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Stolen Asset Recovery Initiative
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Direct recovery of assets: the evolution of UNCAC into effective sovereign and private civil relief



A comparative practitioner survey of transnational asset recovery

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Foreword

This publication by the IBA ARC and the World Bank Group–UNODC StAR Initiative is aimed at providing a substantive contribution to those involved in seeking redress for the victims of financial crime, in particular corruption. Each chapter sets out the civil remedies available in a corruption case. Each of the IBA contributors is an expert in the use of civil proceedings to secure compensation for such victims. Many of them have great expertise in the use of both civil and criminal processes.

The IBA ARC is committed to the promotion of the use of civil remedies in corruption cases. That is not to say that in some jurisdictions other remedies can be effective; indeed, sometimes they may be the only realistic option. Where assets are easily linked to the crime, then non-conviction forfeiture tools can clearly be the right way forward. Sometimes, but all too infrequently, criminal prosecution can work. A criminal prosecution is, after all, the only proper way to ensure there is proper punishment through a lengthy term of imprisonment. Sometimes it can be followed by effective confiscation-type orders. Overall results strongly suggest that criminal prosecution is largely an ineffective method of recovering assets or compensating victims.

The options available under civil process have therefore to be properly considered and utilised. In many jurisdictions, these civil remedies almost invariably offer the best prospect of redress. Holding to account deep-pocketed accessories should be a prime focus of any corruption case. The commission of corruption offences and the laundering of the proceeds almost inevitably involve financial and other professionals. There will often be effective remedies available against not only the prime perpetrators but also the launderers and other accessories. All of this is achieved with easier evidential rules and a requirement to prove a case on the balance of probabilities. What is not to like?

We thank each of the contributors who have so carefully described the civil remedies available in their jurisdictions. Their hard work is much appreciated.

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Articles 35 and 53 of UNCAC point the way. To combat the scourge of corruption, law enforcement needs to work with expert private practitioners. The best routes to recovery need to be selected and relentlessly pursued. The victims of corruption deserve nothing less.

Stephen Baker and Kate McMahon
Co-Chairs, IBA Asset Recovery Committee

Preface

The reparation of harm caused by corruption, as with any unlawful act, is never exhausted in the sphere of the party who suffered it. Whoever the injured party may be, the restoration of what was unlawfully taken concerns society at large, and the interest in securing it is therefore a public one. Drawing on Articles 35 and 53 of the United Nations Convention against Corruption, the present study seeks to explore how a group of jurisdictions handle civil claims, with the intention of bringing formal legal rules closer to the practical realities of asset recovery.

Nor, in point of fact, should the reach of this model be confined to corruption. The difficulties that this publication addresses, of a claimant seeking redress before a forum not its own, of assets that migrate faster than the procedures designed to reach them and of legal orders that must speak to one another without a common grammar, are not peculiar to the recovery of stolen public funds. They recur wherever harm crosses a border. What is learned here, therefore, is unlikely to remain here. By bringing together practitioner insights across continents, these pages examine the practical routes open to those who must trace, freeze and reclaim assets across borders.

Real progress in this field requires moving beyond statutory rules and exclusive reliance on criminal channels. Public authorities and private practitioners face the same operational hurdles when pursuing wealth across borders, and methodologies refined in private litigation, from mapping complex concealment structures to securing urgent interim relief, offer valuable tools for public bodies. By examining how these mechanisms interact across different legal traditions, this comparative inquiry aims to provide practical insight for those who must turn abstract legal entitlements into genuine restitution.

Beyond its technical dimensions, this book stands as a triumph of shared purpose. It took shape amid times of profound uncertainty, marked by global economic distress and the relentless pressures that characterise the daily practice of law. Executing a project of this scale alongside professional duties required real personal sacrifices, taking precious time away from families, friends and leisure. No text can fully capture the quiet dedication, intellectual generosity, and collegial spirit of everyone who contributed their knowledge and time to bring this work to fruition. That collective commitment is precisely what lends this undertaking its true weight, and I extend my deepest gratitude to all involved.

Lucio A Angelo Junior
Academic Liaison Officer, IBA Asset Recovery Committee

Executive summary

This report examines how a group of jurisdictions represented in the IBA ARC approach direct recovery of assets (DRA) through civil and related proceedings in cross-border corruption matters. Its evidence base is a 17-question survey completed by Committee members and practitioners, combining binary, multiple-choice and open-ended items. Building on the earlier Brazil–StAR Initiative mapping exercise in late 2024, it assesses where civil recovery is legally available, how it functions in practice, and which procedural, evidentiary, institutional and cost-related factors most affect success.

Within the framework of Articles 53 and 35 of the United Nations Convention against Corruption (UNCAC), the survey confirms that civil routes are almost universally open. Of the 39 jurisdictions covered, 37 allow proceedings to establish title to property acquired through corruption, 38 allow their courts to award compensation or damages, and all admit foreign claimants to such actions. None treats a criminal conviction as a precondition. The causes of action invoked, however, are ordinary private-law ones rather than statutes written for recovery; 15 jurisdictions keep the civil and criminal tracks wholly apart, against 24 that admit the claimant into the criminal forum.

A central finding is that DRA is broadly available in principle but uneven in operation, with differences that follow legal tradition only in part. Tracing, disclosure, freezing and proprietary remedies tend to be more expansive where the common-law tradition predominates, whereas codified tort, unjust enrichment, declaratory relief and precautionary attachment carry greater weight elsewhere, with mixed systems drawing on both. The sharpest measure of that unevenness lies before litigation begins: tools for locating assets ahead of a claim were rated effective in only 16 jurisdictions, weak or ineffective in 19 and absent in four. Protective measures exist everywhere, yet their speed, price and evidentiary demands diverge markedly, and applications fail most often for want of proof that dissipation is likely.

Across systems, civil proceedings often offer important advantages over exclusive reliance on criminal processes or mutual legal assistance (MLA) frameworks, particularly where assets are identifiable, urgent preservation is needed, and claimants require greater procedural control or broader remedies. The choice is not binary, however, since MLA remains complementary wherever state-to-state cooperation is required to secure evidence, restraint or confiscation. Forfeiture without a conviction is additionally available in 24 jurisdictions, a route that matters where prosecution is impossible. Success nonetheless turns on conditions that no statute supplies: experienced local counsel, disciplined public-private coordination and clear information-sharing arrangements. Public-sector readiness lags, and the mandate to litigate abroad is not always matched by the means to exercise it. Third-party funding is firmly established in only 12 jurisdictions and unavailable or tightly restricted in four; recovery of legal expenditure is usually partial; and negotiated settlements, though common, stay confidential, with little visibility over how proceeds are shared.

The report closes with eight proposals. The first two address the front end of a case: wider pre-action access to banking and ownership information alongside protective relief obtainable quickly and at proportionate cost, and registries of beneficial ownership that are accurate and reachable.

Two concern institutions, calling for a clearly designated authority to litigate abroad and for agreed protocols on handling privileged, confidential or criminally obtained material when public bodies and private counsel work side by side.

Two are legislative, seeking a domestic statutory basis for foreign states to bring civil claims and a dedicated international instrument for the recognition of freezing orders and civil judgments.

The last two ask for greater openness about concluded settlements and for proportionate rules on funding, fees and costs exposure.

Taken together, they describe a landscape that is permissive on paper and uneven in practice, in which direct recovery rewards early action, reliable evidence and coordinated strategy, and in which the obstacles that remain are largely operational rather than statutory.

Introduction

In many jurisdictions, corruption is addressed primarily through criminal law, which focuses on punishing offenders. Direct recovery of assets (DRA), however, allows victims to pursue a broad range of remedies in foreign jurisdictions, including ownership, restitution, compensation and damages. Yet, it remains conspicuously underexploited.

The DRA is grounded in Articles 53[1] and 35[2] of the United Nations Convention against Corruption (UNCAC), which allow states and other claimants, including citizens and companies, to pursue civil proceedings abroad. Two distinct paths lie open under these provisions. The first is to initiate civil litigation before foreign courts, thereby establishing title to or ownership of the proceeds of corruption, or claiming compensation or damages for the harm sustained. Alternatively, a claimant may intervene as a *partie civile* in confiscation proceedings pending abroad, so as to obtain recognition of its title to property. Although states traditionally constitute the main victims, joint strategies with private counsel can serve every interest. This initiative aims to unite sovereign and professional action, recognising all the actors who bridge jurisdictions and strengthen asset recovery.

This is not a marginal concern. The Conference of the States Parties to the UNCAC has called upon states to draw on every means of recovery at their disposal, direct recovery under Article 53 among them.[3] The intergovernmental bodies most active in this field have likewise recommended wider resort to the mechanism.[4] Such calls are not intended to diminish the weight of criminal prosecution or of mutual legal assistance (MLA). Their purpose is to bring into view legal avenues that practice tends to neglect, so that those who advise on recovery may weigh the full range of options open to them before settling on a course of action.

This particular approach to recovery offers clear advantages. It provides an alternative to criminal proceedings, grants claimants more procedural control, reduces reliance on requested states and allows faster, more flexible action. Such a path also enables actions against a wider range of defendants, including financial institutions and intermediaries, through claims for breach of duty, negligence or dishonest assistance. Challenges, however, remain: navigating unfamiliar legal systems, high litigation costs, and hurdles such as judgment enforcement and the divergence of evidentiary standards and procedural requirements across jurisdictions.

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1 Article 53. Measures for direct recovery of property: 'Each State Party shall, in accordance with its domestic law: (a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention; (b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and (c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.'

2 Article 35. Compensation for damage: 'Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation'.

3 *Second cycle of the Implementation Review Mechanism. Implementation at the regional level of chapter V (Asset recovery) of the United Nations Convention against Corruption. Report prepared by the Secretariat* (UN, July 2021). https://docs.un.org/en/CAC/COSP/IRG/2021/8 accessed 4 September 2026.

4 *The Impact of Corruption on Sustainable Development: Think Piece by UNODC, OECD, and World Bank for the G20 Anti-Corruption Working Group* (UNODC, 2024). www.unodc.org/corruption/uploads/documents/Corruption_sustainable_development_C.pdf accessed 4 September 2026.

A further obstacle is structural rather than procedural. Unlike criminal cooperation, which relies on long-established protocols of international law, there is no settled framework to sustain a dialogue between states in non-criminal matters, and many authorities remain unfamiliar with the task of rendering legal assistance outside the criminal sphere.[5] Legal asymmetries, the absence of specific experience, and limited resources compound the difficulty.[6] The point deserves emphasis: beyond the persistent gaps in the implementation of the recommendations issued under international treaties, those same instruments have also provided for means of recovery that can and should be pursued autonomously, the DRA foremost among them. These circumstances highlight the need for lawyers' cross-jurisdictional expertise to explore such paths by harmonising procedures, creating synergies and strengthening cooperation. For many states, representation by experienced foreign firms and knowledge of international law is essential, turning lawyers into more than a procedural necessity: they offer comparative insight and act as co-architects of solutions with state authorities and academia.

The IBA ARC, with the Stolen Asset Recovery (StAR) Initiative, underscores the need for global collaboration between public and private legal professionals in cross-border recovery. These partnerships integrate national and foreign, theoretical and practical expertise, position the ARC as a hub for comparative mapping and strategy design, and pool investigative and evidentiary resources. They also enable coordinated action to counter defence tactics exploiting procedural differences. This model enhances efficiency, reduces duplication and increases recovery prospects. The traffic of knowledge, moreover, runs in both directions. Corporate compliance offers the clearest illustration: forged in the private sector under the pressure of public regulation, it matured into a discipline whose methods public entities have since drawn upon, as the growing adoption of business-born integrity standards by state-owned enterprises attests. There is no reason why the asset recovery methodologies refined in private litigation, from the mapping of concealment structures to the discipline of evidentiary sequencing, should not follow a comparable path into the hands of state agencies.

In *Public Wrongs, Private Actions* (2015),[7] the StAR Initiative validated the efficacy of launching private civil lawsuits to recover stolen funds. Analysing operational obstacles across different legal systems, the text maps causes of action, provisional measures and international enforcement mechanisms. It shows that while criminal prosecution is the traditional route, civil remedies offer states autonomous pathways to claim compensation and restitution. These tools are useful when criminal standards of proof are not met or when immunities block criminal channels. The findings serve as a guide for practitioners to deploy civil law remedies against corrupt actors and third-party enablers.

Later in 2020, a vanguard joint initiative of the IBA ARC and the StAR Initiative resulted in the *Going for Broke*[8] handbook, intended to address the use of insolvency and bankruptcy tools in cross-border asset recovery. By leveraging institutional synergies and strengthening alliances to advance global interests,

5 Conference room paper: 'Civil and Administrative Liability for Corruption. Domestic Practices and Ways to Enhance International Cooperation Under the United Nations Convention Against Corruption' (November 2023). www.unodc.org/documents/treaties/UNCAC/COSP/session10/CAC-COSP-2023-CRP.8.pdf accessed 4 September 2026.

6 *Brazil–StAR Initiative Report: Survey on Direct Recovery of Assets. Conducted by the Brazilian Attorney General's Office and the StAR Initiative for the G20 Anti-Corruption Working Group* (AGU/StAR Initiative, December 2024). www.worldbank.org/en/about/unit/sanctions-system/sanctions-board/brief/star-initiative-report accessed 4 September 2026.

7 *Public Wrongs, Private Actions* (StAR Initiative, 2015). www.worldbank.org/en/topic/financialsector/publication/public-wrongs-private-actions-civil-lawsuits-to-recover-stolen-assets-study accessed 4 September 2026.

8 *Going for Broke* (IBA/StAR Initiative, 2020). https://openknowledge.worldbank.org/entities/publication/ed6d00b2-bc06-5d31-9bca-1b136c78a4d2 accessed 4 September 2026.

the manual shows the power of international cooperation in identifying, freezing and repatriating the proceeds of illicit acts. It also establishes that insolvency proceedings give operators statutory powers to dismantle concealment structures. These include disclosure mandates, taking control of the debtor's business affairs, and reversing transactions that harmed the estate, providing a technical foundation for using bankruptcy law as a standalone or complementary tool against graft.

The *Brazil–StAR Initiative Report*,[9] released in 2024, illustrates the value of a comparative approach by examining 22 jurisdictions and mapping legislation, procedural rules and practical challenges. The paper demonstrates that, although most countries formally permit DRA, its use remains limited by low awareness, scarce practice and weak international cooperation. Its findings are a primary reference point for broader analysis, legal reform and capacity building.

These three publications illustrate the importance of strong, long-term partnerships, and how a structured understanding of institutional tools and operational barriers improves cross-border asset recovery. By bridging academic research and professional practice, they map the diverse legal pathways and strategic choices available to recovery practitioners. The books collectively offer a comprehensive framework to counter asset dissipation, guiding states through complex international investigations, provisional measures and collection processes. Together, they serve as a technical reference to navigate global legal systems, enhance international cooperation and successfully repatriate the proceeds of corruption. As pioneering works, these precursors broke new ground for subsequent research in the field: a legacy of operational knowledge that this current publication seeks to advance and expand.

It is well known that effective DRA strategies require knowing where prospects are strongest or weakest. Understanding evidentiary standards, provisional measures, costs and recognition of foreign judgments is essential to choosing when and where to litigate. Accordingly, this publication seeks to:

- promote awareness of the broad scope of DRA under Articles 53 and 35 of the UNCAC, including claims for damages and compensation, as essential asset recovery tools;
- describe how jurisdictions approach civil remedies based on prospects of success, procedural efficiency and cost-effectiveness, and enhance the previously acquired knowledge in the field;
- build on the *Brazil–StAR Report* by gathering updated, detailed data from jurisdictions represented by Committee members;
- highlight the shared interests of states, academia, private claimants and legal practitioners in DRA success, thereby reinforcing the rule of law; and
- encourage integrated action plans combining public and private capabilities for more effective cross-border recovery.

The material gathered is organised in four sections that follow the sequence of the questionnaire.

- Section 1 addresses the domestic legal framework, covering civil actions to establish title, the availability of compensation for corrupt acts, civil claims pursued in criminal courts, compensation for foreign

9 See n 6 above.

claimants, available provisional measures, the requirement of local counsel, preconditions to suit, the relevance of a prior criminal conviction, and the comparison between direct civil claims and MLA.

- Section 2 turns to representation and collaboration, examining competent agencies and authorities, civil and non-conviction based forfeiture, litigation funding, and the legal and practical obstacles to direct asset recovery.
- Section 3 deals with pre-litigation, tracing and costs, surveying the tracing tools available before a claim is filed and the likelihood of recovering legal costs.
- Section 4 closes with the dynamics of public-private collaboration, addressing the challenges of information sharing and the practice of non-trial resolutions and settlements.

We hope this publication can serve as an additional comparative reference tool on DRA frameworks across jurisdictions with a deliverable to support reforms, cooperation and strategy design, with practical recommendations to improve access to and use of DRA by public and private claimants. The overriding aim is to develop a stronger knowledge network linking national authorities, academia and private counsel in asset recovery, and increased capacity to initiate and conduct effective cross-border litigation for asset recovery.

Methodology

The IBA ARC circulated a questionnaire to member firms and practitioners to produce an updated mapping of legislation, practice and barriers to DRA, capture case examples and trends, and identify opportunities for harmonisation and joint action. Participants were engaged early through direct outreach and a dedicated briefing at the 3rd Annual IBA ARC meeting, held in Lisbon in early December 2025, to explain objectives, outline workflow and encourage participation. The survey received responses covering 39 jurisdictions across Africa, the Americas, Asia, Europe and Oceania.

This publication examines the information gathered through the survey using a mixed-methods approach. The questionnaire comprised ten binary questions (Questions 1–8, 10 and 11), five open-ended questions (Questions 9, 12, 13, 16 and 17), and two multiple-choice questions (Questions 14 and 15). The binary and multiple-choice questions were accompanied by free-text sections to allow respondents to provide further detail. This permitted a limited but useful descriptive quantitative assessment, where appropriate, while supporting qualitative analysis. As a first step, the exercise adopted a more descriptive perspective aimed at providing a snapshot assessment of how direct asset recovery is framed and pursued across participating jurisdictions and identifying opportunities for strengthening its use. It is important to note that the findings herein are based on the available data and reflect the authors' interpretation of the answers as submitted. For coding purposes, a respondent's marked YES/NO or multiple-choice box always prevailed. Where a categorical answer could be derived unequivocally from the respondent's substantive explanation, it was classified accordingly and transparently identified in the supporting notes. Qualified or ambiguous responses were recorded separately and interpreted in the context of the response as a whole.

The participating jurisdictions reflect responses obtained from Committee members and practitioners, and do not constitute a statistically representative sample. The findings are descriptive, the depth of the responses varied, and the report did not independently verify each respondent's characterisation of domestic law and practice.

Nothing in this publication, including any statement or information contained herein, constitutes legal advice or is intended to create, or shall be construed as creating, an attorney-client relationship or any other professional relationship between any author, contributor, respondent or participating organisation and any reader.

The methodology combined a structured reading of all jurisdictional responses with a comparative assessment of how each system framed the scope, limitations and emphasis of its own contribution. The report is organised into four thematic sections that follow the original questionnaire and comprises 17 chapters, each corresponding to a single survey question. Every chapter begins with a broader, contextual approach and includes, where appropriate, a visual synopsis (table, figure or map) and a jurisdiction-focused feature box.

Within this approach, the jurisdiction-focused boxes were deliberately designed as more granular devices, highlighting selected passages from respondents in greater detail and, where appropriate, preserving their original formulations through direct quotation. Occasionally, they also develop such extracts into more concrete, context-specific illustrations of how particular legal tools or institutional arrangements operate in practice. Rather than functioning as merely illustrative side notes, the boxes operate as targeted,

albeit brief, deep dives that bring into sharper relief specific institutional nuances, qualifications of scope and distinctive features of legal frameworks that might otherwise be lost in a more streamlined, synthetic discussion. The passages and jurisdictions featured in the boxes were selected for their comparative relevance, practical specificity, institutional distinctiveness or clarity. The boxes are selective and are not intended to be exhaustive.

Scope notes

Several respondents set out, as a conceptual and explicit matter, the constitutional character and reach of their legal orders. Curaçao appears as a constituent country of the Kingdom of the Netherlands whose civil and criminal law is largely modelled on Dutch law, with its Civil Code, Code of Civil Procedure and Code of Criminal Procedure remaining to a significant extent equivalent to their Dutch counterparts, while stressing its autonomous legislation in several areas and that European Union law, including Brussels I-bis and Rome II, does not directly apply. The British Virgin Islands[10] highlight their status as an overseas territory of the United Kingdom of Great Britain and Northern Ireland whose constitution rests on an Order in Council of the UK Government. India presents a major common-law jurisdiction with independent proceeds of crime enforcement framework centred on the Prevention of Money Laundering Act, 2002, operating in parallel with the general civil law but without dedicated legislation implementing Article 53 of UNCAC in the DRA context. The responses reflect both the statutory framework and practice in transnational asset recovery and cross-border civil litigation before the Indian courts.

Other respondents were equally deliberate in delimiting the reach of their answers. England and Wales emphasised that its reply covers England and Wales alone, Scotland being a separate legal jurisdiction and Northern Ireland a distinct jurisdiction within the UK, so that Scots law would require separate treatment. The United Arab Emirates explained that its system separates an onshore, mainland civil law jurisdiction, staffed by a federal judiciary alongside independent emirate-level departments and operating in Arabic, from offshore financial free zones such as the Dubai International Finance Centre (DIFC) and Abu Dhabi Global Market (ADGM), which function as English-language common-law courts exempt from UAE civil and commercial laws, even as the Penal Code applies throughout. The United States observed that, given its federal structure, its response concentrates on federal law together with New York and Florida rather than attempting to encompass a 50-state treatment. The authors made these statements solely to inform the reader of elements that respondents themselves chose to make explicit, without drawing any inference or value judgement from the information voluntarily provided. These framing statements did not affect the weight accorded to the responses. Each jurisdiction was treated on an equal basis, subject to the scope and qualifications expressly identified by its respondents.

10 The British Virgin Islands has a locally elected House of Assembly which is empowered to enact laws on domestic matters within its constitutional authority. However, the Governor, appointed by the King on the advice of the UK Government, is responsible for reserved matters such as internal security, defence, certain aspects of the public service and external affairs. Also, treaty-making and war-and-peace powers over the Territory reside with the UK Government.

Key findings

The key findings below combine results directly reported through the survey with the authors' contextual interpretation of patterns emerging across the responses. They are intended to provide a concise comparative synthesis and should be read within the methodological scope and limitations set out above.

