

Management of seized assets – horizontal audit

Office of the Attorney General of Switzerland, Federal Criminal Court, Federal Office of Justice, Federal Tax Administration, Federal Customs Administration

Key facts

The federal authorities seize assets as evidence, as security for the costs of criminal proceedings or as fines to be returned to the person suffering harm or for confiscation. The Swiss Federal Audit Office (SFAO) carried out a horizontal audit of selected federal organisations' (Office of the Attorney General of Switzerland, Federal Criminal Court, Federal Office of Justice, Federal Tax and Customs Administrations) management of seized assets. The SFAO concentrated on the practical aspects of managing seized assets. The differing legal bases did not form part of the audit. At the end of 2016, these units were responsible for approximately CHF 8.2 billion of assets. In recent years, the number of cases relating to international corruption and politically exposed persons' assets in the audited units has in some cases increased.

During the audit, the SFAO did not encounter any case where the Confederation had been required to pay compensation for loss of or damage to seized assets.

Approximate value of seized assets known

Cased-oriented inventories exist for seized assets. Depending on the case, the financial assets in question can amount to several hundred million Swiss francs. The person in charge of the procedure is responsible for these. The Federal Tax Administration has a complete, periodically updated and monitored, cross-case inventory of seized goods. This is an example of good practice.

The SFAO recommends that the audited authorities keep a cross-case inventory. In addition, controlling appropriate to the risks (loss, theft, misappropriation and damage) and the amounts involved (monitoring changes in value and asset management costs) must be ensured. Such controlling would improve the information situation concerning seized assets, in line with the Financial Task Force's recommendations in their 2016 Mutual Evaluation Report on Anti-money laundering and counter-terrorist financing measures in Switzerland.

Some European countries operate a central body, an idea for Switzerland?

Some European countries, such as Belgium and the Netherlands, operate a specialised body for the management of seized assets. They support the authorities in searching for and identifying the financial assets in question as well as assessing and managing seized assets.

The SFAO recognises significant benefits in the central body model. In addition to reducing the workload for the person in charge of the procedure, risks are minimised and efficiency is improved. The introduction of such a model would only be possible if consistent legislative amendments are made.

Additional regulatory suggestions

The ordinance on the investment of seized assets, which relates to the Criminal Procedure Code, is the only legal provision concerning the management of seized assets. The SFAO recommends that the Federal Council extends this ordinance to cover the entire Federal Administration.

The ordinance requires the people in charge of the procedure to invest the seized assets in a secure manner which maintains their value and provides a financial return. The SFAO sees certain conflicting goals in this requirement and recommends modifications and supplements.

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