

ASSET RECOVERY OVERVIEW: TUNISIA

KEY FINDINGS

Adequacy of Legal Framework

The legal framework of the asset freezing and confiscation in Tunisia is very vulnerable. In fact, until this moment these procedures are still organized by a decree issued in 2011. It does not include all the corrupt figures who were engaged in corruption acts or who benefited from their relationships with the Trabelsi and Ben Ali families. It only includes 148 corrupt figures. Regarding asset recovery from foreign countries, there is no law that organizes its procedures and the recovery process in general. This has been an obstacle to recover stolen assets. In fact, there is no clear entity/vis-à-vis for the different stakeholders working on this portfolio. Moreover, there has been no sustainability and continuity in the process.

Adequacy of Institutions and Political Will

The Tunisian government created a commission responsible for asset recovery in 2011. However, after its mandate came to an end in March 2015, this commission was not replaced and it did not issue any reports or statistics about its work during the four years. The failure to replace this commission suggests a lack of political will.

Since 2015, the asset recovery portfolio has been divided between different ministries: The Ministry of Justice, the Ministry of Real Estate and the Ministry of Finance. Each one of them is working independently without releasing any reports or updates to the public. It is impossible to assess their capacity and performance as they do not release any information. Moreover, the executive power has not been responsive to all the confiscation decisions issued by judges against corrupt figures. In fact, some of the court judgements to confiscate assets of corrupt figures have not been executed (yet?). Moreover, the role the Financial Judiciary Pole, which is responsible for investigating financial crimes, has been very limited because of the lack of financial and human resources.

Since 2011, the asset recovery portfolio has never been a priority for the political parties and the successive governments in Tunisia. The work of the Tunisian government on asset recovery has always been focused on the technical process. The government has never tried the diplomatic solutions to try to recover the stolen assets.

Ben Ali family

148 members from the Ben Ali family and associates. Their assets and bank accounts in Tunisia have been confiscated and are managed currently by the government. Some of them are facing jail sentences.

Transparency and Participation

Although the government has been, to some extent, open to working and meeting with civil society, I WATCH has faced many issues when it comes to access to information. In fact, whenever we request information from the different stakeholders, they inform us that they cannot share documents with us as they are classified. They did not provide I WATCH with any explanation. Moreover, after working on the asset recovery portfolio for four years, the Asset Recovery Commission did not issue any reports about their achievements or the challenges that they have faced in their work. Finally, the division of responsibilities between different government agencies since 2015 has made it hard for civil society organizations to follow the asset recovery process and the management of the confiscated assets in Tunisia as every agency refers to another one when civil society organizations have any requests or seek any information.

The activities of I WATCH and other civil society groups in Tunisia illustrate the many constructive ways that civil society can support the asset recovery process. CSOs in Tunisia and mainly I WATCH have been involved in asset recovery since 2014.

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I WATCH has been working closely with the Tunisian parliament to push the MPs to present the assets declaration and illicit enrichment project laws. This is in line with I WATCH's focus not only on recovering the stolen assets but also on preventing the theft of the public money in the future.

However, the slow administrative procedures to get any information related to asset recovery have always been a problem for civil society in Tunisia

Enforcement Experience

Despite the various challenges, Tunisia can claim some successes with regard to its asset recovery efforts. Since 2011, many corrupt figures in Tunisia have been convicted in different cases of corruption. In fact, the assets of 148 members of the Ben Ali family and co. in Tunisia have been confiscated. Moreover, many assets and bank accounts have been frozen in different countries such as France and Switzerland.

In addition, some members of the Ben Ali family and corrupt figures from the old regime are in jail currently. The Tunisian courts have convicted Ben Ali and his son in law, Muhammed Sakhr Al Materi for several corruption crimes. They have been convicted in absentia for 16 years in jail.

However, the failure to use diplomatic channels has prevented the Tunisian government from extraditing Ben Ali and some members of his family and from freezing and confiscating bank accounts and assets in some countries such as the Seychelles, Qatar and UAE. In fact, the Tunisian government has been facing many difficulties in recovering stolen assets from host countries. This is a result of the lack of expertise, lack of information because of the bank's secrecy and the lack of cooperation of some countries.

Case of Mohamed Sakher El Materi

Currently based in Seychelles and he is enjoying a luxurious life. The Tunisian government failed to extradite him.

RECOMMENDATIONS

Legal Framework

- Draft an asset recovery law and create a committee that would be responsible for asset recovery in Tunisia: a clear vis-à-vis for all the stakeholders working on asset recovery.
- Enhance the role and the resources of the Tunisian Financial Judiciary Pole

Institutions and Political Will

- Focus on the diplomatic efforts in recovering the stolen assets. The Ministry of Foreign Affairs should have a bigger role in the asset recovery process. The Tunisian government should not rely only on the technical side of the portfolio.

Transparency and Participation

- Enhance the role of civil society organizations in the asset recovery work: Civil society organizations should be officially involved in the legal proceedings of asset recovery.