1. Civil proceedings and compensation are widely available but depend predominantly on general private law

Most jurisdictions covered permit foreign states and foreign natural or legal persons to initiate proceedings to establish title to property acquired through corruption, and also to award compensation or damages arising from corrupt acts. Foreign claimants may seek compensation in all of them. These figures concern different matters: title proceedings, judicial authority to award compensation, and foreign-claimant entitlement. Across these pathways, claims rely mainly on tort, fraud, unjust enrichment, breach of fiduciary duty, restitution and constructive trusts rather than dedicated direct-recovery legislation. This reliance may contribute to variation in how claims are framed and leave areas in which specialised rules could offer more targeted protection.

2. Civil recovery generally operates independently of conviction, but civil-criminal interaction and institutional responsibility remain fragmented

No jurisdiction surveyed requires a prior criminal conviction before a civil court may grant ownership remedies or damages, and civil claims ordinarily proceed under civil standards of proof. Nevertheless, the effect of criminal findings varies, and civil proceedings may be delayed where suspension or priority for confiscation is mandatory. Twenty-four jurisdictions permit civil-party participation or adhesion within criminal proceedings, while 15 maintain procedural separation. Although joinder may provide access to prosecutorial evidence, lower costs and consolidated adjudication, it can reduce the claimant's control over timing and scope. Institutional arrangements for pursuing claims abroad are similarly divided between centralised, shared, decentralised and ad hoc models. Formal competence does not always correspond to operational capacity, and only a minority report a dedicated body equipped to conduct foreign civil claims.

3. Direct civil claims are most advantageous where identifiable assets require urgent tracing or preservation, although the effectiveness of the available tools varies considerably

They provide greater procedural control and access to disclosure, tracing, freezing and damages remedies. Pre-litigation tracing tools were classified as effective in 16 jurisdictions, limited or ineffective in 19, and generally unavailable in four. Provisional measures are available in every jurisdiction surveyed, but their speed, expense, evidentiary thresholds and practical accessibility differ markedly. Where preservation cannot be secured promptly, the danger of dissipation increases, while applications commonly fail for insufficient evidence of that risk or of the underlying claim. MLA nevertheless remains important where state-to-state assistance is required for evidence, restraint or confiscation. Consequently, combining civil proceedings with MLA may be more effective than treating the two routes as alternatives.

4. Effective recovery depends on access to complementary mechanisms, local representation and early procedural preparation

Twenty-four jurisdictions report non-conviction-based forfeiture (NCBF) mechanisms, while 15 do not. Where available, NCBF is particularly useful when conviction is impossible or impracticable, although differences in scope, standing, procedure and evidentiary standards may complicate its cross-border use. At the same time, local counsel is legally required or practically essential in most systems and can provide strategic knowledge of judicial practice, procedural requirements and interim remedies. Foreign claimants also frequently encounter security for costs, standing, jurisdiction, service and representative-authority requirements. Advance preparation is therefore often more decisive than formal admissibility alone.

5. Litigation funding and fee reimbursement remain uneven

Third-party funding is established in 12 jurisdictions; limited, emerging or unregulated in 22; generally unavailable or highly restricted in four; and one jurisdiction provided no response. Pure contingency fees are often prohibited, whereas hybrid arrangements combining base remuneration with a success-related component are more widely accepted. Cost recovery also varies, but full reimbursement remains uncommon.

6. Information sharing and settlement transparency produce a distinct set of findings

Public-private collaboration raises recurring issues involving criminally obtained evidence, legal privilege, confidentiality and sensitive state or investigatory material. Respondents identified non-disclosure agreements, restricted data rooms, encrypted channels, clean-team arrangements and protective court procedures as useful safeguards. Separately, non-trial resolutions are widely used in civil matters, but negotiations are generally private and the distribution of settlement proceeds is comparatively opaque and non-standardised.

Key challenges

The key challenges below are analytical formulations derived from contextualising the survey findings against the practical conditions required for a more effective DRA framework. They identify recurring structural constraints and operational concerns without implying uniformity across the surveyed jurisdictions.

1. Evidential burden and information asymmetry

Claimants may struggle to prove the corrupt act and connect it causally to particular assets, especially when evidence is located abroad, concealed through layered corporate or trust structures, controlled by parties with limited disclosure obligations, or obtained through confidential criminal investigations.

2. High litigation costs and financial risk

Civil asset recovery requires substantial initial expenditure on representation, evidence gathering and cross-border tracing, while foreign parties may also face security-for-costs orders, uncertain funding and exposure to adverse awards. The resulting financial pressure can discourage states with limited legal resources and private claimants pursuing smaller claims.

3. Jurisdictional complexity and procedural fragmentation

The diversity of jurisdictional thresholds, service requirements, translation obligations, civil-criminal coordination rules and institutional mandates can cause delay, duplication and uncertainty in multi-jurisdictional recovery strategies. These difficulties are compounded where responsibility is divided among several public bodies or where the claimant must navigate unfamiliar procedures through local counsel.

4. Limited cost recovery

Even where a successful claimant obtains a costs order, courts generally award only partial indemnity rather than full reimbursement. In some jurisdictions, parties largely bear their own lawyers' fees, while in others statutory tariffs or court scales remain substantially below market rates. Furthermore, an award may have limited practical value if the opposing party lacks reachable assets or enforcement proves difficult.

5. Information governance and settlement transparency

Inadequate protocols for handling criminally obtained evidence, legal privilege, confidentiality and sensitive state information may restrict information sharing or expose parties to admissibility, disclosure and security risks. Non-trial resolutions raise an additional governance concern because negotiations are generally confidential and the allocation of settlement proceeds remains comparatively non-standardised and less transparent.

SECTION I Domestic legal framework

1. Civil actions to establish title

Question 1: Does your country's legal framework permit foreign states and foreign natural or legal persons to initiate civil proceedings before national courts for the purpose of establishing title to or ownership of property acquired through corruption? If YES, please describe the primary practical hurdles (eg, procedural complexities, judicial receptiveness, unwritten rules) that a foreign claimant would face in practice. What key precedents or landmark cases have shaped this area? If there is NO specific regulation, please specify if there are other means based on general legal provisions.

Of the 39 IBA ARC jurisdictions surveyed, 37 permit foreign states and foreign natural or legal persons to initiate civil proceedings before national courts for the purpose of establishing title to, or ownership of, property acquired through corruption. Two jurisdictions do not.[11] Even where civil standing and causes of action exist, the practical use of civil title proceedings may be constrained by evidentiary and procedural challenges and, in practice, is often pursued in parallel with, or secondary to, criminal proceedings and mutual legal assistance mechanisms.

Common legal bases

Where foreign states or foreign natural or legal persons are permitted to bring civil proceedings, such claims are generally pursued through ordinary private-law causes of action, rather than through specialised 'direct recovery' legislation. Many claimants indicated reliance on established civil and equitable remedies. Most actions were grounded in fraud or deceit, unjust enrichment and restitution claims, and proprietary or equitable mechanisms including constructive trust and tracing, as well as related doctrines such as knowing receipt, dishonest assistance, conversion and civil conspiracy. Several reports also highlighted the availability of interim measures to preserve assets and support proceedings, including freezing injunctions and disclosure orders, subject to applicable legal thresholds and procedural requirements.

Cross-tradition variations

In jurisdictions such as Hong Kong, England and Wales, and certain offshore financial centres, civil fraud and asset-recovery litigation is supported by a range of interim and information-gathering measures. Where recovery proceeds instead through codified mechanisms, claimants rely on:

- proprietary actions enabling an owner to reclaim property (including vindication-type claims);
- actions seeking the annulment or invalidation of title where acquisition was tainted by illegality;
- tort or unlawful-act claims;
- restitution remedies (including unjust enrichment); and
- requests for declaratory judgments confirming ownership.

11 See the Cumulative Response Table (Annex A), which records the response of every jurisdiction to each of the binary (YES/NO) and multiple-choice questions in this report, together with any qualifications reported by respondents. The reader is also directed to Annex A for the per-question, per-jurisdiction detail underlying the headline counts in every section of this report.

Respondents emphasised that the applicable remedy and evidentiary standard depend on the nature of the asset, the form of title and the procedural posture of related proceedings. Respondents referenced a range of jurisdictions in which codified approaches of this kind are available, including several European systems.

Cross-cutting challenges

Notwithstanding the availability of civil proceedings, respondents consistently emphasised that the effective use of such mechanisms may be limited by recurring practical constraints. These challenges arise across legal traditions and were reported to affect both foreign states and foreign private parties seeking to establish title to, or ownership of, property acquired through corruption. As described below, such challenges include obtaining evidence and tracing assets, process costs and other procedural hurdles.

Evidence and tracing

Civil claimants may face difficulties in establishing the underlying corrupt conduct and the required causal link to specific property, particularly where relevant evidence is located abroad or is held by third parties. In addition, tracing assets through multiple transactions, layered corporate vehicles or trust arrangements was reported to be complex and resource-intensive. Access to investigative information or financial intelligence that could support civil litigation may be restricted, including in some offshore contexts, thereby increasing the burden on claimants to identify assets and defendants with sufficient specificity.

Costs and security for costs

There is a potentially significant financial burden associated with civil litigation, including court fees, legal representation and the risk of adverse costs orders. In some jurisdictions, foreign claimants may be required to provide security for costs, which respondents indicated can affect both the feasibility and timing of proceedings. These considerations were particularly salient in complex, multi-party litigation involving cross-border asset tracing and interim measures.

Jurisdiction and service

Jurisdictional requirements and cross-border procedural steps, including the need to establish a sufficient connection between the claim, the defendant and the relevant property, and the forum court, can also prove challenging. Practical issues related to service of process abroad, translation and formalities were reported to contribute to delays and increased costs, particularly where defendants or relevant documentation are located in multiple jurisdictions.

Interaction with criminal proceedings and confiscation regimes

Civil proceedings to establish title may also interact with, or be affected by, parallel criminal investigations and confiscation processes. In certain jurisdictions, respondents indicated that criminal seizure and confiscation may take precedence over civil claims, including through preventive or administrative confiscation frameworks, which can influence the availability or practical utility of civil remedies. Some respondents further described a ‘criminal-first’ approach in practice, whereby civil actions are more commonly pursued in parallel with, or subsequent to, criminal proceedings and mutual legal assistance, rather than as a standalone pathway.

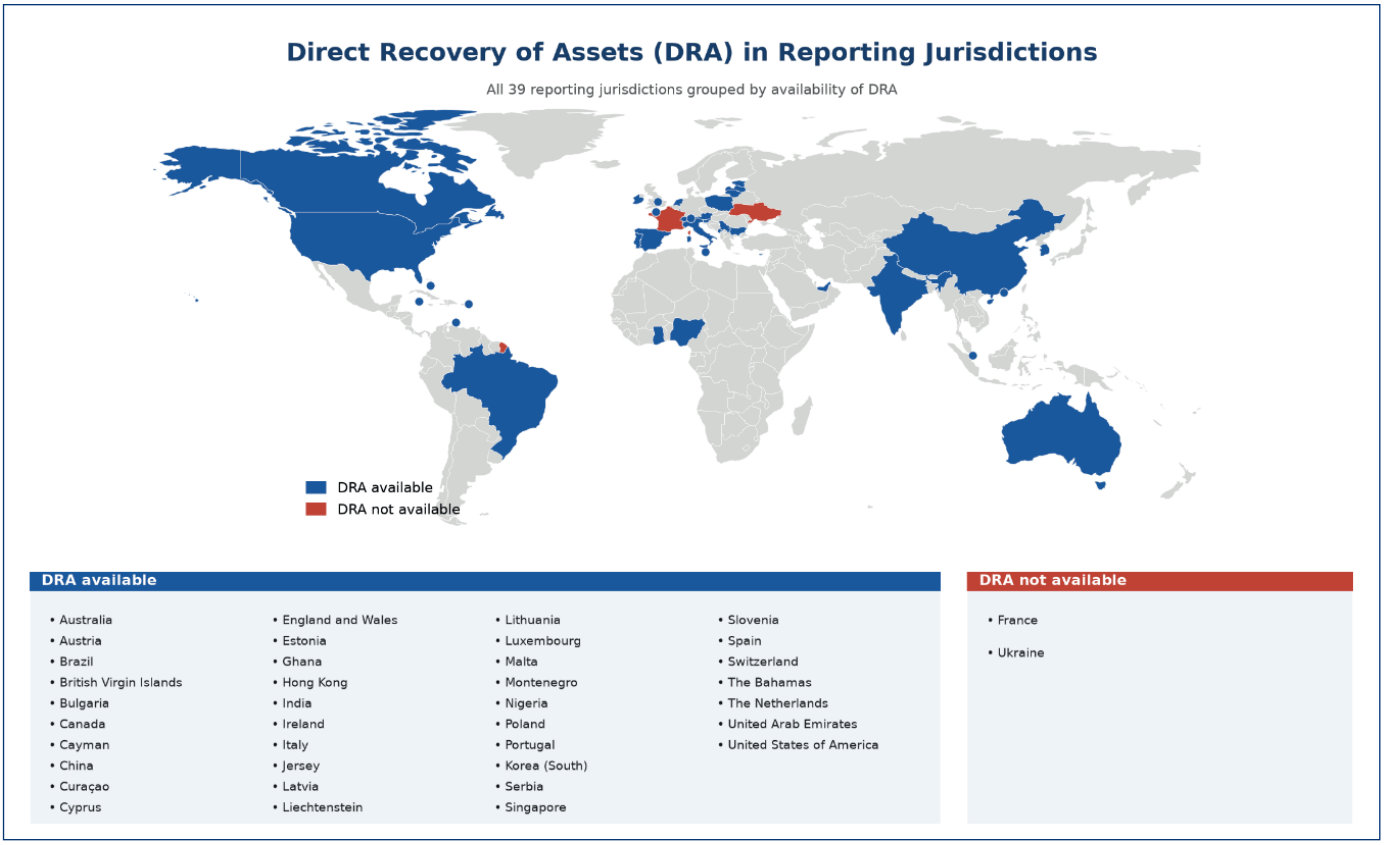


Figure 1: DRA availability in reporting jurisdictions

In sum, although most jurisdictions permit foreign states and foreign private parties to initiate civil proceedings to establish title to, or ownership of, property acquired through corruption, it is typically done through general civil-law and private-law remedies rather than specialised direct-recovery statutes. Moreover, the effectiveness of such proceedings depends on practical considerations, including access to evidence, asset-tracing capacity, litigation costs (including security for costs), jurisdictional and service requirements, and the interaction with criminal investigations and confiscation regimes that may take precedence in practice.

Real and substantial connection test

Canada illustrates the jurisdictional threshold governing foreign-claimant standing. A foreign state or private party may commence a civil action in Canada to establish title to or ownership of property acquired through corruption, provided it can establish a 'real and substantial connection' to Canada. The applicable test is the two-stage analysis set out by the Supreme Court of Canada in *Club Resorts Ltd v Van Breda* (2012 SCC 17), which asks 'whether there is a presumptive connecting factor linking the dispute to the province' and 'whether the presumption of jurisdiction can be rebutted'. Even where jurisdiction is assumed, a defendant may seek a stay on the basis of forum non conveniens, 'a common-law doctrine that recognizes the residual discretion of courts in Canada to decline to exercise their jurisdiction where fairness to the parties and the efficient resolution of the dispute so require', which requires the defendant to demonstrate that an alternative forum is clearly more convenient.

Foreign claims and evidentiary contrast

In the **UAE** civil litigation is open to foreigners, including claimants and defendants who do not reside in the country, and the legal system grants foreign states no general immunity. A claimant must select between the Arabic-language onshore courts and the English-language common-law courts of the DIFC and ADGM free zones, a division addressed in the methodology. A foreign state or private party may bring a civil action to recover property acquired through corruption. Onshore, this rests on the Civil Code, particularly tort and unjust enrichment, and on UNCAC as ratified in 2006, while the offshore courts offer causes of action close to English law such as deceit, fraudulent transfer and unjust enrichment. Civil proceedings may run in parallel with criminal ones, though they are suspended until the criminal matter is finally determined, and a criminal conviction binds the civil courts. The evidentiary regimes differ sharply. Onshore proceedings are largely document-based; witness-of-fact evidence is generally not admitted; there is no general compelled disclosure; and the court is assisted by a court-appointed expert. Offshore practice broadly follows the English model, with compelled document production, factual witnesses subject to cross-examination and party-appointed experts. The practical hurdle throughout is proving the corruption itself.

2. Availability of compensation for corrupt acts

Question 2: Does your country's legal framework permit its courts to order those who have committed corrupt acts to pay compensation or damages to another state party OR any other claimants, including private ones harmed by such acts? If YES, what types of damages (eg, material, loss of profits, non-pecuniary) are typically recoverable, and which civil claims (eg, tort, breach of duty, dishonest assistance against intermediaries) have proven most effective in practice?

Of the 39 IBA ARC jurisdictions surveyed, 38 report that their courts can, in principle, order those who have committed corrupt acts to pay compensation or damages to another state party or to other claimants, including private parties.

Common legal bases

The dominant legal pathways cited for compensation and damages claims are based on private law parties and remedies. These include tort, fraud, unlawful act, breach of fiduciary duty, unjust enrichment,

restitution, constructive trust, tracing, conspiracy and contract-based remedies where corruption taints the underlying transaction. Many jurisdictions also allow compensation within criminal proceedings whether through restitution orders, compensation orders, adhesion procedures or civil-party participation in criminal cases. A smaller set of responses highlighted asset-freezing confiscation, sanctions, forfeiture and mutual legal assistance frameworks as complementary avenues, particularly where direct civil recovery is difficult. Proprietary remedies and interim measures such as freezing injunctions and disclosure orders were frequently identified as particularly effective by respondents whose jurisdictions have developed procedural tools of this kind.

Who may claim

Question 2 covers two distinct categories of claimant: (1) another state party; and (2) any other claimant, including private natural or legal persons harmed by the corrupt acts. Respondents reported that, in most jurisdictions, both categories are, in principle, entitled to seek compensation, but on different footings. Where a foreign state appears as claimant, standing typically depends on demonstrating a direct pecuniary loss, and specific procedural conditions may apply, including questions of sovereign immunity, representation and the interaction with mutual legal assistance channels. Private claimants – natural or legal persons – generally proceed under the ordinary tort or private-law route and must establish loss, causation and standing in the usual manner. Several respondents noted that claims by foreign states, indirect victims and holders of purely non-pecuniary interests remain the most difficult to sustain in practice.

Recurring challenges and limitations

The most consistent constraint cited across responses is the evidential burden. Claimants must prove the corrupt act, establish causation, demonstrate standing and quantify losses with sufficient precision. Many countries noted that lost profits, non-pecuniary damages and claims by foreign states or indirect victims can be especially difficult to prove. Other recurring limitations include the absence of corruption-specific precedent, procedural barriers such as forum and jurisdiction requirements, translation and filing burdens, costs and security-for-costs exposure, and difficulties tracing assets across borders. Several responses further stressed that criminal confiscation, sanctions, or preventive seizure regimes may either support or complicate later civil recovery, depending on how domestic law allocates priority and ownership after seizure.

Notable country differences

The main differences across survey responses lie not in whether recovery is possible but in how directly and effectively it can be pursued in a given jurisdiction. Some respondents emphasised codified tort and criminal-party procedures, while others placed greater weight on fiduciary, equitable and proprietary remedies. Certain jurisdictions highlighted specific features. Nigeria and Canada emphasised criminal compensation and forfeiture-based payments. Hong Kong, Singapore, Cayman and England and Wales stressed tracing and interim relief. Italy highlighted the potentially overriding effect of preventive confiscation on subsequent civil recovery. The US cited powerful statutory remedies, such as civil claims of the Racketeer Influenced and Corrupt Organizations Act (RICO) and punitive or treble damages. Overall, the countries responses suggest wide legal diversity in form, but substantial convergence on the underlying principle that corruption-related harm can generate compensable claims.

Pathway	Illustrative mechanisms identified by respondents
Civil/private-law claims	Tort, fraud, unlawful act, breach of fiduciary duty, unjust enrichment, restitution, conspiracy and contract-based remedies where corruption taints a transaction.
Proprietary and equitable remedies	Constructive trust, tracing and related proprietary claims designed to identify, preserve and recover misappropriated assets.
Compensation within criminal proceedings	Restitution orders, compensation orders, adhesion procedures and civil-party participation in criminal cases.
Complementary public-law avenues	Asset-freezing, confiscation, sanctions, forfeiture and mutual legal assistance frameworks, especially where direct civil recovery is difficult.
Common-law interim tools	Freezing injunctions and disclosure orders, especially effective when paired with proprietary remedies.

Table 1: main mechanisms used to obtain compensation or damages

Recoverable damages

Korea (South) highlights the recoverable heads of loss and the strategic choice between tort and contract claims under Korean civil law. Corruption-based claims generally proceed as intentional wrongs under Article 750 of the Korean Civil Act, allowing recovery for pecuniary damages, including direct loss and lost profits, as well as non-pecuniary damages for mental distress under Article 751(1). From a strategic standpoint, a breach of contract claim may be easier to prove because the victim need only establish non-performance, causation and quantum, while the debtor must prove the absence of intent or negligence. Korean law also makes limitation periods relevant to forum strategy: contractual claims generally carry a ten-year limitation period, whereas tort claims may be cut to three years from the victim's knowledge of the damage and tortfeasor, even though they are otherwise also subject to a ten-year period. Where no contractual relationship exists, such as in bribery involving public officials, tort is the effective route; in contrast, in embezzlement or breach of trust cases, contract-based claims may be more advantageous because of the lower burden of proof and longer limitation structure.

Dual routes, full compensation

Spain demonstrates the dual routes available for compensating harm caused by corruption. Under Spanish law, compensation 'may be pursued either within criminal proceedings (as civil liability arising from the offence) or through independent civil actions before the civil courts'. Spanish law 'not only permits but expressly recognises the possibility of seeking full compensation for damage arising from a criminal offence', and the reservation of the civil action under Article 109.2 of the Criminal Code 'confirms that it is legally possible to pursue equivalent relief in civil jurisdiction, provided that the substantive requirements for civil liability are met'. Where corruption affects public contracts, concessions or administrative relationships, recovery may in practice be reinforced through public-law remedies, such as nullity of administrative acts or recovery of undue payments, which 'do not replace civil liability but can materially strengthen the state's overall restitutionary position'.

Layered civil liability, employer included

Corruption claims in **Curaçao** draw on several overlapping bases of liability under the Civil Code. Tortious liability answers most schemes directly, resting on the unlawful-act provision, and unjust enrichment under can be pursued concurrently where a defendant has gained at the claimant's expense. Revindication recovers identifiable property *in specie*. What sets the framework apart is its reach into employer responsibility, since an employer may answer for a corrupt act actually carried out by an employee. The net extends further to intermediaries such as banks and advisers, whose negligent or unlawful facilitation of a corruption scheme exposes them to tort liability in their own right. Taken together, these routes let a claimant pursue the corrupt actor, the enriched party, and the facilitators along a single evidential spine.

