Cooperation/ Ministry of the Interior**  
Address: Riyadh, Saudi Arabia 11134  
Phone: +966 11 4615996  
Fax: +966 11 4044626  
E-mail: [scmla@hq.moi.gov.sa](mailto:scmla@hq.moi.gov.sa)
- **Interpol Liaison Department/ Ministry of the Interior**  
Address: Riyadh Interpol  
P.O. Box 22578  
Riyadh, Saudi Arabia 11416  
Phone: +966 11 4031194  
+966 11 4020702  
Fax: +966 11 4012180  
E-mail: [ncb.riyadh@sa.igcs.int](mailto:ncb.riyadh@sa.igcs.int)  
[ipriyadh@moisp.gov.sa](mailto:ipriyadh@moisp.gov.sa)
- **Financial Investigation Unit/Ministry of the Interior**  
Web: [www.moi.gov.sa](http://www.moi.gov.sa)  
Address: King Fahad Road  
P.O. Box 69914  
Riyadh, Saudi Arabia 11557  
Toll free: 800-122-2224  
Phone: +966 11 4125555  
Fax: +966 11 4127616  
+966 11 4127615
- **National Anti-corruption Commission**  
Web: [www.nazaha.gov.sa](http://www.nazaha.gov.sa)  
Address: Alghadeer, Alolaya  
P.O. Box (Wasil) 7667  
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