

## **Case Study on Money Laundering and Recovery of the Proceeds**

According to the Government of Morizia, the Secretary of Defense of Racutan has various Bank accounts in the banks of Morizia (known for their complaisance in financial and taxation matters), which represents a total of about USD1.5 billion. The Government of Morizia informs the Government of Racutan of these facts in a confidential phone conversation. Other elements concerning the Secretary of Defense are also mentioned.

Alerted by an informer in the Government of Racutan, the Secretary of Defence, knowing there are no extradition agreements, nor any agreement on international legal cooperation, flees to the neighboring country, the Riscal, of which he also has the citizenship. He there declares that he is persecuted by the Government of Racutan and request political asylum.

The three States are Parties to the United Nations Convention Against Corruption, and of the OECD Convention.

The investigations conducted by the Racutan revealed that the Secretary was involved in various cases of corruption, the most important ones being:

1. The reception of a bribe of USD 300 millions on the contract to buy 25 combat planes to the Republic of Narif;
2. The embezzlement of USD 200 millions from a fund granted by a Multilateral Bank for a program on the demobilization of combatants deployed in the Racutan fighting in the domestic conflict which is currently being arbitrated by the United Nations;
3. The fraudulent management of the military pension plan for a total of USD 500 millions;
4. The reception of a bribe of about USD250 millions from drug trafficking organizations operating at the border between the Racutan and the Riscal;
5. Defrauding through the failure to disclose financial information to avoid paying taxes.

These facts are constitutive of grave misdemeanors in Racutan. The Criminal Code provides that:

1. Passive Corruption is sanctioned by a 12-year-jail sentence;
2. Appropriation is sanctioned by a 10-year-jail sentence;
3. Fraud is sanctioned by a 8-year-jail sentence;
4. Complicity in narcotrafficking is sanctioned by a 25-year-jail sentence;
5. Defrauding is sanctioned by a 8-year-jail sentence.

However, embezzlement and fraud are not criminalized in Morizia.

Through its Unit of Financial Intelligence which has no equivalent in Morizia, the Government of Racutan wants to request from the Government of Morizia that:

1. The accounts identified as being propriety of the Secretary and persons related to the Secretary be frozen;
2. An investigation be conducted to determine whether other suspicious individuals related to the Secretary of Defense would also have accounts, and that a copy of the all the financial documents be sent to Racutan;
3. The reimbursement of the proceeds identified which, in fact, belong to the people of Racutan;
4. The bank employees who opened the Secretary's accounts and those who administered the said accounts be interrogated, and that their testimony be used as evidence in Racutan.
5. A civil petition against the ex-Secretary and persons related to him be granted to recover the properties acquired by them in that country.

What could ground these requests and what type of problems would arise?

Can Morizia refuse to cooperate, invoking Bank Secrecy?

Could Morizia claim part of the proceeds in the form of goods or money? On what grounds?

While investigating in Racutan, it appeared that part of the stolen goods and money in that country were invested in the coal industry in Morizia. The profits made through that legal investment were then used to buy shares on the stock market.

Others invested part of the money stolen in Racutan in other legal businesses that contributed to the purchasing of a farm in Morizia.

Could Morizia seize those goods ?