3. Availability of civil claims in criminal court

Question 3: Does your country's legal framework permit a claimant (state or private) to pursue a civil claim in criminal court as part of an ongoing criminal proceeding or to join an active civil lawsuit to a criminal trial? If YES, what are the strategic advantages or disadvantages (eg, speed, cost, evidentiary rules, burden of proof) of this route? Please inform if there is a mechanism to notify foreign states of the criminal trial.

Of the 39 IBA ARC jurisdictions surveyed, 24 report that their legal framework permits a claimant to pursue a civil claim in criminal court, whether as part of an ongoing criminal proceeding or by joining an active civil lawsuit to a criminal trial, while 15 do not.

The responses reflect a significant split. Roughly two-thirds of jurisdictions allow some form of civil-party participation or a civil claim within criminal proceedings. The remaining third maintains a strict separation between criminal and civil processes. Even where a claim in the criminal forum is permitted, the mechanism is usually limited in scope. It is most effective for direct, clearly quantifiable losses and often depends on the criminal case's progress and outcome.

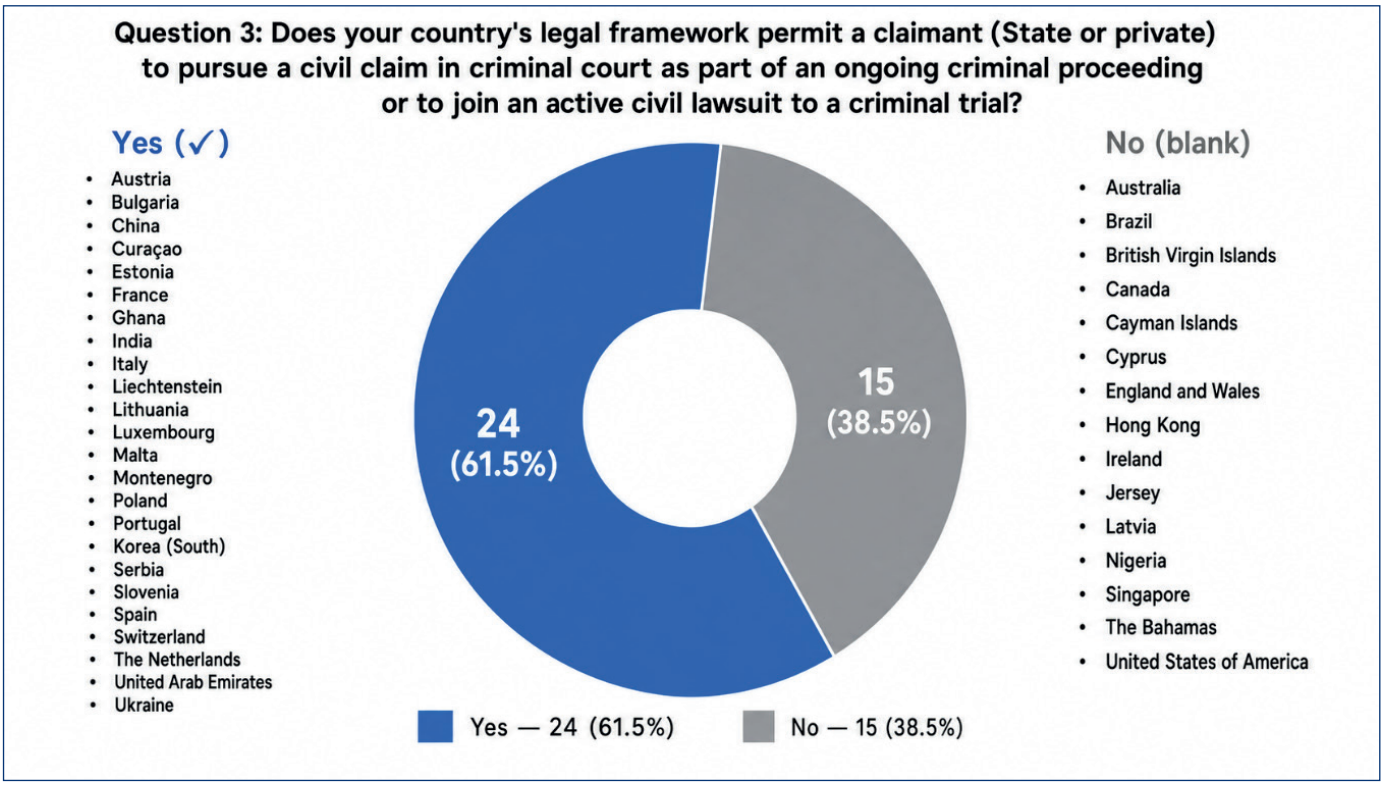


Figure 2: jurisdictions permitting civil claims as part of criminal proceedings

Availability, benefits and limits

Jurisdictions where the legal framework permits a claimant to pursue a civil claim in criminal court rely on a civil-party or adhesion model that allows the victim or injured party to seek damages in the criminal forum. France and Italy structure the mechanism around the *partie civile* or *parte civile* concept, while Portugal frames it as the adhesion of civil damages claims to criminal proceedings. The Netherlands uses the injured-party joinder. Austria, Bulgaria, China, Curaçao, Estonia, Ghana, Korea (South),

Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Poland, Serbia, Slovenia, Spain, Switzerland, the UAE and Ukraine describe variations of joining a civil claim to a criminal case.

Respondents in jurisdictions where such claims are available highlight several benefits. First, the claimant may draw evidentiary leverage from the criminal investigation and prosecution file. Second, the criminal-forum route usually costs less than bringing a separate civil case. Third, procedural efficiency improves where assets are already restrained or where evidence has been collected by the state. Fourth, in some systems, enforceability is greater because the criminal judgment addresses compensation directly.

Even in jurisdictions that allow civil claims in criminal proceedings, responses consistently flagged limits. The joined claim is often accessory to the criminal case, so the claimant retains less control over timing, scope and litigation strategy. Criminal proceedings can be slow, which delays compensation, and criminal courts may prioritise penal issues over full civil redress. Recovery is usually limited to direct losses caused by the offence. Complex or indirect damages are often declared inadmissible or redirected to a civil court, and the claim's success may depend heavily on the criminal outcome.

Several affirmative-pool responses cited important caveats specific to the shape of the criminal-forum mechanism. The Netherlands allows joinder but only for relatively straightforward claims, with complex claims redirected to civil court. The UAE allows civil claims in criminal proceedings, but complex quantification may still be deferred to the civil courts, while India permits only ancillary compensatory and property-restoration orders within criminal proceedings. Malta allows a limited criminal-court damages mechanism, but it has notable constraints.

Jurisdictions preserving procedural separation

Fifteen jurisdictions responded that civil claims within a criminal proceeding are not available. These jurisdictions preserve strict procedural separation and require claimants to file a standalone civil action. Many still permit limited compensation or restitution orders within criminal proceedings. The negative-pool jurisdictions are Australia, Brazil, the British Virgin Islands, Canada, Cayman, Cyprus, England and Wales, Hong Kong, Ireland, Jersey, Latvia, Nigeria, Singapore, the Bahamas and the US. In these jurisdictions, criminal convictions and the evidentiary record may support later civil claims, but victims must litigate separately in civil court, which means additional cost, duplication, delay and weaker access to evidence. Brazilian criminal procedure allows a foreign state, as an aggrieved party, to participate as an assistant of the prosecution, which permits it to argue before the criminal courts as a potential beneficiary of a confiscation order.

Benefits	Limits and practical constraints
Access to the criminal investigation file and prosecutorial evidence can strengthen proof of harm, causation and asset linkage.	The civil claim is usually accessory to the criminal case, leaving the claimant with limited control over timing, scope and litigation strategy.
Lower cost and less duplication than filing a separate civil action, especially when evidence has already been collected by the state.	Criminal proceedings may be lengthy, and compensation can be delayed while penal issues take priority.
Procedural efficiency may improve where assets are already restrained or where the criminal court can rule on compensation directly.	Recovery is often limited to direct, readily quantifiable losses; complex, indirect or speculative damages are commonly redirected to civil court.

In some systems, a compensation order embedded in the criminal judgment may be easier to enforce than a separate civil award.	Success may depend heavily on conviction, admissibility thresholds and the criminal court's willingness to entertain damages issues.

Table 2: benefits and limits of civil claims in criminal courts

Civil claims in criminal forum

Several jurisdictions show how civil claims can be effectively pursued within criminal proceedings, using the state's investigative powers, lower costs and consolidated adjudication to strengthen recovery. **Estonia** allows a victim to file a civil claim through the investigative authority or Prosecutor's Office once the criminal case is in court under section 38(1)(2) of the Code of Criminal Procedure, a route that is exempt from state fees and lets the civil claim ride on evidence collected for the criminal charges, provided it is based at least in part on the same factual circumstances. **France** applies the same strategic logic but with distinctive evidentiary and cooperation tools: investigations by the public prosecutor and police reduce the victim's burden and litigation cost, and criminal courts apply a more flexible 'freedom of evidence' approach, admitting privately obtained evidence even if acquired unlawfully or unfairly so long as its probative value is assessed and debated under Article 427 of the Code of Criminal Procedure and the Cour de Cassation, Criminal Chamber, 15 June 1993, No 32-82.509. French law also uses mutual legal assistance and European Investigation Orders under Articles 694, 694-1, 694-15 and 694-16 to share information and notify other states of proceedings, and Article D45-2-1 requires prosecutors to inform non-accused owners of confiscation hearings and of their right to appear, be represented and make observations.

Liechtenstein adds a clear contrast between the investigative criminal model and the adversarial civil track. In criminal trials, judges actively gather evidence and apply a beyond reasonable doubt standard, while civil claims joined under Articles 31–34 of the Code of Criminal Procedure rely on the same evidentiary record but are assessed under a lower civil standard, typically a preponderance of evidence, with the burden of proof remaining on the claimant. This lets claimants use prosecutorial powers to obtain documents, witness testimony and expert reports, resolve civil damages together with the criminal case and reduce overall costs, all while benefitting from strong findings on corruption or illicit conduct. **The Netherlands** illustrates a mature injured party and victim-compensation regime within the criminal forum. Under Articles 51a–51h of the Dutch Code of Criminal Procedure and Article 36f of the Dutch Criminal Code, victims – including legal entities and, in appropriate circumstances, states – may join criminal proceedings as injured parties or seek compensation, gaining advantages such as no court fees for joinder, no mandatory legal representation, simplified submission, access to criminal evidence and potentially faster payment via the state advance-payment mechanism. The Dutch system also prioritises victim compensation over state confiscation at enforcement and uses the threat of detention for non-payment under Article 36f(5) to compel compliance, while keeping the burden of proof on the prosecution for the criminal offence, which reinforces the evidentiary and enforcement leverage of attached civil claims.

4. Compensation for damages for foreign claimants

Question 4: Based on your country's law, would a foreign claimant (state or private party) be entitled to claim compensation for damages suffered as a result of an act of corruption? If YES, what are the most significant practical and evidentiary challenges for a foreign claimant in proving harm and causation in your jurisdiction?

Across all jurisdictions surveyed, foreign claimants – whether states or private parties – are entitled to bring civil claims for losses caused by corruption. Consistent with the responses recorded under Questions 1 and 3, the affirmative responses ground compensation in ordinary private-law causes of action – tort or unlawful act, contract, unjust enrichment, and equitable or proprietary claims – rather than in any special 'corruption damages' statute. In several jurisdictions, claimants may also pursue compensation within criminal proceedings or benefit from findings made there.

Basis for compensation

Foreign claimants typically ground compensation claims for corruption-related harm in a combination of tort or unlawful acts such as fraud, deceit or conspiracy, contract breach or invalidity, and unjust enrichment or restitution. Remedies generally centre on compensatory damages supplemented by proprietary and equitable relief, disgorgement or account of profits, and, in some systems, moral or non-pecuniary damages. Across the affirmative pool the typical proof requirements are an unlawful act, actual damage, and a sufficiently direct causal link between the corruption and the loss.



Figure 3: proof required for damages

Cross-tradition variations

In some jurisdictions, corruption-related compensation claims by foreign parties are typically framed as private-law actions in tort – such as fraud, deceit, conspiracy, breach of fiduciary duty, dishonest assistance and knowing receipt – as well as contract, unjust enrichment and equitable claims. This is reflected in Singapore, where claimants may rely on deceit, conspiracy, breach of fiduciary duty, dishonest assistance, knowing receipt, unjust enrichment and a specific statutory recovery route under section 14 of the Prevention of Corruption Act; in Hong Kong, where deceit, conspiracy, unjust enrichment, constructive trust and equitable tracing are central; and in England and Wales and Cayman, where bribery, fiduciary-duty claims, dishonest assistance, knowing receipt and restitutionary or proprietary claims are well established. These jurisdictions generally also offer proprietary remedies, such as constructive trusts, equitable liens, account of profits and tracing, together with powerful disclosure tools including Norwich Pharmacal, Bankers Trust and pre-action discovery orders. Interim relief can be especially swift and far-reaching in Hong Kong, Singapore, England and Wales, and Cayman, where courts routinely entertain freezing, search and disclosure applications on an urgent or *ex parte* basis. Those courts demand a good arguable or strong prima facie case, evidence of a real risk of dissipation, full and frank disclosure, and a cross-undertaking as to damages, sometimes fortified by security.

In other jurisdictions, recovery relies more heavily on codified causes of action, including general tort or civil liability, contract invalidity and remedies, and unjust enrichment. This pattern is evident in France, where recovery is grounded in Civil Code Articles 1240–1241 and contractual invalidity doctrines; in Portugal, which relies on general tort and unjust enrichment principles; in the Netherlands, where unlawful act, unjust enrichment, and void or voidable contracts provide the main pathways; in Estonia, where the Law of Obligations Act governs tort, contract and unjust enrichment claims; and in Italy, where Civil Code Articles 2043, 2055 and 2059 anchor recovery. Interim protection in these systems centres on precautionary attachments or seizures – such as *arresto* in Portugal, *conservatoir beslag* in the Netherlands, *sequestro conservativo* in Italy and precautionary attachments in the UAE onshore system – typically based on document-driven proof, strict test of whether there is a risk of dissipation of assets and generally more formal procedural thresholds. These mechanisms can still be effective and fast, though generally less expansive than the disclosure and tracing tools available in the first group.

On remedies, both patterns prioritise compensatory recovery, including direct loss and lost profits where adequately proven. The first group more readily supplements compensation with proprietary relief and account-of-profits remedies, as seen especially in Singapore, Hong Kong, England and Wales, and Cayman. The second group more often expressly recognises non-pecuniary or moral damages, subject to thresholds and proof, as illustrated by France, Italy, Portugal and the UAE. In practical terms, forums in the first group are most helpful with urgent asset preservation, disclosure and tracing, whereas the second group may offer strategic advantages through criminal-civil integration, particularly in Portugal, the Netherlands, France, Italy and the UAE onshore system, where access to prosecutorial evidence or joinder mechanisms can strengthen a claimant's position.

Recurring challenges

Despite the broad availability of these claims, foreign claimants seeking compensation for corruption-related damages still confront a cluster of procedural hurdles. Establishing a direct and legally sufficient causal link between the corrupt act and the loss can be very challenging. Quantifying that loss is especially so if it involves lost profits or measuring reputational harm, which requires detailed factual reconstruction and expert evidence. Evidence gathering itself can also be fraught. Many civil-law courts in particular have limited civil discovery and strict admissibility rules. In addition, cross-border proof requires time-consuming tools such as Hague evidence requests, plus authentication and translation.

Tracing assets across layered, multi-jurisdictional structures is another recurring challenge. Claimants in civil-law systems often rely on criminal investigations for investigative leverage, whereas stronger proprietary and tracing remedies may be available in common-law venues. Jurisdictional obstacles, including establishing forum competence, serving defendants abroad and ultimately enforcing judgments where assets sit, also add complexity and delay. Interim relief, though crucial to prevent dissipation, comes with high bars: courts typically demand a strong prima facie case, clear evidence of dissipation risk and even deposits, while intrusive search orders are rare. Layered onto this are high, front-loaded litigation costs, potential security-for-costs orders against foreign plaintiffs and, in some places, limited fee recovery, together with tight or complex limitation regimes that can be difficult to satisfy when corruption surfaces late.

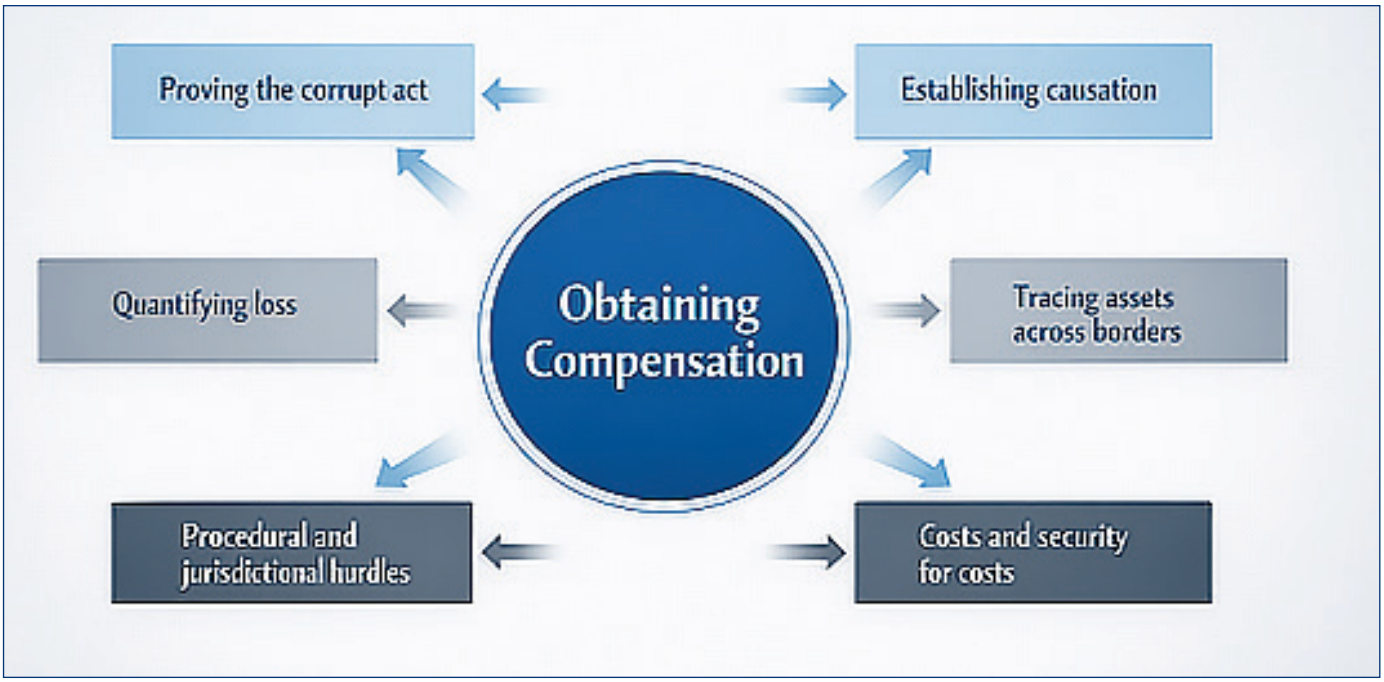


Figure 4: recurring challenges to compensation

Compensable losses

In **Latvia**, all types of losses are permissible, except punitive and predetermined losses. Lost profits are accepted in case law only where they are sufficiently proven, reliable and not based solely on assumptions. The main legal provisions for a claim for compensation are Articles 1770 – 1792 of the Latvian Civil Law.

Compensatory recovery without conviction

Malta allows foreign claimants to seek compensation for corruption under Article 1051A of the Civil Code, without limiting such claims to nationals, provided Maltese courts have jurisdiction and the cause of action is recognised under Maltese law. A criminal conviction is strong evidence but not a prerequisite, and the claimant must prove corruption and causation on a balance of probabilities. Under Article 1045 of the Civil Code, claimants may recover full compensatory damages, including actual loss, or *damnum emergens*, and loss of profits, or *lucrum cessans*. Damages must be quantified through credible, evidence-based estimation rather than exact precision, with attention to the probable consequences of the corrupt conduct.

Tort as primary route

In **Serbia and Montenegro**, material damage includes both actual loss and loss of profit. Actual loss refers to a reduction in the claimant's assets, such as overpayment under a corruptly inflated contract, while loss of profit covers 'the gain that could reasonably have been expected under the ordinary course of events', including lost investment opportunities or profits that would have accrued absent the unlawful conduct. A foreign state may seek compensation before Montenegrin courts on the basis of general civil liability rules. The primary and broadest legal basis in corruption-related cases is tort, as corruption constitutes unlawful conduct causing damage. The claimant must prove standing, legal basis of liability, causation and amount of damage, while fault is presumed and the defendant bears the burden of proving absence of fault. In addition, a claimant may also rely on contractual claims, including breach of contract and nullity of contract.

5. Available provisional measures

Question 5: Are there provisional measures (eg, sequestration, seizure, freezing orders) available in civil proceedings to prevent dissipation of assets? If YES, please assess their practical effectiveness. How quickly can a freezing order typically be obtained ex parte*, what is the typical cost and evidentiary threshold, and what is the most common reason for courts to deny such applications?*

Available provisional measures

Civil proceedings in all jurisdictions represented in the surveys offer provisional measures to prevent dissipation of assets. Indeed, all responses answered 'yes', confirming courts can grant measures such as freezing orders, seizures, attachments, injunctions, disclosure orders, receivership, and related preservation tools to secure assets before final judgment. These measures are commonly available on an urgent or *ex parte* basis, especially where giving notice would undermine effectiveness. Courts generally require the claimant to show a prima facie or good arguable case on the merits, together with a real or credible risk that assets will be dissipated, concealed, or enforcement otherwise frustrated.

Cross-tradition variations

Provisional measures are available across the jurisdictions surveyed, but the instruments vary. The available toolkit ranges from freezing injunctions, search orders, disclosure orders, proprietary injunctions and sometimes receivership, to precautionary attachment, conservatory seizure, judicial mortgage and interim injunction frameworks – the latter often with somewhat narrower disclosure mechanisms.

Speed of freezing orders

Among the countries that mentioned a time threshold, some suggested that their courts can act very swiftly, especially when the application is urgent and well supported. In the fastest systems, *ex parte* freezing relief may be obtained the same day, within hours or within one to three days. Hong Kong, for example, is described as capable of granting relief within hours or one to two days. Nigeria reports 24 – 72 hours. Bulgaria notes a practical timeframe of about two to three business days even though the court is formally expected to rule the same day, while Estonia requires a decision by the next working day. France and Italy also indicate that orders can often be issued within days or even the same day in urgent cases. The Bahamas reports that urgent *ex parte* applications typically resolve within three to five days, followed by an *inter partes* hearing on the merits. Other jurisdictions remain relatively quick but require more preparation, especially where worldwide relief, foreign proceedings or complex tracing evidence are involved.

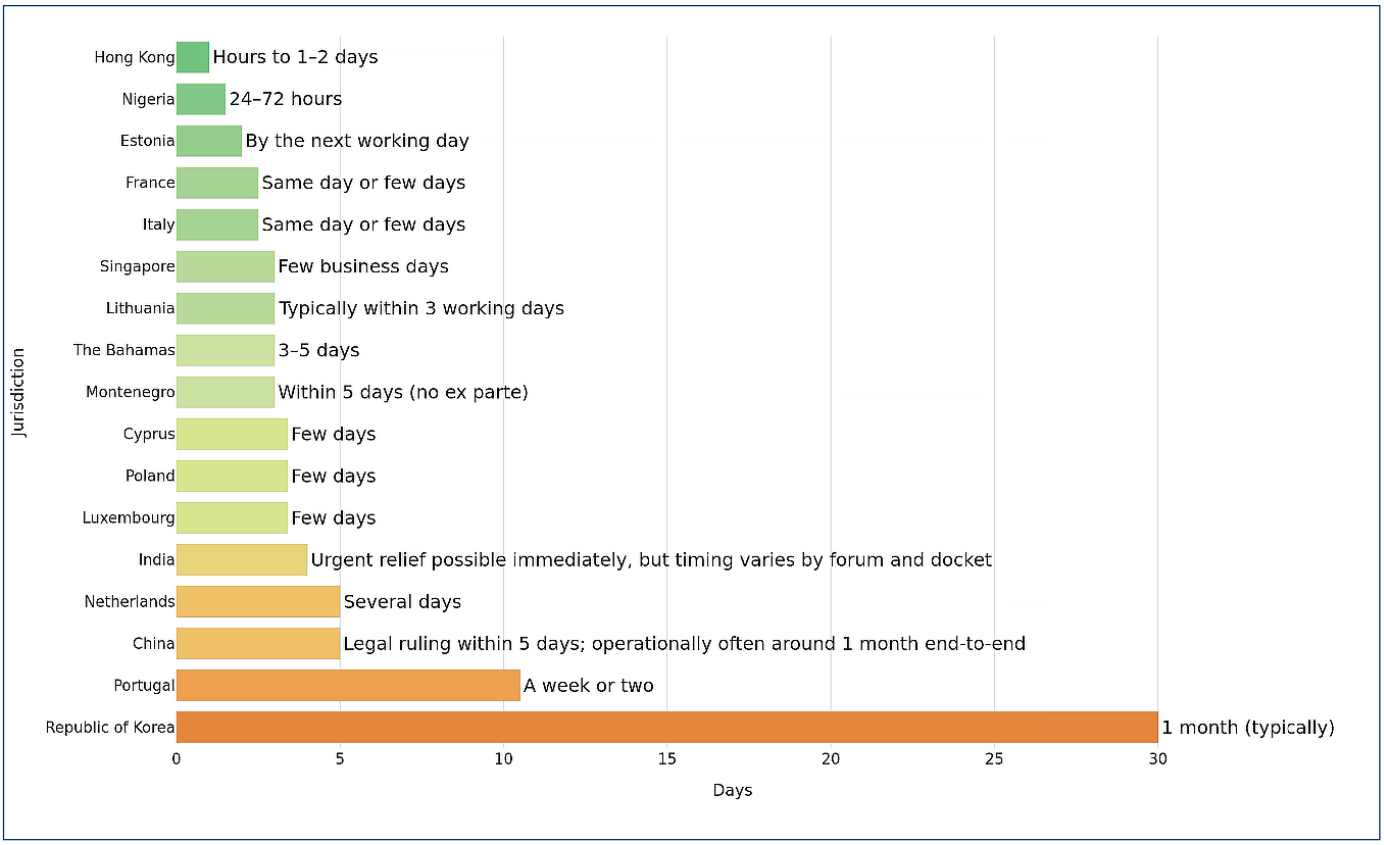


Figure 5: freezing order speed in sample jurisdictions

Cost and evidentiary threshold

Costs and evidentiary thresholds are significant practical constraints. Costs vary widely by jurisdiction and complexity, but the common theme is that these applications are often front-loaded, document-heavy and potentially expensive, especially in offshore and common-law jurisdictions where applicants may spend substantial sums preparing evidence, affidavits, asset-tracing materials and draft orders. However, such costs are inherently relative, since they must be assessed in light of the value of the claim, the prospects of recovery and the urgency of the relief sought, where time is often of the essence. It is a nuanced issue, and there is, critically, no 'one-size-fits-all' approach.

Even in systems with modest court filing fees, claimants often face additional burdens such as deposits; undertakings as to damages, bonds or security; and possible enforcement expenses.

On the evidentiary side, courts usually require at least a strong prima facie case or good arguable case on the merits, together with specific evidence of a real risk of dissipation, concealment or frustration of enforcement. In civil-law systems, the formulation may differ – such as a claim being 'well-founded in principle', 'convincing written evidence' or proof of *fumus boni iuris* and *periculum in mora* – but the functional standard is similar: courts expect credible proof both of the claim and of urgency.

Frequently cited provisional-measure tools

Respondents cited a wide range of provisional-measure tools that broadly cluster into four functional groups.

Preservation and interim seizure of assets is the largest group: claimants rely principally on Mareva or freezing injunctions (Australia, Canada, Cayman, England and Wales, Hong Kong, Ireland, Jersey, Nigeria, Singapore, the Bahamas and the British Virgin Islands), alongside:

- pre-judgment attachment or conservatory seizure: *arresto* in Portugal, *conservatoir beslag* in Curaçao, pre-judgment attachment in the Netherlands, *sequestro conservativo* in Italy, provisional seizure or judicial security (Code of Civil Enforcement Procedure Article L.511-1) in France, freezing and seizure orders in Luxembourg, *medidas cautelares* in Spain and civil attachment in Switzerland; and
- statutory preservation regimes: property preservation in China (pre-litigation and during litigation), preservation measures under the Civil Execution Act in the Republic of Korea, interim measures under the domestic Codes of Civil Procedure (Bulgaria, Estonia, Latvia, Lithuania, Poland and Ukraine, with judicial mortgage on immovable property in Estonia and Latvia), and preliminary and temporary measures under the Law on Enforcement and Security in Serbia and Montenegro.

Search and preservation of evidence is a narrower group, dominated by common-law jurisdictions through Anton Piller or search orders (Australia, Canada, Cyprus, Hong Kong, Ireland, Nigeria and Singapore).

Disclosure and asset tracing relies on Norwich Pharmacal and Bankers Trust orders in common-law and mixed systems (Australia, Canada, Cayman, Cyprus, Hong Kong, Nigeria, Singapore and the British Virgin Islands), with narrower civil-law equivalents typically anchored in bank-secrecy exceptions and court-supervised disclosure to counsel.

Court-controlled seizure and prohibitory injunctions under civil-procedure codes covers hybrid tools such as garnishee orders, warrants of seizure and warrants of prohibitory injunction in Malta, and precautionary attachment in the onshore UAE.

Basis for denial

The most common reason courts deny applications for provisional measures is also consistent across jurisdictions: the applicant fails to provide sufficiently concrete evidence that assets are genuinely at risk of being dissipated or that the claim is strong enough to justify such intrusive relief. Mere suspicion, vague allegations of corruption, generalised fear of asset flight, or overly broad requests are repeatedly identified as grounds for refusal. Courts are particularly sceptical where the application relies on assertion rather than documentary evidence or where the claimant has not tied the requested order to identifiable assets or a clear enforcement risk. A related and recurring reason for denial or later discharge is failure to comply with the strict duty of full and frank disclosure in *ex parte* proceedings, especially in common-law jurisdictions.

Some jurisdictions apply a materially higher threshold. Slovenia, for example, requires applicants to demonstrate not only dissipation risk but also the element of surprise to ensure effective claim enforcement, or, for non-monetary claims, specific irreversible damage absent the injunction.

Targeted interim asset freezing

Lithuania describes provisional measures (*laikinosios apsaugos priemonės*) mainly regulated by Articles 144 to 152 of the Code of Civil Procedure of the Republic of Lithuania. These measures are commonly used and generally effective to prevent dissipation of assets. Freezing orders or other interim measures may be granted *ex parte*, and courts are required to decide such applications within three working days. The evidentiary threshold is prima facie substantiation of the claim, together with a demonstrated risk that enforcement of the future judgment may become impossible or significantly more difficult without interim relief. Although it is relatively easy to establish prima facie substantiation, meeting the second requirement is often more challenging in practice. The court fee for a separate application is relatively modest, currently around €38. Courts may also require the claimant to provide security for potential losses of the defendant if the measures later prove unjustified, but this is done in rare cases. The most common reason for refusal is the claimant's failure to sufficiently demonstrate the risk to enforcement or the proportionality of the requested measure.

Rapid freezing and injunctive toolkit

Nigeria explains that freezing orders are available under Nigerian law and are frequently utilised in civil proceedings to preserve assets pending resolution of the civil claim. Such orders are commonly obtained *ex parte* upon an application by motion before the competent court. In appropriate cases, reliefs such as Mareva injunctions, Norwich Pharmacal orders, administrative holds by financial institutions and forfeiture orders may also be granted in the course of civil proceedings, subject to satisfaction of the established legal requirements. In ordinary civil proceedings, the procedural basis is grounded in case law and in rules of court, including Order 28 of the Federal High Court (Civil Procedure) Rules 2019 and Order 42 of the High Court of Lagos State (Civil Procedure) Rules 2019. These empower the court to grant interim and interlocutory injunctions, restrain the transfer, disposal or removal of property, and make preservation orders where property in dispute is in danger of being wasted, alienated or wrongfully disposed of. Such orders are generally highly effective and may typically be obtained within 24 to 72 hours. The cost of obtaining them depends largely on case complexity and may increase in corruption matters due to asset tracing and the engagement of third-party experts.

Worldwide freezing with disclosure and tracing

Courts in **Singapore** provide a robust suite of provisional measures in civil proceedings, including freezing or Mareva orders (both domestic and worldwide), proprietary injunctions or preservation orders, and ancillary disclosure orders. These measures can be highly effective in preventing asset dissipation and facilitating asset tracing and recovery. Freezing orders, particularly worldwide freezing orders together with ancillary disclosure orders, restrain defendants from dissipating assets pending determination or enforcement, and compel early and comprehensive disclosure of the defendant's asset position, including assets held outside Singapore. This is especially effective where the claimant initially lacks visibility over the defendant's assets. Once obtained, freezing orders may be served on banks, financial intermediaries and crypto exchanges, significantly reducing the risk of dissipation. In addition to freezing orders, proprietary injunctions can be obtained to preserve assets over which the claimant has a proprietary claim as well as their traceable proceeds, ensuring that such assets remain available for eventual recovery. Where a claimant demonstrates at least a reasonable prima facie case of wrongdoing and a proprietary interest in moneys held in a bank account, Singapore courts may also grant a Bankers Trust order to compel a bank to disclose information regarding the defendant's assets.

Ex parte attachment, rapid conversion

Provisional protection is a particular strength of the Curaçao procedure. Prejudgment attachment, the *conservatoir beslag*, reaches a debtor's assets on a summary *ex parte* request, granted after a brief examination of the application and conditioned on the applicant commencing main proceedings within two to eight weeks. Should the main action then succeed and yield an enforceable judgment, that attachment converts automatically into an attachment in execution, closing the gap between security and recovery without a fresh application. Alongside it, freezing orders are available in injunction proceedings, giving a claimant a faster interim route where urgency demands it. The combined effect is a regime that can immobilise assets early, on limited notice, while preserving a clean path to enforcement once the substantive claim is proven.

6. Legal counsel requirement

Question 6: Do foreign countries or private parties need to hire local counsel to represent them on such claims? If NO, please specify other ways foreign states can be represented, including any relevant legal provisions? Beyond any legal requirement, what are the key strategic advantages a well-connected local firm brings to a foreign claimant in a DRA case (eg, judicial insight, navigating informal procedures, media management)?

Value of local counsel

From a strategic perspective, respondents consistently emphasised that a well-connected local firm can add substantial value beyond mere formal compliance. In direct recovery of assets cases, success often depends on speed, procedural precision and familiarity with informal aspects of litigation culture. Local counsel can:

- identify the most effective forum;
- prepare urgent freezing or disclosure applications in line with judicial expectations;
- coordinate with bailiffs, regulators, prosecutors and asset-tracing experts; and
- manage translation, service and evidentiary issues.

They may also help navigate local sensitivities, including media exposure, reputational considerations, and the practical sequencing of civil, criminal, and insolvency tools.

A small number of jurisdictions recognise limited exceptions; in spite of these exceptions, local representation is usually indispensable. Estonia allows certain forms of representation in lower courts, Austria permits some participation by EU lawyers with Austrian co-counsel, and the offshore courts of the UAE may admit registered foreign lawyers, while onshore courts require Emirati advocates. China stands out as the clearest exception, since foreign parties may appear in person and there is no absolute requirement to hire local counsel. If counsel is retained, however, representation must be by People's Republic of China (PRC)-qualified lawyers. Even in these jurisdictions, local firms remain practically

essential because they understand court practice, filing requirements, language rules and the procedural expectations that often determine whether urgent relief is granted.

For foreign claimants, the implication is that engaging strong local counsel should be treated not as a procedural formality, but as an early strategic decision that can materially affect recovery prospects. Corruption-related civil claims frequently involve fast-moving preservation measures, cross-border evidence and complex ownership structures, all of which reward local procedural fluency and rapid access to domestic networks. Accordingly, while the legal rules differ across jurisdictions, the survey responses point to a common practical lesson: foreign claimants are most likely to succeed when international strategy is paired with experienced, locally admitted counsel capable of acting quickly and effectively before the domestic courts.



Figure 6: the value of retaining local counsel

Local counsel as practical necessity

Across several jurisdictions, answers point to reliable local counsel as practically essential for foreign claimants in asset recovery and corruption-related civil cases. In **Austria**, legal representation is mandatory in district courts when the amount in dispute exceeds €5,000 and, as a rule, before higher courts. Foreign parties must then instruct an attorney licensed to practise in Austria, and European foreign attorneys may only act in agreement with an Austrian lawyer under section 5 of the European Lawyers Act Europäisches Rechtsanwaltsgesetz (EIRAG), with that agreement proven at the first procedural step.

In **Slovenia**, parties may appear without counsel before all courts except the Supreme Court. When represented, they must appoint a licensed attorney or a lawyer admitted to the local bar, save for proceedings before the lower local court. For complex, cross-border disputes involving legal entities, retaining reliable local counsel with full rights of audience is in practice essential to ensure efficient and properly managed proceedings. This is due to the use of the local language together with domestic procedural and substantive law, as well as the need to navigate local court rules and practice.

The responses provided by **Ghana** and **Poland** underline the strategic dimension of local firms in more complex cases. In Ghana, a well-connected local firm is described as bringing the relevant networks and case management while complying with data protection, disclosure requirements and information security for applicants or claimants, highlighting its role in handling sensitive information and operational coordination in DRA matters. In Poland, local counsel is presented as often decisive in asset recovery and corruption-related litigation because it understands judicial expectations, unwritten court practices and the evidentiary style preferred by Polish judges, who tend to be formalistic and sceptical of broadly framed or policy-driven claims. The same answer notes that experienced Polish firms are better placed to assess timing, forum allocation and realistic prospects of interim measures, to anticipate common defence tactics, and to manage enforcement, coordination with prosecutors and reputational or media exposure so that the case is framed as a technically sound civil dispute rather than a politically charged allegation. Taken together, these jurisdictions illustrate a common pattern: local counsel is treated as a practical necessity for navigating language, procedure, evidence and strategic risks in direct recovery of assets.

7. Preconditions

Question 7: Is there any condition (eg, prior exhaustion of remedies, security for costs) that claimants must meet before bringing a civil claim to recover damages, establish prior ownership or participate as partie civile *in a criminal procedure? If YES, please specify and, from a practitioner's perspective, how are these conditions typically applied by the courts, and what is the best strategy to meet them efficiently?*

Across the surveyed jurisdictions, there is no single overarching requirement for foreign claimants to bring a civil claim, but there are often procedural or financial gateway conditions they must meet at the outset of a case. In several jurisdictions, especially common-law systems, foreign claimants may face an application for security for costs, particularly where they lack assets in the forum, are resident abroad or appear unlikely to satisfy an adverse costs order. This was highlighted in jurisdictions such as Australia, Hong Kong, England and Wales, Cayman, Switzerland, Serbia, and, in some circumstances, India, Montenegro, Liechtenstein and the Netherlands.

Procedural conditions

Beyond security for costs, respondents identified a range of other procedural conditions that may shape access to civil recovery, although these are usually case-specific rather than universal barriers. Some jurisdictions require payment of court fees at filing, while others impose formal requirements for foreign documents, powers of attorney, translations or apostilles. In systems that allow civil claims to be joined to criminal proceedings, additional constraints may apply, including victim status, strict filing windows, factual overlap with the criminal case or deposits tied to investigative complaints. A further group of jurisdictions condition civil recovery on the claimant's standing and the timeliness of the action: in Ghana, for instance, the claimant must establish capacity or *locus standi* and ensure that the action is not statute-barred, proving the allegations with clear and relevant evidence. By contrast, several jurisdictions – including Bulgaria, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Poland and China – reported no special preconditions of this kind beyond ordinary civil filing requirements. Brazil and Nigeria indicated more limited or context-dependent procedural hurdles.

From a practical perspective, the survey responses suggest that the principal challenge for foreign claimants is not formal admissibility, but early case preparation. Claimants should anticipate the possibility of security for costs, ensure that corporate authority and foreign documentation are properly legalised and translated, and assess at the outset whether it is strategically preferable to proceed through a standalone civil action or, where available, to join criminal proceedings. Overall, the findings point to a relatively permissive landscape for bringing civil claims legal-wise, but one in which procedural readiness, forum-specific compliance, and advance planning can materially affect whether a claim proceeds efficiently and without avoidable delay or cost exposure.

Precondition category	Jurisdictions	Main features
None or minimal preconditions	China; Cyprus;[12] Latvia; Lithuania; Luxembourg; Malta; Poland; Ukraine	No special preconditions, or only standard filing/pre-action requirements that do not generally prevent a claimant from bringing proceedings.
Financial or cost-related preconditions	Canada; Hong Kong; India; France;[13] Liechtenstein; Montenegro; Switzerland; Serbia	Claimants may need to pay court fees, provide deposits or furnish security for costs, particularly where the claimant is foreign or cost recovery risk is identified.
Criminal-procedure-related gateway conditions	Estonia; Italy	Access to a civil claim within criminal proceedings may depend on victim status, timing rules, factual overlap with the criminal case, or the initiation and stage of criminal proceedings.
Standing or formal gateway requirements	The Bahamas;[14] Ghana; Montenegro;[15] Hong Kong[16]	Claimants may need to establish *locus standi,* territorial nexus, representative authority, local counsel or service-agent requirements, or other formal conditions before proceeding.

Table 3: preconditions across sample jurisdictions[17]

12 Cyprus expects pre-action protocol compliance, but non-compliance mainly affects costs rather than admissibility.

13 France may require a deposit for the investigating-judge complaint route.

14 The Bahamas notably requires *locus standi* and a Bahamian nexus.

15 Montenegro may require a local service agent.

16 Hong Kong emphasises standing and representative authority.

17 A jurisdiction may appear under more than one category where its preconditions span more than one type.

Standing, security and urgent relief

Hong Kong imposes conditions that claimants should satisfy before bringing civil asset-recovery actions. Claimants must show *locus standi*, meaning a genuine legal interest in the subject matter and a sufficient connection to the assets, and the description notes that litigation may also be brought 'in a representative capacity, such as agents, liquidators or receivers appointed in foreign jurisdictions', provided there is evidence of that authority, which Hong Kong courts routinely accept. Foreign claimants are frequently required to provide security for costs if they are resident abroad or otherwise pose recovery risk, and courts apply this 'routinely and pragmatically'. Preparing early evidence of financial standing or being ready to offer security promptly to avoid delay or adjournments is often considered the best strategy. Claimants seeking urgent interim relief face front-loaded evidentiary obligations, and 'failures in full and frank disclosure remains the common reason applications are refused'. From a practitioner's standpoint, it is efficient to pre-arrange security, file strong evidence and tightly drafted applications, and sequence disclosure with freezing relief so the claimant both identifies the trail and locks assets before further movement, anticipating judicial concerns and allowing urgent relief to be granted quickly.

Cautio judicatum solvi and local agent

Under the civil procedure law of **Serbia**, 'a foreign claimant may be required to provide security for costs (*cautio judicatum solvi*)'. Upon the request of the defendant, the competent court in the Republic of Serbia may order a claimant who is a foreign individual or legal entity to provide security for the defendant's litigation costs. This requirement typically applies where the claimant is domiciled in a state that is not a party to the Hague Convention on Civil Procedure (1954) or where 'no bilateral treaty on mutual legal assistance in civil matters exists' between that state and the Republic of Serbia. If such conditions are met, the court may issue an order requiring the claimant to deposit an amount sufficient to cover anticipated litigation costs, and if the claimant fails to provide the ordered security within the deadline set by the court, the court may suspend the proceedings and ultimately dismiss the claim under the Civil Procedure Act of Serbia. It is also noted that, since the party may be a foreign state and its legal representative located abroad, if there is no authorised representative in Serbia it must appoint an agent for service of documents in Serbia. If the foreign state hires a local counsel, court documents are served to that counsel.

Direct victim and Bahamian nexus

In **the Bahamas**, a claimant must establish that they have *locus standi*, meaning a sufficient legal interest, before bringing a civil asset-recovery action. '[I]t must be established that the individual/entity is a direct victim of the wrongdoing'. It also requires that 'the property must be located in the Bahamas, and/or the relevant transaction must be governed by Bahamian law'. These conditions together ensure both a direct victim link and a Bahamian nexus to the assets or transaction as the basis for civil recovery.

8. Criminal convictions

Question 8: Does your country require a prior criminal conviction for corruption before a civil court will grant ownership or damages based on the same facts? If YES, how does this condition affect litigation strategy? Please describe the practical impact on the timeline, cost and overall viability of a civil claim.

Survey responses showed a clear and consistent pattern across the surveyed jurisdictions: no surveyed jurisdiction requires a prior criminal conviction for corruption before a civil court may grant ownership remedies, restitution or damages. Civil courts in these systems proceed on the basis of ordinary private-law causes of action, typically tort, unjust enrichment, contract or proprietary claims, and apply the civil standard of proof rather than the criminal standard.

That said, respondents also emphasised that the relationship between civil and criminal proceedings can still be strategically important. In some jurisdictions, civil claims may be joined to criminal proceedings or may be stayed pending criminal outcomes, and a criminal conviction, if obtained, can significantly strengthen the evidentiary position of the claimant. For example, responses from Italy, Estonia, Portugal, Switzerland, Ukraine and the UAE noted that criminal proceedings may provide access to evidence, investigative findings or procedural efficiencies that benefit a related civil claim. In certain systems, final criminal findings may also have binding or persuasive effect on specific facts, even though they are not a legal precondition to civil relief. Responses from other jurisdictions such as India, Singapore, England and Wales, the US and Cayman placed greater emphasis on the autonomy of civil proceedings, with civil courts expected to make their own findings under the lower civil standard.

A closer reading of the responses shows that this 'binding or persuasive effect' is not uniform and, in fact, splits along broadly recognisable lines. Several civil-law respondents described a positive binding effect of the criminal judgment upon the civil court: Bulgaria explained that a final criminal judgment binds the civil court as to whether the offence was committed, whether it was unlawful, and whether the offender was guilty, while the UAE stated that the civil courts are 'bound by the findings of a final criminal judgment and cannot re-evaluate the merits', and Spain confirmed that a final criminal judgment's findings on the existence or non-existence of facts bind the civil courts. At the opposite end, the Cayman Islands invoked the rule in *Hollington v F Hewthorn & Co Ltd*, under which findings of fact made in an earlier judgment, whether civil or criminal, are inadmissible as evidence of the truth of those facts in later proceedings. This is a noteworthy counterpoint to the general expectation that a conviction strengthens the claimant's evidentiary position, since in that jurisdiction the evidential carry-over from a prior conviction may be considerably more limited.

The responses also distinguish between staying civil proceedings as a matter of tactical prudence and doing so as a structural rule. In some systems, the precedence of the criminal case is mandatory rather than optional: China described a principle of prioritising criminal over civil proceedings, whereby the civil action is suspended until the criminal judgment is rendered and that judgment then forms the basis of the civil trial, and Spain pointed to Article 114 of its Criminal Procedure Act, under which no civil action may be brought on the same facts once a criminal trial has begun, any pending civil action being suspended until a final criminal judgment is handed down. Ukraine similarly noted that, although a conviction is not formally required, civil courts may suspend proceedings because a criminal judgment has 'prejudicial effect' in establishing the relevant facts. For claimants, this qualifies the general proposition that civil

recovery need not be delayed, since in these jurisdictions a stay may be compulsory rather than a matter of choice.

For foreign claimants, the practical implication is that civil recovery does not need to be delayed while waiting for a criminal conviction. This is crucial in cases involving asset dissipation, cross-border transfers and urgent preservation needs. The survey responses suggest that claimants should instead assess whether a standalone civil action offers greater speed and control, or whether coordination with criminal authorities may yield evidentiary and cost advantages. Overall, the findings point to a broadly permissive framework for civil recovery without prior conviction, but one in which the tactical value of criminal proceedings varies by jurisdiction and can materially affect the timing, cost and evidentiary strength of the claim.

Two further nuances emerged from the responses. First, respondents differed on the effect of an acquittal upon the parallel civil claim:

- India stressed that an acquittal does not automatically extinguish a civil claim on the same facts;
- Spain explained that an acquittal bars the civil action only where it declares that the act giving rise to civil liability did not occur, whereas an acquittal for want of criminal intent may still leave room for fault-based civil liability; and
- Italy warned that a claim grafted onto criminal proceedings as a civil party is effectively rejected if the accused is acquitted, even for insufficient evidence, forcing the claimant to begin again in the civil courts.

Second, while many respondents grounded the autonomy of the civil action in the lower civil standard of proof, expressed as the 'balance of probabilities' or 'preponderance of the evidence', Singapore added the practical caveat that, where fraud or dishonesty is alleged, its courts require cogent evidence notwithstanding the applicable standard, a reminder that the nominal standard and its practical application may diverge.

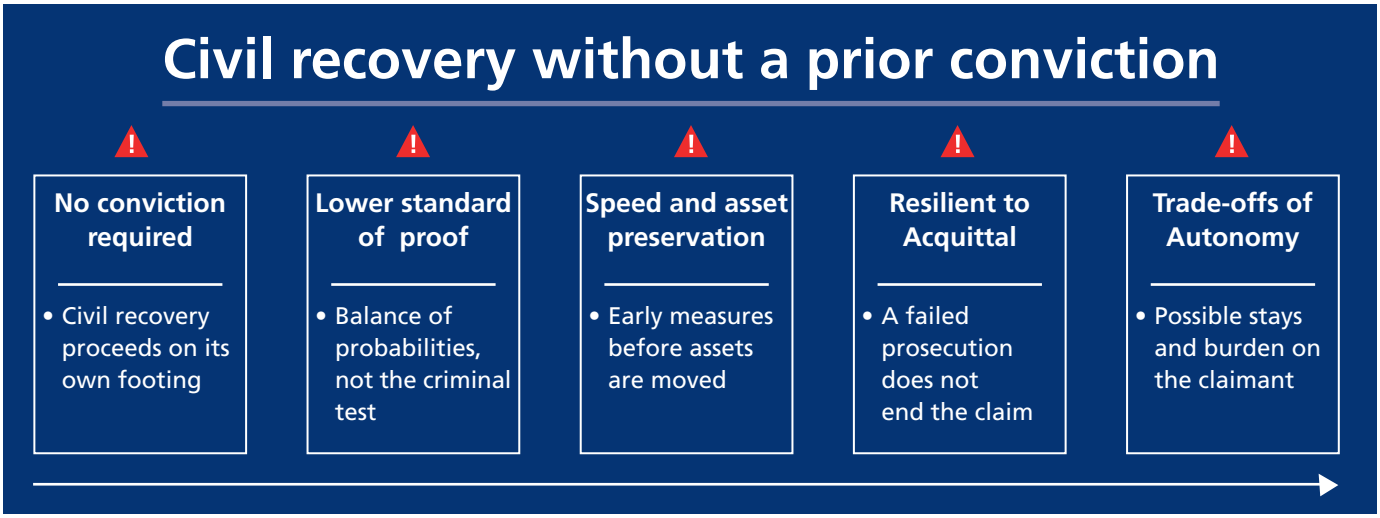


Figure 7: civil recovery without a prior conviction

Civil recovery without prior conviction

The convergence of the responses rests on a well-known structural premise. Evidently, civil and criminal liability serve different purposes and answer to different standards of proof, so a remedy designed to compensate the victim cannot logically be made to depend on a finding reached under a far more demanding threshold, defeating the very autonomy that makes direct civil recovery possible. From that premise the practical advantages follow as a matter of course. Autonomy hands the claimant control over timing, framing and proof, allows facts to be established on the lower civil standard even where a prosecution would fail, and permits early preservation of assets before they can be dissipated or moved across borders. It also can insulate the claim against the fragility of the criminal outcome, since the failure of a prosecution does not always entail a parallel civil effect.

The same autonomy carries its own costs. Where the criminal case is given structural precedence, the civil action may be suspended rather than accelerated, and the promise of speed gives way to delay, often measured in years. Independence likewise can undesirably transfer to the claimant the evidentiary burden that a criminal investigation would otherwise have borne, clearly affecting the autonomy that the claimant could have to fund, build and carry the case alone.

9. Direct civil claims versus mutual legal assistance

Question 9: From a cost-benefit and timeline perspective, under what specific circumstances would you advise a client (sovereign or private) to pursue a direct civil claim in your jurisdiction rather than relying on mutual legal assistance (MLA) channels?

Across the surveyed jurisdictions, respondents generally advise pursuing a direct civil claim rather than relying solely on MLA where assets are identifiable in the forum, urgent preservation measures are needed, and the claimant seeks speed, procedural control, or compensation tailored to its own loss. Civil proceedings are consistently viewed as faster and more claimant-driven than MLA, which is typically government-to-government, criminally oriented, and dependent on prosecutorial priorities and inter-agency coordination. This preference is especially strong in jurisdictions offering robust *ex parte* remedies such as freezing, seizure, disclosure or receivership orders, including Australia, Nigeria, Bulgaria, Canada, Hong Kong, the US, Cayman and several European jurisdictions. Respondents repeatedly emphasise that, where there is a real risk of asset dissipation, a direct civil action is often the only practical route to secure assets quickly enough to preserve the prospect of recovery.

A second recurring theme is that civil proceedings are preferable where the claimant needs access to broader remedies or stronger procedural tools than MLA can offer. In a number of jurisdictions, civil courts provide disclosure, tracing, interim injunctions and damages remedies that go beyond the scope of MLA, which is usually designed to support criminal investigation, restraint, confiscation or evidence gathering rather than private compensation. This is particularly evident in common-law and mixed systems where claimants can combine freezing relief with disclosure and proprietary remedies in a way that MLA does not replicate. Respondents also note that civil actions may be especially attractive where foreign criminal proceedings are delayed, politically sensitive, uncertain or unlikely to yield a timely confiscation order, or where a private claimant cannot directly influence MLA strategy.

At the same time, the survey responses suggest that the choice is ultimately strategic rather than binary. MLA may still be preferable, or at least complementary, where:

- the principal objective is criminal restraint or confiscation,
- where evidence is primarily held by public authorities abroad, or
- where a sovereign seeks state-to-state cooperation rather than victim-led litigation.

Several respondents therefore point to a dual-track approach: using civil proceedings for speed, interim measures and claimant control, while pursuing MLA in parallel for evidence gathering, criminal freezes or enforcement support. Overall, the cost-benefit analysis favours direct civil claims when assets are in the jurisdiction, evidence is already sufficient to plead a viable case, and time is of the essence; MLA remains important, but more as a supporting mechanism than as a substitute for a well-planned civil recovery strategy.

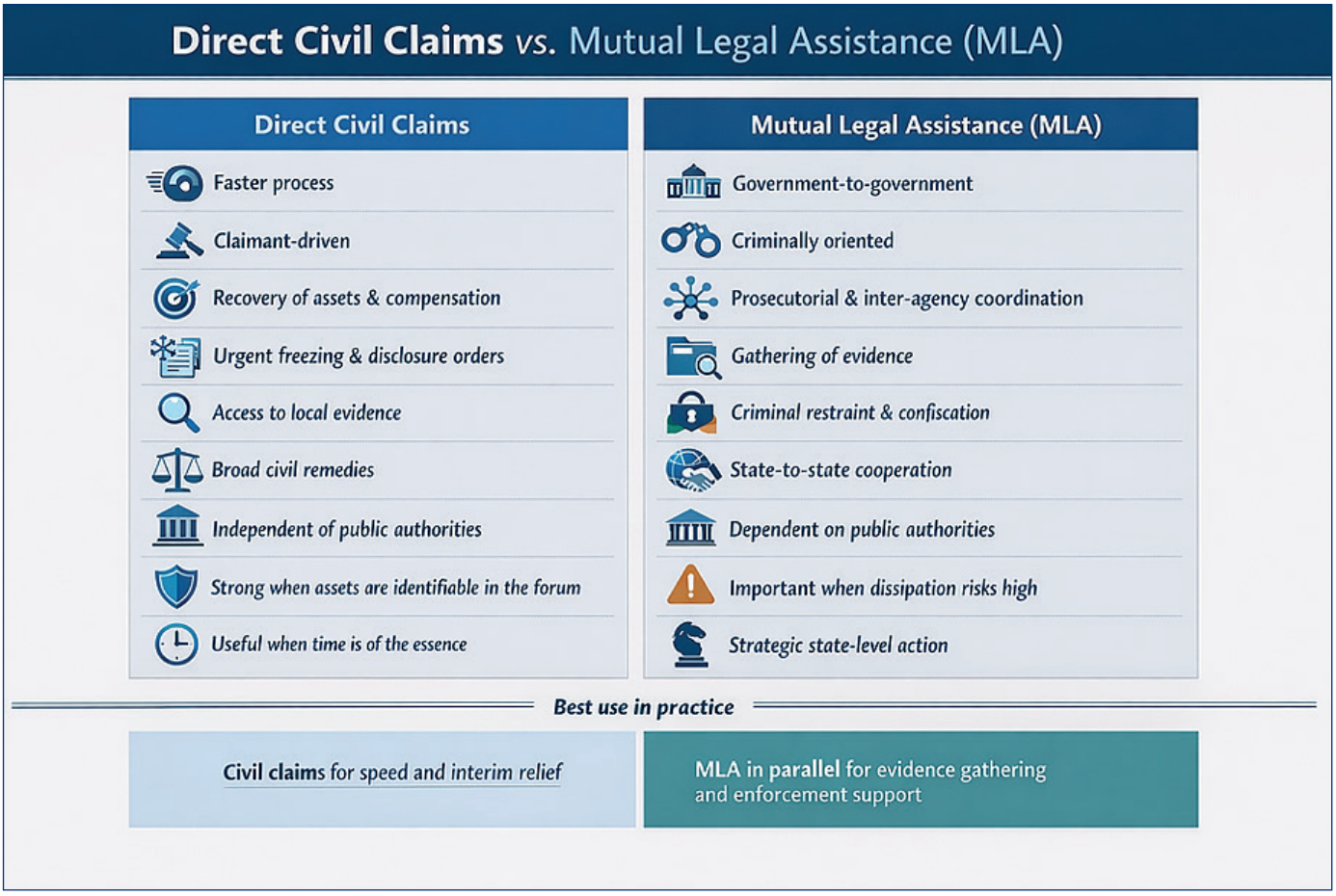


Figure 8: direct civil claims vs mutual legal assistance

Direct civil claims advantage

A direct civil claim in **Ireland** is generally more suitable where assets are located domestically and urgent interim measures, such as a Mareva injunction, are required. 'Although legal costs may be higher, this approach provides greater control over timing and strategic decisions', while also allowing for faster and more immediate enforcement. By contrast, MLA channels tend to be slower, as they rely on the involvement of public authorities. Variations in legal procedures and language barriers can further hinder both the speed and effectiveness of MLA mechanisms. In such contexts, pursuing a direct civil claim offers clear practical advantages, particularly where urgency and procedural control are critical considerations.

Litigation strategy factors

Choice of forum depends on where facts occurred and evidence was created. Proceedings in **China** are preferable when core facts and evidence are domestic and in Chinese, facilitating efficient fact-finding. Where facts and evidence are primarily foreign, litigation abroad avoids translation, notarisation and apostille burdens, improving efficiency. Judicial assistance procedures are complex and time-consuming, covering evidence-taking and service of process through a multi-stage review by the Ministry of Justice and transmission via the Supreme People's Court. Such delays may jeopardise asset recovery by allowing transfer or concealment.

If key assets are in China, domestic proceedings enable timely preservation measures such as seizure, detention and freezing, ensuring enforceability. If assets are overseas, foreign proceedings combined with property injunctions (often recognised across common-law jurisdictions) better protect against dissipation. Costs are relatively low, with fewer hearings and lower legal fees. Overseas litigation followed by domestic enforcement is lengthier and involves dual costs. Recognition of foreign judgments is increasingly supported but remains procedurally complex and time-intensive. National courts adopt a cautious approach, considering public interest and fairness, sometimes limiting damages or rejecting claims involving virtual currencies or regulatory evasion.

Civil claims and enforcement

Civil claims in **Bulgaria** 'shall be chosen over MLA procedure in cases where urgent asset protection is needed', particularly where there is a risk of dissipation of assets and 'there is no guarantee for immediate protection of assets' under mutual legal assistance channels. Asset location is decisive: if property is situated on the territory of the Republic of Bulgaria, 'it would be most logical for the proceedings to take place directly before a Bulgarian court'. When civil proceedings are brought before a foreign court, enforcement in Bulgaria depends on whether the judgment is from an EU Member State or a third country. For EU decisions, Regulation (EU) No 1215/2012 (Brussels Ia) allows recognition and enforcement without a separate enforcement order, with the bailiff proceeding on a certified copy of the judgment and the standard certificate. For non EU judgments, a separate enforcement procedure before the Sofia City Court is required under the Private International Law Code, which may be time and cost intensive, so a direct civil claim before a Bulgarian court is often more likely to produce a tangible outcome.

All three systems above favour civil claims over mutual legal assistance when urgent protection against asset dissipation is required, given that MLA channels are slower, mediated by central authorities and lack guaranteed immediate relief. Forum choice consistently turns on asset location: proceedings in the

jurisdiction where property is situated are portrayed as the most logical and effective path to recovery. Each framework acknowledges that foreign litigation demands dedicated enforcement procedures at the asset location, whether facilitated by streamlined intra EU recognition or dependent on more formal, separate recognition proceedings for third state judgments. In all cases, comparative speed, cost and enforceability are central, which reinforces the practical appeal of direct civil proceedings where the assets are found.

SECTION II Representation and collaboration

10. Competent agencies and authorities

Question 10: Is there a specific agency or authority with the competency to bring civil claims on behalf of your state before foreign jurisdictions? If YES, from a private practitioner's perspective, what is the typical model of engagement with this body (eg, lead counsel, local support)? What are the primary practical challenges in such a public-private collaboration (eg, communication, procurement, decision-making speed)?

Survey responses suggest there are three broad models of agencies or authorities with the competency to bring civil claims on behalf of a state before foreign jurisdictions: there is either a central state legal authority, a shared or decentralised model, or an unclear, ad hoc approach.

In the first model, a central state legal authority, typically the Attorney General, State Attorney, Ministry of Justice or equivalent public law office, is the body competent to bring civil claims abroad on behalf of the state. In these systems, the authority is usually not framed as a specialised 'foreign civil recovery agency', but rather as the state's general legal representative, sometimes acting with support from prosecutors, asset recovery offices or foreign affairs bodies. For example, Nigeria is a clear example of a central legal authority model: the Attorney General of the Federation is identified as the competent authority to bring civil claims abroad on behalf of the state, even though anti-corruption agencies such as the Economic and Financial Crime Commission (EFCC) and Independent Corrupt Practices Commission (ICPC) may also act in coordination with, or under, the authority of the Attorney General of the Federation. Italy reflects a similar model through the Avvocatura dello Stato (State Attorney's Office), which leads representation abroad in coordination with the competent ministry and the Ministry of Foreign Affairs. Ukraine also points to a central model, with the Ministry of Justice leading the state's foreign civil claims and typically retaining external counsel.

In another model, the shared or decentralised model, no single authority has exclusive competence: responsibility depends on the type of claim, the ownership of the asset or the institution harmed. In these countries, public prosecutors, line ministries, state-owned entities, anti-corruption agencies or other competent public bodies may all have a role. Canada illustrates this distributed approach: the Attorney General of Canada may bring claims for the federal government, while provincial Attorneys General act for provincial matters, but litigation may also involve the Department of Justice, Global Affairs Canada or retained private counsel. England and Wales is even more explicitly decentralised, with competence potentially falling to the Attorney General, the Foreign, Commonwealth & Development Office (FCDO) or other operational agencies depending on the context.

Third, a smaller set of responses imply that the legal framework is unclear, fragmented or undeveloped with respect to bringing civil claims in foreign courts, even if the state might still do so in practice through ad hoc mandates or external counsel. For example, India is a good example of a more ad hoc or underdeveloped framework: respondents indicate that there is no single designated authority, with foreign civil recovery instead organised case by case through the relevant ministry or department, diplomatic channels and external counsel. Cyprus and France similarly report no specific agency or authority designated to bring civil claims abroad on behalf of the state.

The survey responses also reveal that a single question about the existence of a 'specific' authority was interpreted in materially different ways where competence is spread across several bodies. Three readings emerge. In one, a respondent recorded both an affirmative and a negative answer at once, explaining that civil claims can indeed be brought on behalf of the state abroad but not by any single authority, an answer that is genuinely ambiguous at source rather than a matter of later interpretation. In the second, respondents answered affirmatively while describing a plainly shared or decentralised structure, treating the plurality of competent bodies as compatible with a 'yes' and signalling no ambiguity at all. In the third, respondents facing an equally distributed structure answered in the negative, on the view that the absence of one dedicated body means there is no 'specific' authority in the sense the question intends. The divergence turns less on the underlying institutional reality, which is often comparable, than on whether each respondent regarded a plurality of competent authorities as satisfying, or defeating, the notion of a single designated body.

A key takeaway across the responses is that formal competence and practical capacity do not always coincide. Even where a country identifies a competent state authority, respondents frequently highlight operational constraints:

- uncertainty over who has standing to sue abroad;
- lack of a dedicated legal mandate for cross-border civil recovery;
- dependence on foreign counsel, budget or evidentiary limitations; and
- the need to coordinate with criminal proceedings or asset recovery mechanisms already under way.

Accordingly, although a majority of jurisdictions do identify a competent authority able to represent the state in foreign civil proceedings, only a minority operate a body whose dedicated function is the pursuit of civil recovery claims abroad. Most rely instead on broader state representation powers or ad hoc inter-agency arrangements. This makes cross-border civil recovery possible in principle in many systems, but often institutionally diffuse in practice.

Institutional model	Indicative description	Jurisdictions
Central state legal authority	A single principal public authority is identified as competent to represent the state in foreign civil proceedings, usually the Attorney General, Ministry of Justice, State Attorney's Office or equivalent.	Austria; Brazil; British Virgin Islands; Estonia; Ghana; Hong Kong; Ireland; Italy; Latvia; Lithuania; Malta; Montenegro; Nigeria; Poland; the Republic of Korea; Serbia; Slovenia; Spain; the Bahamas; Ukraine; US
Shared or decentralised model	No single authority has exclusive competence; responsibility depends on the type of claim, the level of government, the ownership of the asset, or the institution harmed. Multiple public bodies may act, often with external counsel.	Australia; Canada; China; England and Wales; Singapore; Switzerland; the Netherlands
No specific authority/ad hoc/ unclear or transitional framework	No designated authority is identified, or the framework appears fragmented, underdeveloped or dependent on case-by-case arrangements, including use of diplomatic channels or external counsel.	Bulgaria; Cayman; Curaçao; Cyprus; France; India; Jersey; Liechtenstein; Luxembourg; Portugal; UAE

Table 4: institutional models for bringing civil claims abroad on behalf of the state

Centralised state legal service model

Spain and Brazil illustrate a model in which foreign civil recovery is channelled through a centralised state legal service that is institutionally distinct from the public prosecution. In Spain, the competent body is the Abogacía General del Estado, acting through its State Attorneys, whose authority to represent the Kingdom before foreign courts rests on statute and regulation rather than on ad hoc mandate. Brazil mirrors this design through the Advocacia-Geral da União, described as the Attorney General's Office and as a focal point for direct recovery of assets. In both systems, the state legal service, not the prosecutor, holds formal standing and strategic control abroad. From a private practitioner's standpoint, the Spanish response describes an operationally hierarchical relationship in which the public authority retains client authority, defines objectives and issues binding instructions, while foreign local counsel act as implementing litigators in the forum. The recurring frictions are managerial rather than doctrinal. Engagement runs through public procurement rules that make onboarding less frictionless than in private mandates, communication chains are longer and more formal, and decision-making is slower where budgetary or diplomatic implications arise. Practitioners are expected to operate with heightened reporting discipline and to front-load conflict checks and budget frameworks so that urgent foreign filings are not delayed by contracting logistics.

Attorney General, rarely invoked

In the British Virgin Islands the Attorney General holds the competence to bring civil claims before a foreign court, although the response stresses that this is rarely done in practice. The typical model is one in which the Attorney General acts as the instructing authority and, in the respondent's words, 'would in all likelihood instruct local counsel in the jurisdiction abroad', leaving courtroom conduct to lawyers admitted in the forum. The response grounds this in a concrete precedent, Attorney General of the British Virgin Islands v Lester Hyman before the US District Court for the District of Columbia, a cross-border civil matter concerning alleged bribery involving a lawyer who had acted for the government for around 30 years. The example shows that the competence is real and has been exercised, but its rarity signals limited institutional routine for pursuing recovery abroad.

Department of Justice as client

In Hong Kong, the competent authority is the Department of Justice, specifically its Civil Division, which represents the government in proceedings brought by or against it. The response situates this within the external affairs framework, noting that the Central People's Government remains responsible for foreign affairs relating to Hong Kong but authorises the region, in practice the Department of Justice, to conduct the relevant external affairs. Where a claim must be pursued before a foreign court, the Department acts as the instructing client and engages foreign counsel to file and conduct the proceedings. The practical challenges identified are slow decision-making, since strategy, pleadings and settlement positions require internal clearance within the Department and other bureaux before instructions are confirmed, and coordination difficulty, since external counsel must align with those internal processes and constraints in cross-border matters.

11. Civil/non-conviction-based forfeiture

Question 11: Does your country's legal framework allow for civil or non-conviction-based forfeiture? If YES, please describe how this tool is used in practice and whether it can be initiated based on a request or evidence from a foreign state or private party.

Overall, the responses show that a majority of jurisdictions reported some form of civil or non-conviction-based forfeiture (NCBF), but the legal design varies significantly. The large group that indicated 'yes' generally described government-led proceedings that allow confiscation without a prior criminal conviction, often using a civil standard of proof and supported by provisional measures such as freezing or restraining orders. In many of these systems, public authorities initiate the action, while foreign states may only act indirectly through mutual legal assistance or competent domestic authorities, and private parties generally cannot directly bring NCBF proceedings.

Yet a substantial number of jurisdictions reported 'no' or indicated that confiscation remains anchored in criminal proceedings rather than a standalone civil regime. In several of these jurisdictions, the responses note that while autonomous or extended confiscation tools may exist, they operate within the criminal law framework and therefore do not amount to a true standalone civil/NCBF model. A few responses also reflect inconsistencies or borderline cases, especially where countries have administrative or quasi-civil mechanisms that resemble NCBF functionally but are not classified by respondents as a classic civil forfeiture regime.

A key cross-cutting theme across survey responses is that, where available, NCBF is typically justified as a tool for asset recovery where conviction is difficult or impossible, including cases involving absconded offenders, unexplained wealth, benami or unlawfully held assets, or cross-border recovery matters. Many respondents emphasised that these mechanisms are state-controlled, court-supervised and linked to international cooperation channels, underscoring both their practical value and their procedural safeguards.

NCBF available (24)	Not available (15)
Australia; the Bahamas; Brazil; Bulgaria; Canada; Cayman; China; Cyprus; England and Wales; Ghana; Hong Kong; India; Ireland; Italy; Jersey; Latvia; Lithuania; Malta; Nigeria; Singapore; Spain; Switzerland; Ukraine; US	Austria; British Virgin Islands; Curaçao; Estonia; France; Liechtenstein; Luxembourg; Montenegro; Poland; Portugal; Korea (South); Serbia; Slovenia; The Netherlands; UAE

Table 5: availability of non-conviction-based forfeiture in surveyed countries

Federal *in rem* civil forfeiture

The **US** describes a fully developed civil, NCBF regime operating independently of any criminal case. Federal authority rests on a series of statutes, including: 18 USC, section 981 for proceeds and instrumentalities of specified offences; 21 USC, section 881 for controlled-substance matters; 31 USC, section 5317(c) for currency-reporting and money-laundering violations; and the customs provisions at 19 USC, sections 1602–1619. Procedure is framed by the Civil Asset Forfeiture Reform Act of 2000, which supplies an 'innocent owner' defence, guarantees notice and an opportunity to contest, and allows prevailing claimants to recover attorneys' fees. In practice, the government brings an in rem action directly against the property, independent of any prosecution, and successful proceedings vest the asset in the US. A foreign government may participate where it holds an interest in the property, and coordination runs through the Department of Justice (DOJ) Office of International Affairs. The response highlights the DOJ Kleptocracy Asset Recovery Initiative, established in 2010, which secured over US$1bn linked to the 1MDB scandal and assets connected to former Nigerian officials. It also notes internal variation, since Florida permits in rem civil forfeiture on terms similar to federal law, whereas New York proceeds in personam and requires a felony conviction.

No standalone civil forfeiture

Serbia places itself outside the standalone civil forfeiture model, as its legal framework does not recognise a classical form of civil forfeiture that operates entirely independently of criminal proceedings. This is consistent with the position that confiscation in Serbia remains linked to the criminal process, rather than functioning as a separate civil mechanism available to the state. Private claimants have access to civil remedies, as described in other parts of the survey. However, the concept of a civil forfeiture model, as understood in common-law jurisdictions, does not exist. Based on the principle that civil liability is broader than criminal liability, both the state and private claimants may initiate actions before civil courts for restitution, repatriation or damages.

Court-supervised Proceeds of Crime Acts forfeiture

Ireland reports a mature civil forfeiture system in which property may be seized by and forfeited to the state without a criminal conviction, on the rationale that the action operates against the property rather than the person. The governing legislation is the Proceeds of Crime Acts 1996 to 2018, and the response cites FMcK v AF; FMcK v EH to explain that the state need not link specific assets to a particular crime. Proceedings are brought by the Criminal Assets Bureau, headed by a senior police officer and built on a multiagency approach, which must obtain High Court approval on the balance of probabilities before freezing or seizing assets. The response sets out the statutory ladder, from interim orders under Section 2, through interlocutory orders under Section 3, to a disposal order under Section 4 once an interlocutory order has stood for at least seven years. It adds that the Proceeds of Crime and Related Matters Bill 2025 would introduce bank-account freezing and cut the final disposal wait from seven years to two.

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Confiscation anchored in criminal law

Portugal also reported that there is no general standalone civil forfeiture regime, describing powerful confiscation mechanisms that are rooted in the criminal sphere rather than in an autonomous non-conviction-based model. The ordinary framework is the criminal-law regime on confiscation of instruments, products and proceeds, together with extended confiscation under Law No 5/2002, which covers specified categories of serious crime and is triggered, as a rule, by conviction for a catalogue offence. Hence, there is no freestanding civil route through which a state or private claimant could seek confiscation independently of the criminal process, and recovery outside that sphere must instead be pursued through ordinary civil mechanisms such as claims based on title, restitution, civil liability or unjust enrichment. The respondent also situates this position within the structure of the UNCAC, noting that Article 54(1)(c) requires states parties only to consider measures allowing confiscation without a criminal conviction in appropriate cases and does not oblige every system to adopt a broad standalone civil forfeiture regime. Portugal has instead built its recovery foundations primarily through criminal confiscation and international cooperation in confiscation matters.

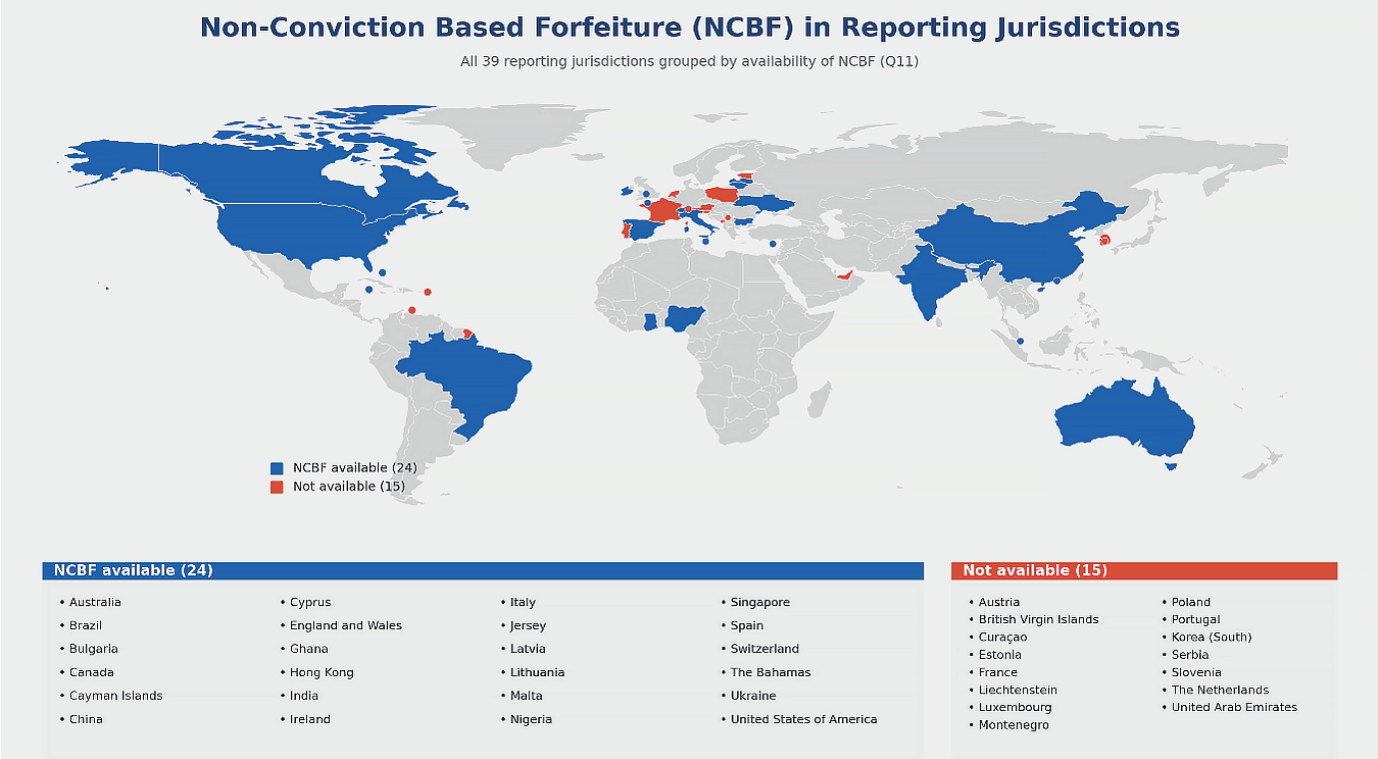


Figure 9: map of jurisdictions (NCBF availability)

12. Litigation funding

Question 12: What is the legal and practical landscape for litigation funding in your jurisdiction regarding asset recovery claims? Are contingency or success-based fees for legal representation permitted and commonly used?

Across jurisdictions, the responses show that third-party litigation funding is increasingly available, but its legality, maturity and practical use vary significantly. The most developed markets, where dedicated funding structures operate alongside judicial or ethical safeguards, are reported in Australia, Canada, England and Wales, the US, Cayman, Jersey and the British Virgin Islands, a pattern that tends to be more prominent in jurisdictions historically associated with the common-law tradition. Elsewhere, many respondents report either the absence of a dedicated framework or the treatment of litigation funding as a contractual possibility rather than a regulated market; an approach more often found in jurisdictions closer to the civil-law tradition, while mixed systems display features of both depending on the instrument at issue. In several jurisdictions, such as Cyprus, Hong Kong court litigation and Ireland, traditional doctrines such as champerty and maintenance still constrain or limit funding.

In other jurisdictions, pure contingency fees for legal representation are prohibited or tightly restricted, but hybrid or conditional success-based models may be allowed. Jurisdictions such as France, Italy, Luxembourg, Switzerland, Portugal, Singapore, the Netherlands and Australia generally reject classic *quota litis* arrangements but permit some form of base fee plus success uplift. By contrast, Canada, the US, Serbia, Montenegro, Lithuania, Ukraine and, under recent professional rules, Nigeria permit broader forms of contingency or success-based fees, though usually subject to caps, fairness review, ethics rules or judicial oversight.

From a practical perspective, the responses emphasise that asset recovery litigation is expensive, high risk and highly selective for funders. Funders generally require strong merits, realistic enforcement prospects and recoverable assets, especially in cross-border cases. Even where funding is permitted, the market may remain nascent or uneven, and hourly or fixed-fee models still dominate in many jurisdictions. Overall, the responses suggest that the most common model in asset recovery is not pure contingency, but a hybrid structure combining some base remuneration with a success-related component, often supplemented by third-party funding where allowed.

Widely available/ established (12)[18]	Available but limited, emerging or unregulated (22)[19]	Generally unavailable, prohibited or highly restricted (4)[20]
• Australia • British Virgin • Islands • Canada • Cayman • Jersey • Liechtenstein • Switzerland • Serbia • Montenegro • Malta • the Bahamas • US	• Nigeria • Bulgaria • England and Wales • France • Estonia • India • Italy • Latvia • Lithuania • Luxembourg • Poland • Portugal • Spain • The Netherlands • Curaçao • Austria • Ukraine • Singapore • Brazil • China • Korea (South) • Slovenia	• Cyprus • Hong Kong • Ireland • Ghana

Table 6: availability of litigation funding[21]

18 Column 1 ('widely available/established') is reserved for jurisdictions where third-party litigation funding and success-linked fee structures are a stable and routine feature of asset-recovery practice. In these systems, funding arrangements are commonly used in high-value commercial, insolvency and civil fraud disputes, and courts are generally receptive to funding that supports meritorious claims. Claimants in asset-recovery matters can therefore rely on a functioning market for third-party funding or structured success-based remuneration, rather than on ad hoc or experimental mechanisms.

19 Column 2 ('available but limited, emerging or unregulated') covers jurisdictions where some form of success-linked remuneration or third-party funding is clearly possible, but the overall framework is not yet fully consolidated for asset-recovery purposes. In some, the market may be active or sophisticated but operates against a backdrop of legal uncertainty or pending reforms that could affect the enforceability of funding instruments. In others, success-based or contingency-type structures exist mainly through professional practice and contractual innovation, often in hybrid form (base fees combined with a success uplift), without dedicated legislation or with development still in its early stages, so that access to funding depends more on case type and risk appetite than on a stable jurisdiction-wide regime.

20 Column 3 ('generally unavailable, prohibited or highly restricted') is reserved for jurisdictions where third-party litigation funding and contingency or success-based fee arrangements are not generally permitted or are effectively barred by traditional doctrines such as maintenance and champerty. In these systems, civil asset-recovery claimants must either fund litigation directly or rely on narrow exceptions confined to specific niches, so that third-party funding cannot be regarded as a viable or established option for asset-recovery work.

21 One jurisdiction did not provide a response.

Mature funding, contingency prohibited

Australia describes the most developed funding market in this group and explains that third-party litigation funding is widespread and common, particularly in class actions, after the High Court held in *Campbells Cash and Carry v Fostif* that funding was neither an abuse of process nor contrary to public policy, so abolishing champerty and maintenance as a barrier to third-party funding. A later attempt to treat funders as managed investment schemes requiring a financial services licence was rejected in *LCM Funding v Stanwell*, leaving the supervision of funders largely to the courts. The response stresses that funders take a conservative view of merits and, crucially, of recovery against defendants with assets in an enforcement-friendly forum, which makes funding harder to secure in complex cross-border fraud or asset recovery cases. On fees, the position is restrictive. Pure contingency fees are prohibited across the states, with a limited Victorian exception for group cost orders in class actions. What Australian lawyers may use is a disclosed uplift within a conditional costs agreement, so remuneration remains tied to work performed rather than to a share of the recovery.

Success uplift, *quota litis* barred

Switzerland and Italy share a design in which third-party funding is allowed but pure contingency fees are not. Switzerland is described as relatively liberal, with the Federal Supreme Court confirming in its 2004 decision that third-party funding is permissible provided the funder acts independently of the client's lawyer, and with funding increasingly used in high-value asset recovery involving cross-border tracing. There are no specific statutes, so the limits flow from the lawyer's duties of independence, confidentiality and avoidance of conflicts. Pure contingency fees are prohibited, while success-based fees combining a reduced base fee with an uplift are lawful if proportionate and not a disguised full contingency. Italy reports no specific prohibition on third-party funding and recognises assignment of the *res litigiosa* as a common structure, but the Professional Legal Act bars the *pactum de quota litis*. The response draws a careful line, since a fee proportionate to the value of the matter is valid, whereas a fee tied to the concrete result actually recovered is void. The *palmario* is lawful only as an addition to an agreed fee and not as its main component.

No framework, success permitted

Bulgaria presents a different profile. The response reports no specific regulation governing third-party financing of cases, and it treats as null an assignment agreement by which the representing attorney takes over the client's litigious claim. Bulgarian law does not allow a lawyer to agree remuneration set as a share of the subject matter of the dispute, an arrangement the response frames as contrary both to statute and to moral norms, while ordinary fees may be fixed as an absolute amount or a percentage of a defined sum. Courts may reduce excessive fees, and the response notes a 2024 European Court of Justice ruling that freed courts from binding minimum-fee tariffs. On success fees, the response states they are not expressly regulated but face no obstacle, typically taking the form of a fixed representation fee plus additional remuneration on success. It adds that such fees are rarely agreed in practice and, importantly, are not recoverable as costs against the losing party.

13. Legal and practical obstacles to direct asset recovery

Question 13: In your experience, what is the single most significant legal or practical obstacle to successfully recovering assets through civil litigation in your jurisdiction, and what is one potential reform that could address it?

Survey responses indicate a recurring set of obstacles to successful asset recovery through civil litigation. The most cited challenges are the length, complexity and cost of proceedings, including procedural delays, multiple appeals, slow enforcement and high litigation risk, all of which can allow assets to be dissipated before judgment or make recovery economically impractical. A second major theme is difficulty obtaining timely information and evidence, particularly the banking, ownership and third-party disclosures needed to identify, trace and preserve assets. Many jurisdictions also highlighted broader structural problems, including weak institutional capacity, poor inter-agency coordination, limited independence of enforcement bodies, and the added complications of cross-border asset movements, offshore structures and international enforcement.

The reforms proposed across responses converge around the need for faster, more effective and more information-driven recovery systems. Suggested measures include:

- creating specialised asset recovery courts or procedures;
- expanding access to interim remedies such as freezing and disclosure orders;
- introducing targeted pre-action or third-party disclosure mechanisms; and
- improving access to registries and beneficial ownership information.

Several responses also emphasise the value of non-conviction-based recovery tools, unexplained wealth mechanisms, digital asset-search systems, litigation funding reforms, and stronger domestic and international coordination. Taken together, the responses suggest that reforms should focus on increasing the speed of action, reducing information asymmetries, and strengthening the institutional and legal frameworks needed to trace, preserve and enforce against assets before they disappear.

A closer reading of the responses shows that these obstacles are not experienced in isolation but tend to reinforce one another in a single sequence. Cost, delay and the early evidentiary gap converge at the same decisive moment – the interval between the first suspicion that assets exist and the grant of effective interim relief – and it is at that point that civil recovery most often succeeds or fails. Where interim remedies can be sought rapidly and, where appropriate, without *inter partes* hearings, the practical weight of cost and delay is substantially reduced because assets can be preserved before dissipation becomes irreversible. Where disclosure and preservation depend on an evidentiary threshold that the claimant cannot realistically meet at the outset, the same procedural architecture instead operates as a barrier. This interdependence explains why the reform proposals cluster so consistently around speed and information rather than around the substantive law of recovery, which is generally regarded as adequate. The recurring emphasis on expedited disclosure, prima facie thresholds for early relief and clearer statutory foundations for cross-border civil claims reflects a shared understanding that the effectiveness of asset recovery is determined less by the eventual judgment than by how quickly and how well the system can act in its opening phase.

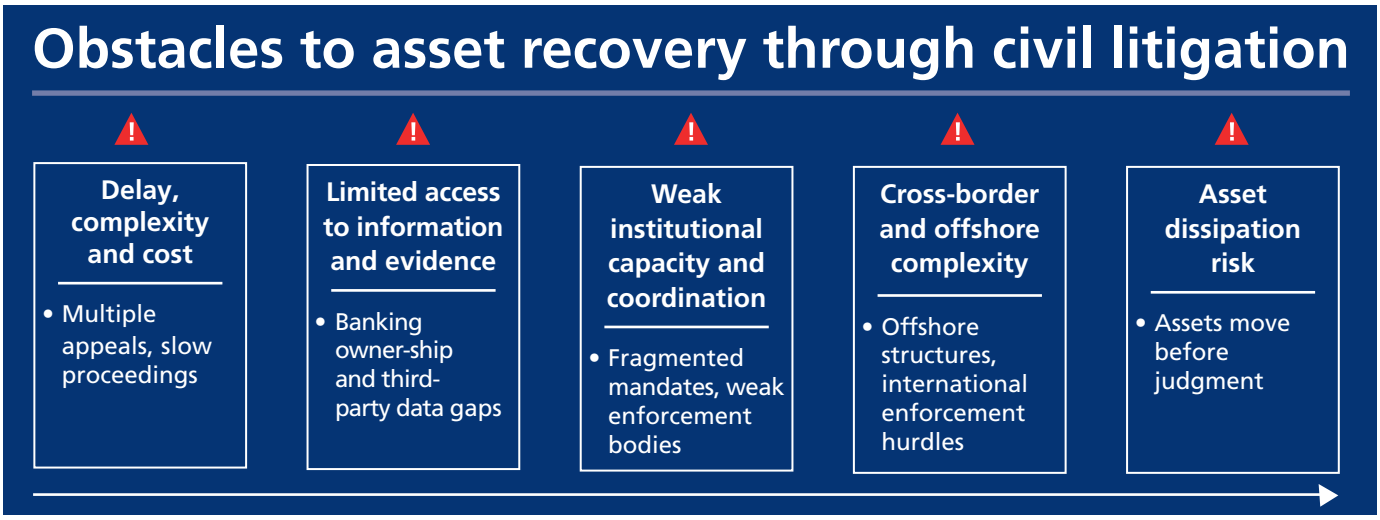


Figure 10: obstacles to asset recovery through civil litigation

Cost and cross-border enforcement

In England and Wales, the single most significant obstacle is cost. Complex asset recovery cases, particularly where they are defended hard, can become expensive: enforcement in an international context remains especially demanding. The reforms that would help most are those that shorten the time needed to achieve recovery, such as dealing with more applications on paper without lengthy hearings. On the cross-border side, a dedicated instrument, perhaps in the form of a treaty, would assist with the intervention and enforcement measures required to recover capital that moves across borders, addressing the point at which international recovery efforts most often stall.

Front-end evidence gap

In India, the most significant practical obstacle is the difficulty of obtaining specific, admissible evidence quickly enough to identify, trace and preserve assets before they are dissipated. Civil claimants work through the general Code of Civil Procedure 1908 and ordinary evidence law, with no claimant-driven pre-action disclosure or specialist civil asset-tracing regime, and attachment before judgment is treated as exceptional rather than routine. This produces a front-end proof gap between suspicion and actionable interim relief. The reform most likely to help would be a targeted statutory mechanism, ideally enacted as dedicated domestic implementation of Article 53 of the UNCAC, enabling designated courts to order rapid bank and beneficial-ownership disclosure together with expedited preservation relief on a prima facie showing.

Delay and ongoing reform

In Cyprus, the single most practical obstacle is delay, with civil actions traditionally expected to be resolved in roughly three to five years after filing. Intensive reforms over recent years have actively targeted these delays by overhauling the case-allocation system and showing less tolerance for unjustified adjournments, an effort that has already produced a marked reduction in the backlog of pending cases. New Civil Procedure Rules modelled on the English Civil Procedure Rules are expected to shape this trajectory further. In asset tracing and recovery, the difficulty can also be mitigated by the courts' wide jurisdiction to grant interim relief, which may be sought ex parte and issued within a few days of filing.

SECTION III Pre-litigation, tracing and costs

14. Pre-litigation asset tracing tools

Question 14: What pre-litigation asset tracing tools are available to a claimant before filing a full civil claim (eg, third-party disclosure orders, Norwich Pharmacal orders, bank disclosure mechanisms)? Are these tools generally available and effective, available but limited or ineffective, or generally not available? Please briefly describe the most effective pre-litigation tracing tools, their typical cost and the evidentiary standard required to obtain them.

Most responses to Question 14 indicate that pre-litigation asset tracing tools do exist, but that their availability and effectiveness vary sharply with the disclosure and interim-relief mechanisms each jurisdiction makes available. The strongest frameworks reported are those that combine third-party disclosure with urgent interim relief. Jurisdictions such as Australia, Canada, Cyprus, Hong Kong, Singapore, England and Wales, Cayman, the British Virgin Islands, Ireland, Jersey, Serbia, Ghana, the UAE onshore courts, the US, Montenegro and the Bahamas describe an operative toolkit of Norwich Pharmacal or Bankers Trust disclosure orders, Mareva or freezing injunctions, search orders and pre-action disclosure, often obtainable on an *ex parte* basis. Respondents in these jurisdictions consistently describe such tools as effective for identifying wrongdoers, tracing bank flows and preserving assets before a full civil claim is filed, though they also emphasise that these remedies are expensive and procedurally demanding.

Where those disclosure and interim-relief mechanisms are not available, respondents report that pre-litigation tracing rests mainly on public registries, precautionary attachments, narrowly framed evidence-preservation measures, or court-ordered disclosure granted only in exceptional circumstances. Jurisdictions including Bulgaria, France, Italy, Portugal, the Netherlands, Lithuania, Luxembourg, Liechtenstein and Ukraine fall within this pattern. A narrower group, comprising Estonia, Latvia, Poland, Switzerland and, in practice, India, reports that broad pre-action tracing mechanisms are effectively absent, particularly where a claimant seeks bank or third-party information. In these systems, bank secrecy, data protection and judicial resistance to 'fishing expeditions' significantly constrain pre-litigation access, so that claimants often depend on criminal proceedings, mutual legal assistance channels or public databases to gather information before filing.

Across nearly all responses, a common theme is that the evidentiary threshold is high, regardless of whether tools are available. Courts usually require at least a good arguable or prima facie case, together with necessity, proportionality, and often a demonstrated risk of dissipation or evidence destruction. Respondents also stress that these remedies are rarely cheap: applicants may need to provide undertakings as to damages, security deposits, or cover substantial legal and compliance costs. Overall, the responses suggest that effective pre-litigation tracing is most developed where robust third-party disclosure mechanisms operate alongside urgent interim relief, a configuration that tends to be more prominent in jurisdictions historically associated with the common-law tradition, while approaches centred on public registries, precautionary attachments and exceptional court-ordered disclosure are more often found in jurisdictions closer to the civil-law tradition. Mixed systems, which draw on characteristics of both, tend to display features of either group depending on the specific instrument at issue. Elsewhere the position is

more fragmented, dependent on public registries or interim freezing measures, and often insufficient for tracing unknown assets without first commencing proceedings.

Tracing tools	Jurisdictions	Typical features
Available and effective (16)	Australia, British Virgin Islands, Canada, Cayman, Cyprus, England and Wales, Ghana, Hong Kong, Ireland, Jersey, Montenegro, Serbia, Singapore, The Bahamas, UAE, US	Robust pre-action disclosure and tracing tools, often including third-party disclosure, bank-related disclosure, freezing relief and urgent ex parte applications.
Available but limited/ ineffective (19)	Austria, Brazil, Bulgaria, China, Curaçao, France, India, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Nigeria, Portugal, Korea (South), Slovenia, Spain, the Netherlands, Ukraine	Some tracing or preservation tools exist, but narrower, more formalistic, more expensive, or heavily dependent on court discretion, registries or exceptional circumstances.
Generally not available (4)	Estonia, Latvia, Poland, Switzerland	Little or no broad pre-action disclosure; claimants often depend on public registries, criminal proceedings or MLA channels before filing a full claim.

Table 7: pre-litigation tracing tools

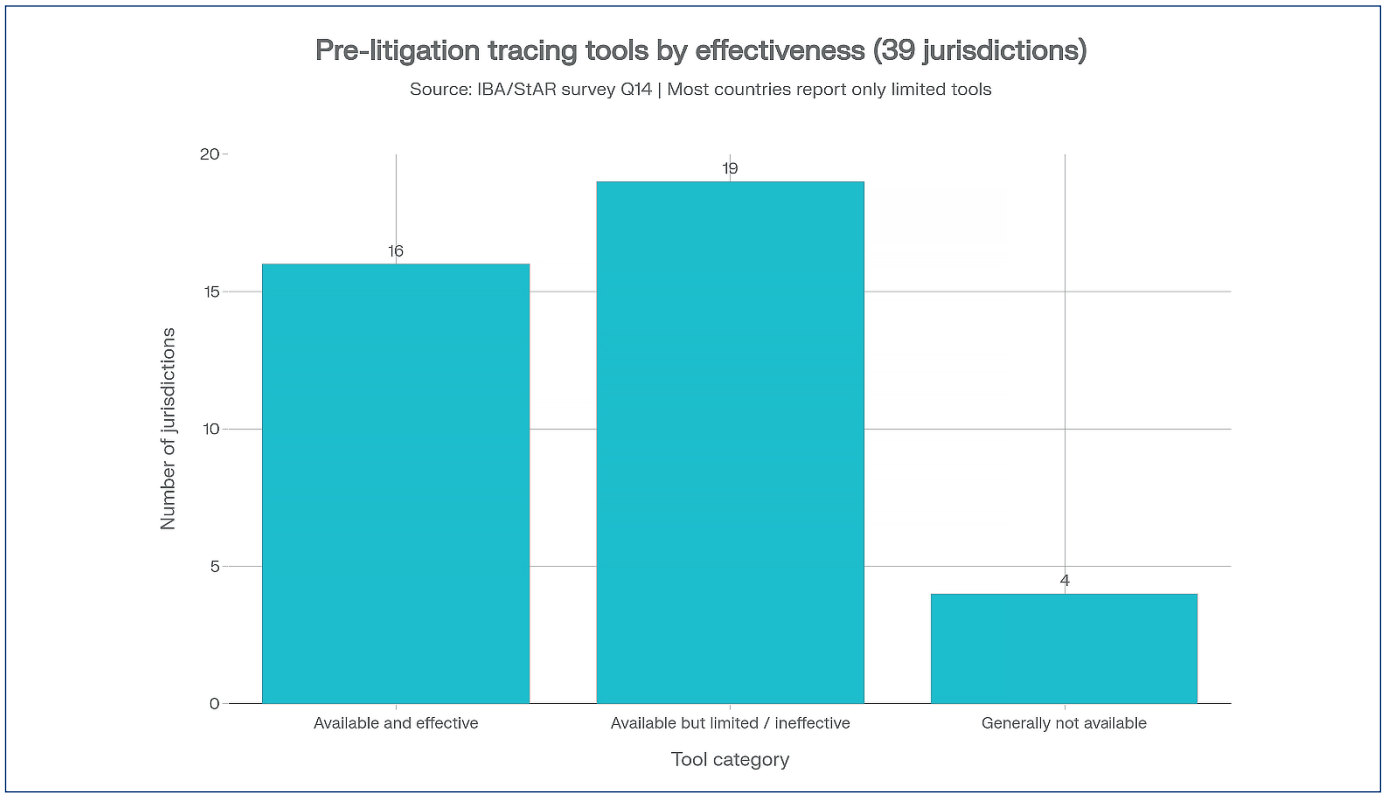


Figure 11: Pre-litigation tracing tool effectiveness

Norwich Pharmacal and Bankers Trust

In the **Cayman Islands**, pre-litigation tracing tools are available and effective, and Norwich Pharmacal orders are frequently used. To this end, an applicant must show a good arguable case that wrongdoing has occurred, that the respondent is somehow involved even if innocently, such as a registered office holding company records, that the information is necessary to identify the wrongdoer or to enable redress, and that the disclosure sought is proportionate. These applications are often directed at registered offices, administrators and banks. Bankers Trust orders are also available, requiring a Cayman bank or other fiduciary to disclose otherwise confidential records about a customer's account to help trace and preserve misappropriated funds in support of a proprietary claim. Here the applicant must show a strong case of fraud or breach of trust, good reason to believe the assets held by the third party belong to the applicant with a risk that delay may lead to dissipation, and a real prospect that disclosure may locate or preserve the assets proportionately. Freezing orders will typically also require the respondent to give disclosure so far as necessary to police the order. **Jersey** follows the same common-law pattern, where Norwich Pharmacal orders and related orders are available, frequently used and effective.

Registry search and asset preservation

In **China**, pre-action tracing is typically indirect, resting on publicly accessible registries and open-source intelligence combined with pre-litigation preservation to stop dissipation once a likely asset location is identified. The most effective tool is property preservation, or asset freezing, available before filing a lawsuit or arbitration. Courts usually require full security, often 100 per cent, and in urgent handling may issue the order quickly, with practice materials referencing within 48 hours. The dominant cost is that security, frequently a cash or bank bond around 30 per cent of the amount preserved or litigation liability insurance with premiums commonly quoted at four to eight basis points, alongside a preservation application fee calculated on the value preserved and typically capped at RMB 5,000. The practical limitation is evidentiary, since applicants usually need evidence that clearly identifies the asset location before a preservation order can be executed.

Public registers and provisional measures

Pre-litigation tracing in **Ukraine** rests on a range of publicly accessible registers searchable by reference to the owner, requiring the debtor's identifying details such as full name or tax identification number. Real estate can be traced through the State Register of Proprietary Rights to Immovable Property, which shows address, area, legal grounds of title, the registered owner, encumbrances and attachments. Public access is limited to current information while notaries and bailiffs may reach historical data. Corporate interests can be traced through the Unified State Register of Legal Entities, which identifies shareholders and ultimate beneficial owners as at any specific date, and intellectual property rights through the national office. **Luxembourg** follows a comparable civil-law pattern in which tracing tools are available but limited and indirect. Claimants rely on publicly accessible company and real estate registers and on information obtained through parallel criminal proceedings, and in urgent cases courts may grant provisional freezing or seizure orders on a prima facie showing linking assets to unlawful conduct. In both, pre-litigation tracing tends to be less effective than tracing once formal proceedings are under way.

15. Likelihood of recovery and influencing factors

Question 15: How would you assess the practical likelihood of a successful claimant recovering their legal costs from the opposing party in a civil asset recovery case? High likelihood, moderate likelihood or low likelihood? Please briefly describe the procedure. Do courts typically award full cost recovery? What are the key factors influencing a judge's decision on costs in these types of cases?

Survey responses suggest that a successful claimant will often obtain some form of costs order, but that the practical likelihood of meaningful recovery varies considerably and full reimbursement is uncommon. Rather than tracking any single legal tradition, the responses group around the cost-allocation mechanism a jurisdiction applies. Where a robust loser-pays rule operates, costs follow the event and the unsuccessful party is generally ordered to pay the winner's legal costs, producing a high likelihood of recovery in the British Virgin Islands, Cayman, England and Wales, Estonia, Italy, Montenegro, Serbia and Singapore.

A larger group reports a moderate likelihood because, although the loser-pays principle applies, the court ordinarily awards only a portion of the sums actually expended. This moderate band comprises Australia, Austria, Brazil, Bulgaria, Canada, Cyprus, Ghana, India, Ireland, Jersey, Korea (South), Liechtenstein, Lithuania, Luxembourg, Malta, Nigeria, Slovenia, Spain, Switzerland, the Bahamas and the Netherlands. A third group reports a low practical likelihood of recovering legal costs, and here the responses identify distinct causes. China, Curaçao, France, Latvia, Poland, Portugal and the UAE attribute the shortfall to tariff-based or statutory-scale systems that fix recoverable costs well below market-rate fees. The US attributes it to the American Rule, under which each party ordinarily bears its own costs regardless of outcome. Hong Kong and Ukraine locate the difficulty not in the costs rule itself but in enforcing a favourable costs order against a defendant in fraud-related litigation.

A central theme across the responses is that court-awarded costs are typically partial rather than full. Even under a strong loser-pays rule, recovery usually proceeds on a standard, party-and-party, tariff or partial-indemnity basis, which often covers only a fraction of the actual legal spend. Jurisdictions with strong fee-shifting practice, such as the British Virgin Islands, Cayman, Jersey, and England and Wales, report comparatively higher recovery rates, in the region of 60 to 80 per cent on a standard basis and higher where indemnity costs are justified, yet even there full recovery remains unusual unless the paying party has behaved improperly or abusively. Where reimbursement is tied to statutory schedules, court scales or fixed tariffs, the recoverable sum systematically undercompensates market-rate fees. Several respondents also stress that a favourable costs order is not the same as actual recovery, since enforcement depends on whether the defendant remains solvent, can be located and still holds reachable assets at the close of proceedings.

The responses further show that judicial discretion is decisive in costs outcomes. Courts commonly weigh the parties' conduct during the proceedings, the degree of success obtained, the proportionality between the relief awarded and the costs claimed, compliance with procedural orders, settlement behaviour and whether the positions taken were reasonable or obstructive. Costs may be reduced where the claimant succeeds only in part, advances excessive arguments or rejects a reasonable settlement offer, while higher or indemnity-style awards may follow where the paying party has acted fraudulently, abusively or in bad faith. In several jurisdictions detailed proof of legal fees and litigation expenses is especially important, and the court will scrutinise whether those expenses were necessary, reasonable and causally connected to the outcome.

Overall, the survey indicates that recovering legal costs is usually possible in principle but rarely complete in practice. The most favourable jurisdictions are those in which the court routinely applies a robust loser-pays rule and allows a substantial share of actual costs to be recovered, particularly in fraud-related litigation. Even so, the outcome remains shaped by reasonableness review, procedural discretion and the financial realities of enforcement. The practical value of a costs order therefore depends not only on the fee-shifting rule in force but also on the claimant's ability to secure assets early, document expenses carefully and bridge the persistent gap between a court award and actual recovery.

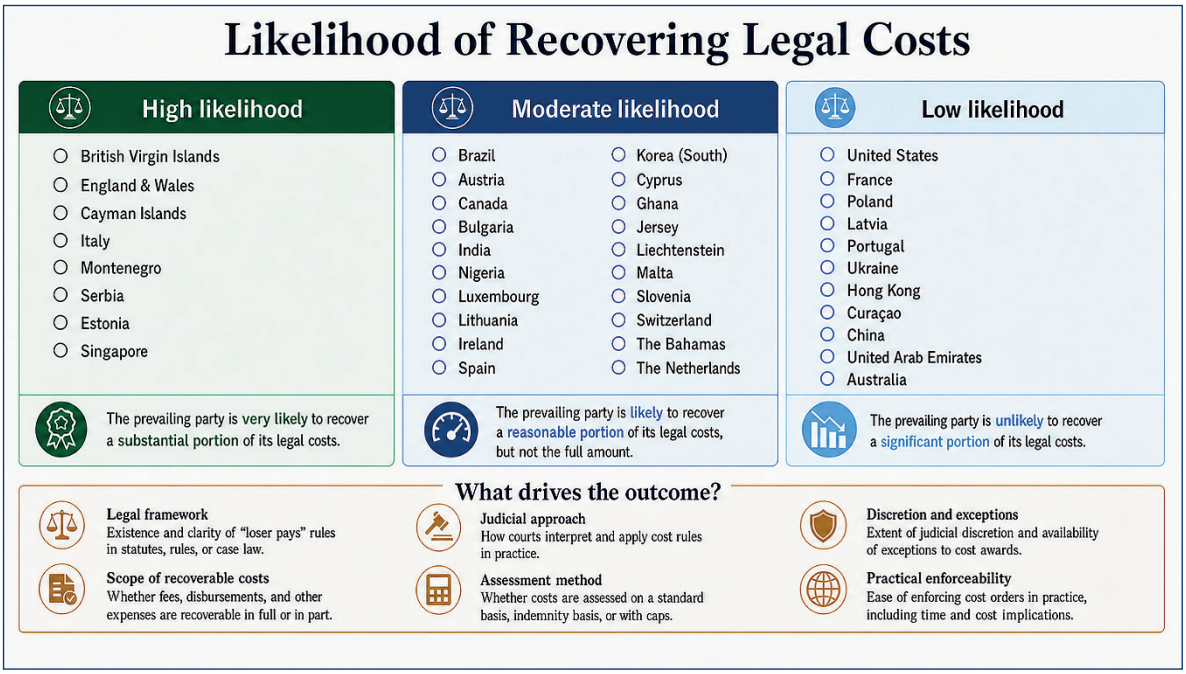


Figure 12: likelihood of recovering legal costs[22]

22 As with earlier questions, the position recorded for a small number of jurisdictions was identified from the narrative rather than from a selected box. Most respondents marked one of the three printed options of high, moderate or low likelihood. Where a respondent instead marked more than one box or none, the authors have read the accompanying narrative to settle the position. See Annex A.

Loser pays, reimbursement partial

Practice in **Italy** treats a costs order as the near-automatic consequence of victory. The governing principle is *soccombenza*, the loser-pays rule in the Italian Code of Civil Procedure, which directs the court to order the defeated party to reimburse the winner's procedural costs and defence fees. Its logic is causal, since whoever forced the resort to court by refusing to return an asset should carry the burden of the proceedings. What the rule does not promise is completeness. The court may compensate costs, in whole or in part, wherever there is reciprocal losing, a situation that arises even when a claim to recover an asset succeeds but an accompanying damages claim is cut down. Liquidation answers to statutory parameters rather than to the fee agreed with one's own lawyer, and it is calibrated to the *decisum* awarded, not the *disputatum* claimed, so inflated demands recover proportionately less. Excessive or superfluous items may be struck out, and costs may also be shared for serious and exceptional reasons, such as a genuinely novel point of law.

Each side bears its own

Recovery is the exception in the **US**, not the rule. The American Rule leaves each party to carry its own attorney's fees whatever the outcome, so a claimant who wins a civil asset recovery case will ordinarily walk away without any contribution to its legal spend. Carve-outs exist but are deliberately narrow. Federal fee-shifting statutes can entitle a prevailing plaintiff to reasonable fees – civil RICO under 18 USC, section 1964(c) being the example given – with other statutes engaged depending on the underlying claims. Bad-faith litigation conduct and contractual fee clauses supply two further routes. None of them delivers full indemnity because a court still fixes what is reasonable against the complexity of the matter, the skill demanded and the result achieved, and individual states add their own limited fee-recovery provisions.

Court fees yes, lawyers no

China draws a sharp line between the two kinds of cost. Court costs, the case-filing fee and the preservation application fee among them, are routinely shifted onto the losing side, yet lawyers' fees, investigative outlays, and travel expenses are treated with real caution and fall outside the standard notion of recoverable litigation expenses. A winning claimant can therefore expect the judgment sum, interest and court fees back, while the money spent on counsel stays where it lies. Enumerated categories break the pattern, including labour disputes, creditor revocation actions and intellectual property infringement; judicial discretion can shift fees elsewhere on proof of necessity, reasonableness and causation. Corruption-related asset recovery sits in none of those boxes, which leaves no statutory hook for fee-shifting. Where a state organ is the claimant such fees are frequently never even advanced.

SECTION IV Public-private collaboration dynamics

16. Information sharing challenges

Question 16: When a private firm is collaborating with a sovereign state on an asset recovery case, what are the primary practical and legal challenges regarding information sharing? Please consider issues such as using criminally obtained evidence in a civil proceeding; managing legal privilege and confidentiality; protecting sensitive state or investigatory information; and what mechanisms or protocols you have found effective in managing these challenges.

Survey responses confirmed that information-sharing challenges affect the effectiveness of asset recovery cases in which private firms collaborate with a sovereign state, and expanded on those challenges and the responses to them. Several respondents indicated that, although evidence obtained in criminal investigations may be admissible in civil proceedings under certain conditions, a minority of jurisdictions treat unlawfully or criminally obtained evidence as categorically inadmissible in civil litigation, and even where admissible its use is often constrained by procedural fairness requirements, judicial authorisation, investigative secrecy rules or limits on downstream use. In many cases, evidence gathered for criminal purposes must be carefully 'translated' into a form that is admissible in civil litigation, particularly where courts apply different evidentiary standards or where foreign-sourced material is involved. A small number of respondents reported no domestic experience of such public-private collaboration, and one questionnaire recorded no narrative response on this point.

In relation to the management of legal privilege and confidentiality, respondents consistently noted that sovereign asset recovery cases often involve multiple agencies, ministries, investigators and external advisers, increasing the risk of inadvertent waiver of privilege or unauthorised disclosure. This is especially acute where there is uncertainty about who constitutes the sovereign 'client' for privilege purposes, or where domestic privilege rules differ from those in foreign jurisdictions. In practice, maintaining a narrow circle of authorised recipients, clearly defining internal decision-making structures and carefully segregating privileged legal advice from broader operational communications are essential to preserving confidentiality.

As to the protection of sensitive state or investigatory information, several jurisdictions emphasised that state secrets, law enforcement intelligence, ongoing investigative material and confidential government records cannot be freely shared with private counsel or introduced into civil proceedings without safeguards. This tension is particularly pronounced in systems with broad civil disclosure obligations, public-access norms or front-loading requirements that may expose sensitive information prematurely. Cross-border cases add further complexity, as firms and sovereigns must navigate conflicting rules on secrecy, data protection, public interest immunity and access to criminal files.

To manage these challenges, respondents highlighted the importance of establishing formal information governance mechanisms at the outset of the collaboration. Commonly cited measures include non-disclosure agreements, secure encrypted communication channels, restricted-access data rooms, internal 'clean team' arrangements, and clear protocols on classification, redaction and permitted use of shared material. Judicial tools such as sealing orders, closed hearings and in camera review were also identified

as important protections in some jurisdictions. Overall, the responses suggest that effective collaboration between private firms and sovereign states depends not only on legal strategy, but also on disciplined information-management frameworks that protect privilege, confidentiality and investigative integrity while still enabling evidence to be used effectively in recovery proceedings.

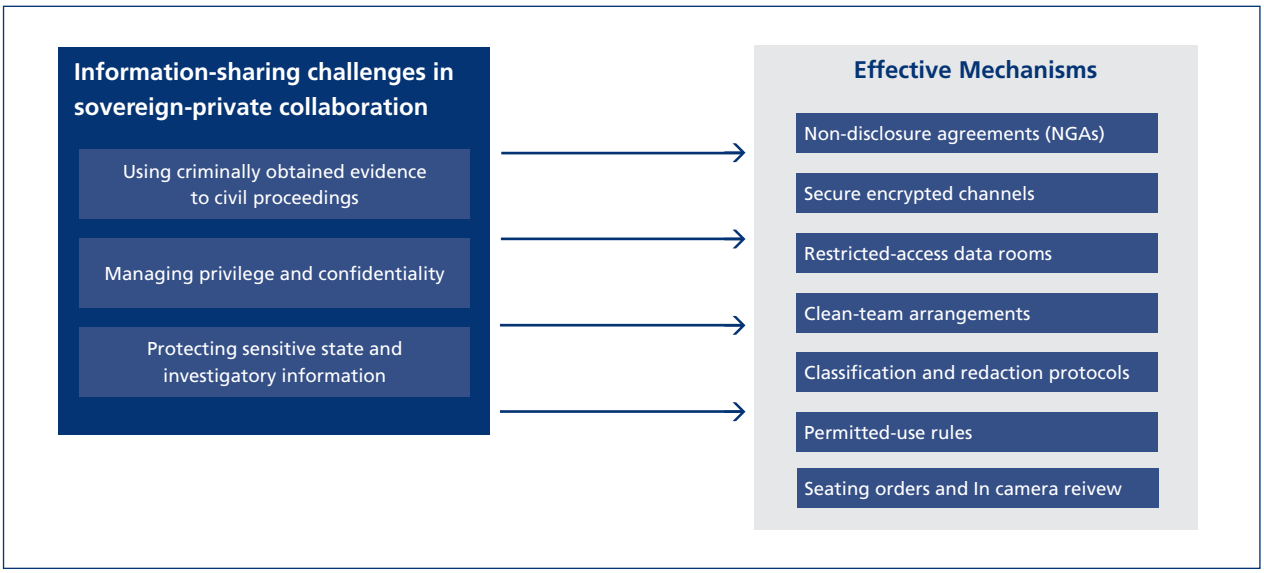


Figure 13: information-sharing in sovereign–private collaboration

Criminal evidence barred, cooperation bureaucratic

Latvia draws a firm evidentiary line. Because the Civil Procedure Law requires the court to examine only evidence obtained through the procedure prescribed by law, criminally obtained evidence cannot be carried into a civil proceeding at all. Privilege is protected in parallel terms, since defence counsel and any lawyer who has given legal assistance hold an unrestricted right not to testify about information confided to them, and their personal notes lie beyond disclosure. Two further statutes guard the state side of the ledger: the Law On Official Secret, which defines and governs state secrets; and the Freedom of Information Law, which channels how private persons may obtain and use institutional information. Where international courts request cooperation, accompanying documents are kept confidential unless disclosure is necessary to execute the request, and confidential material supplied by another country may be passed to an international court only with that country's consent, alongside measures to shield national security interests and protected officials. The practical difficulty, in the end, is that these exchanges tend to be highly bureaucratic, limited and slow.

Conviction as admissible shortcut

In **Singapore**, the friction begins with moving criminal material into civil litigation. The Evidence Act admits all relevant evidence unless a rule excludes it, yet the court keeps a discretion to shut out material whose prejudicial effect outweighs its probative value, and investigative confidentiality obligations may restrict what reaches a private litigant. A neat route around this is sequencing, running the criminal case first because a conviction can then be relied on under section 45A of the Act without reopening the underlying investigative files. Foreign states, for their part, may resist disclosing intelligence tied to ongoing enforcement or national interest, though relevance and materiality can compel it. Courts can respond with private hearings, sealing of the file, targeted redactions and anonymised judgments, but never automatically, since open justice requires the applicant to show the order truly serves the interests of justice.

Fairness discretion, no Charter reach

Canada approaches foreign material pragmatically. Evidence from foreign criminal proceedings can in principle be used in Canadian civil cases, its admissibility turning on relevance and fairness rather than Charter scrutiny, since the Charter has no direct application abroad. A residual discretion to exclude survives only where admission would offend liberty interests contrary to the principles of fundamental justice under section 7, or the fair-trial guarantee under section 11(d). For sensitive or national-security information capable of harming the state or the wider investigation, the courts may seal the file against public access or redact the material.

17. Non-trial resolutions and settlements

Question 17: What is your jurisdiction's practice in terms of non-trial resolutions or settlements? Is information made publicly available at the negotiation stage, and how have NTR or settlement funds been distributed in specific cases?

Survey responses indicate that non-trial resolutions (NTRs) and settlements are widely used in civil matters, but their availability and form in criminal or quasi-criminal cases varies considerably by jurisdiction. Several countries describe strong cultures of mediation, negotiated settlement or court-connected alternative dispute resolution (ADR), including Nigeria, Hong Kong, India, Italy, England and Wales, Singapore, the Netherlands and others. Australia stands out as an exception at the federal criminal level, where there is no plea-bargaining regime and no current deferred prosecution agreement framework. Some jurisdictions describe formal criminal resolution mechanisms, for example, Nigeria's plea bargaining and voluntary forfeiture. Other jurisdictions, including the US, describe NTR primarily in the civil sphere, through settlement and court-encouraged ADR.

A strong point of convergence is that information is generally not made public at the negotiation stage. Settlement discussions are typically described as confidential, without prejudice, or protected by mediation privilege, and this norm appears across common law and civil law systems alike. Canada, Cyprus, Hong Kong, India, Italy, Jersey, Lithuania, Luxembourg, the Netherlands, Singapore, and England and Wales all emphasise that negotiations are ordinarily private. Even where settlements are later formalised through court orders or consent judgments, the negotiation phase itself is usually shielded from public view. France is the clearest exception, at least in the criminal sphere, because certain negotiated resolutions must be validated in a public hearing and *convention judiciaire d'intérêt public* (CJIPs, a French version of the deferred prosecution agreement) are published after approval. In Nigeria and some other jurisdictions, confidentiality gives way to a degree of publicity only once the agreement is filed in court and becomes enforceable.

The distribution of settlement or NTR funds is much less transparent and far less standardised across jurisdictions. In most responses, allocation is described as case-specific and driven by the agreement between the parties or the terms of a court order, rather than by a dedicated statutory framework. Many jurisdictions provide little or no detail on actual examples of fund distribution. Where specifics are given, they tend to reflect broader legal structures:

- in Australia, criminal proceeds are paid into the Commonwealth or Confiscated Assets Account;
- in Nigeria, proprietary interests and compensation entitlements may take priority;
- in Malta, victims are prioritised and plea arrangements cannot override restitution;
- in the US, distribution is governed by the terms of the negotiated settlement agreement, with court approval of the distribution plan required in multi-claimant, bankruptcy or class-action cases; and
- in France, criminal NTRs may combine fines, compensation to victims, and compliance obligations.

Italy, Hong Kong, Portugal, Singapore, and several others note that allocation is largely private and governed by the settlement terms.

Overall, the country responses suggest that the dominant global practice is broad acceptance of negotiated resolution, coupled with strict confidentiality during negotiations and limited public visibility into the allocation of funds. The greatest variation lies in the criminal context, where some jurisdictions have formal and sometimes public NTR regimes, while others rely only on traditional guilty plea mechanisms or have no negotiated criminal resolution at all. Another notable pattern is that judicial oversight often serves as the bridge between private negotiation and public enforceability: consent judgments, court-approved settlements, public validation hearings and enforceable settlement orders recur across systems. Taken together, the responses show that while settlements are common and often efficient, their transparency and downstream public accountability remain limited except where legislation or court procedure expressly requires disclosure.

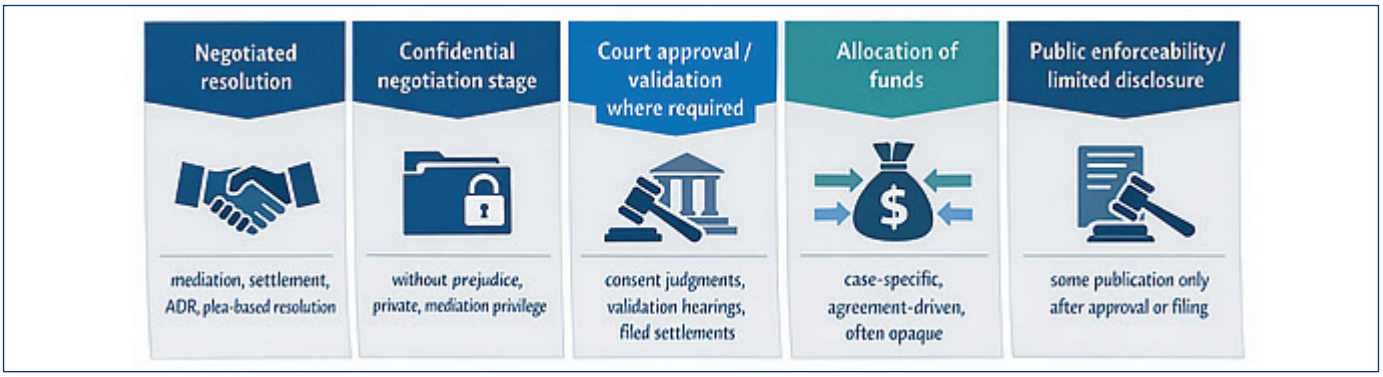


Figure 14: non-trial resolutions and settlements

No general regime, narrow statutory routes

Switzerland shows no general mechanisms to resolve disputes through plea agreements, settlement, or prosecutorial discretion. What it offers instead is a handful of tightly conditioned exits. Article 53 of the Criminal Code permits a decision not to prosecute where the defendant has repaired the harm, admitted the offence, and faces only a modest suspended penalty. The summary penalty order under Articles 352 and following of the Procedure Code resolves matters without trial where responsibility is accepted or culpability is otherwise clear and the sanction stays limited. Accelerated proceedings under Articles 358 and following let prosecution and defence agree the sanction for a summary trial once the essential facts, and any civil claims, are acknowledged, provided no custodial sentence beyond five years is sought. A deferred prosecution model for self-disclosing companies is under active consideration. Each of these routes allows settlement discussion with the injured party, though a foreign state on the other side introduces local rules that complicate matters.

Mediation-led, strictly confidential

The picture in **Ireland** is dominated by mediation, now the ordinary path through most large commercial disputes. The Mediation Act 2017 obliges solicitors to advise clients to consider it before issuing proceedings, yet the choice remains the client's, and the mediator can neither impose an outcome nor extract concessions. Confidentiality is robust, so admissions, proposals and discussions cannot surface as evidence later, and documents prepared solely for the mediation, position papers among them, stay protected from disclosure. Disputes are then closed either by settlement agreement or by court order, and a settlement framed as a contract binds under ordinary Irish contract principles. Automatic forfeiture of settlement funds on breach is possible but uncommon.

Ordinary procedure, no bespoke transparency

Portugal treats settlement as fully available, but locates it within ordinary civil procedure rather than any specialised asset recovery regime. The Code of Civil Procedure expressly recognises settlement alongside admission and withdrawal, while barring it for rights not at the parties' disposal, a meaningful limit in some public-law disputes. Costs are handled with some precision, since settlement carries a default of equal sharing unless the parties agree otherwise, leaving room to fold the costs outcome into the deal. What is absent is any dedicated reporting or transparency framework for civil recovery settlements, so negotiation-stage confidentiality and any later publicity turn on the nature of the proceedings, the identity of the parties and the surrounding context rather than on a bespoke code.

Conclusion

Taken together, the survey findings show that the framework for DRA across the jurisdictions covered is broadly functional but remains subject to structural constraints. Its effectiveness depends less on the formal existence of legal mechanisms than on how quickly and reliably they can be mobilised at the outset of a case. Thus, although remedies generally exist, the practical window for deploying them successfully is narrow and the obstacles to timely action are often substantial.

Direct civil claims pursued promptly and against clearly identified assets can offer advantages over MLA. In particular, they give claimants greater control over timing and strategy, broader access to interim and disclosure remedies, and less dependence on government-to-government processes and prosecutorial priorities. Nevertheless, the choice is not binary. Where evidence, restraint or confiscation requires state-to-state criminal cooperation, MLA remains complementary, making parallel civil and MLA strategies potentially appropriate.

The results also indicate that the existing framework operates below its potential. Reliance on general private law rather than dedicated direct-recovery legislation, divergent provisional-measure practices, fragmented civil-criminal interaction, uneven institutional capacity and structural information asymmetries can limit effective recovery because the conditions required for prompt action are not equally available.

Moreover, successful recovery depends on:

- experienced local counsel;
- procedural readiness;
- institutional coordination;
- access to funding and pre-action tracing tools; and
- appropriate management of confidential or criminally obtained information.

Non-trial resolutions add a separate dimension, raising questions about confidentiality, transparency and the distribution of recovered funds.

The way forward

This section draws on the findings and challenges, incorporating reforms and priorities emerging from the responses. It is also informed by areas in which international organisations have called for stronger implementation and, in some cases, further development of relevant standards. These measures represent the authors' normative assessment and should not be understood as either a consensus among respondents or an evaluation of jurisdictions' compliance with international benchmarks.

1. Strengthen pre-action disclosure and provisional-relief mechanisms

Targeted disclosure orders enabling claimants to obtain banking, beneficial ownership and financial information before or at the earliest stages of proceedings are essential to addressing the initial evidence gap. Jurisdictions should therefore review the adequacy of their pre-action disclosure frameworks and expand access where it is currently limited. They should also examine whether provisional-relief procedures permit sufficiently prompt decisions at proportionate cost and under evidentiary thresholds that protect against abuse without preventing effective action against a demonstrated risk of dissipation.

2. Improve the transparency of ownership registries

Effective asset tracing depends on accessible, accurate and up-to-date beneficial ownership information. Jurisdictions should consequently strengthen the quality and accessibility of corporate, trust and property registries in alignment with Financial Action Task Force recommendations and UNCAC obligations.

3. Strengthen institutional coordination and operational capacity

Jurisdictions should clarify which authority is responsible for initiating and coordinating civil recovery proceedings abroad and establish practical protocols for cooperation between public authorities and private practitioners. Clear decision-making structures, communication channels and engagement procedures can help address delays arising from fragmented mandates, procurement requirements and uneven institutional capacity.

4. Develop secure information management protocols for public-private collaboration

Jurisdictions and participating institutions should establish clear procedures governing the use of criminally obtained evidence in civil proceedings, legal privilege, confidentiality and the protection of sensitive state or investigatory information. Appropriate mechanisms may include non-disclosure agreements, encrypted communication channels, restricted data rooms, clean-team arrangements and protective court measures.

5. Implement Article 53 of UNCAC as a domestic statutory basis

Jurisdictions that have not yet done so should enact domestic legislation giving direct effect to Article 53 of the UNCAC, thereby providing a recognised international basis for foreign states to initiate civil proceedings and seek preservation relief in corruption-related recovery cases.

6. Develop dedicated international legislative and cooperation instruments to address cross-border barriers

A multilateral framework, treaty mechanism or model law should be developed to facilitate cross-border civil asset recovery. Such an instrument could provide for expedited recognition and enforcement of foreign freezing orders, mutual recognition of civil judgments in corruption-related cases, and streamlined information-sharing and judicial-cooperation protocols between jurisdictions.

7. Improve transparency and governance of non-trial resolutions.

Where compatible with confidentiality, due process and ongoing investigations, jurisdictions should develop clearer standards for publishing concluded settlements and reporting how recovered or settlement funds are allocated and distributed.

8. Improve litigation funding access and cost-risk management.

Jurisdictions should consider clearer and proportionate frameworks for third-party funding, success-related fee arrangements, security for costs and recoverable litigation expenses. Greater predictability in costs allocation and stronger mechanisms for enforcing costs orders could consequently reduce financial barriers to viable asset-recovery claims.

Annex A

IBA-StAR Survey cumulative response table

39 jurisdictions × Q1–Q8, Q10, Q11 · ✓ = YES · blank = NO · superscript = footnote

No.	Jurisdiction	1	2	3	4	5	6	7	8	10	11
1	Australia	✓			✓	✓	✓				✓
2	Austria	✓	✓	✓	✓	✓	[23]			✓	
3	Brazil	✓	✓	[24]	✓	✓	✓			✓	✓
4	British Virgin Islands	✓	✓		✓	✓	✓			✓	
5	Bulgaria	✓	✓	✓	✓	✓				✓[25]	✓
6	Canada	✓	✓		✓	✓	✓				✓
7	Cayman Islands	✓	✓		✓	✓	✓				✓
8	China	✓	✓	✓	✓	✓					✓
9	Curaçao	✓	✓	✓	✓	✓					
10	Cyprus	✓	✓		✓	✓	✓				✓
11	England and Wales	✓	✓		✓	✓	✓			[26]	✓
12	Estonia	✓	✓	✓	✓	✓	[27]	✓		✓	
13	France		✓	✓	✓	✓	✓	✓			
14	Ghana	✓	✓	✓	✓	✓	✓	✓		✓	✓
15	Hong Kong	✓	✓		✓	✓	✓	✓		✓	✓
16	India	✓	✓	✓[28]	✓	✓	✓	✓			✓
17	Ireland	✓	✓		✓	✓	✓			✓	✓
18	Italy	✓	✓	✓	✓	✓	✓	✓		✓	✓

23 **Austria, Q6:** The answer depends on the type of proceedings and court instance. Local counsel mandatory where legal representation is required (district court disputes exceeding €5,000 and higher courts).

24 **Brazil, Q1:** Brazil marked 'no' in the form but clarified that 'the civil action related to conduct that may constitute crimes in Brazil can be litigated before civil courts. However, the Criminal Procedure Code does not forbid countries, as an aggrieved party, to participate in the criminal as an assistant of the prosecution.'

25 **Bulgaria, Q10:** The response identifies designated ministries as the bodies that represent the state in civil proceedings, primarily the Minister of Finance and, in some matters, the Ministry of Regional Development and Public Works, which may retain Bulgarian or foreign counsel. The body whose mandate was most closely aligned with representing the state in foreign civil proceedings relating to unlawfully acquired assets, the Commission for Counteracting Corruption and for Seizure or Forfeiture of Illegally Acquired Property, was recently dissolved and its powers have not been transferred to any other specific body, indicating some institutional transition.

26 **England and Wales, Q10:** The answer reflects that civil claims can be brought on behalf of the state before foreign jurisdictions but not by any single authority. Claims may be pursued by different UK authorities depending on the matter.

27 **Estonia, Q6:** Response qualified with asterisk. Generally foreign parties need not hire local counsel and may litigate in person or through a representative under Article 217(1) of the Code of Civil Procedure.

28 **India, Q3:** Indian law does not permit a full civil claim for damages within a criminal trial nor the joinder of an active civil suit to a criminal proceeding. It nonetheless allows ancillary compensatory and property-restoration orders within or consequential upon criminal proceedings under the Bharatiya Nagarik Suraksha Sanhita 2023 (compensation from the fine imposed and custody, disposal, delivery, confiscation or restoration of property connected with the offence) and, in the money-laundering context, under the Prevention of Money-Laundering Act 2002 (confiscation, release and restoration of property to a claimant with a legitimate interest).

No.	Jurisdiction	1	2	3	4	5	6	7	8	10	11
19	Jersey	✓	✓		✓[29]	✓	✓				✓
20	Latvia	✓	✓		✓	✓				✓	✓
21	Liechtenstein	✓	✓	✓	✓	✓		✓			
22	Lithuania	✓	✓	✓	✓	✓				✓	✓
23	Luxembourg	✓	✓	✓	✓	✓	✓				
24	Malta	✓	✓	✓	✓	✓	✓			✓	✓
25	Montenegro	✓	✓	✓[30]	✓	✓		✓		✓[31]	
26	Nigeria	✓	✓		✓	✓	✓	✓		✓	✓
27	Poland	✓	✓	✓	✓	✓	✓			✓	
28	Portugal	✓	✓	✓	✓	✓	✓				
29	Korea (South)	✓	✓	✓	✓	✓				✓	
30	Serbia	✓	✓	✓[32]	✓	✓		✓		✓	
31	Singapore	✓	✓		✓	✓	✓			✓	✓
32	Slovenia	✓	✓	✓	✓	✓	✓			✓	
33	Spain	✓	✓	✓	✓	✓	✓	✓		✓	✓
34	Switzerland	✓	✓	✓	✓	✓	✓	✓			✓
35	The Bahamas	✓	✓		✓	✓	✓	✓			✓
36	The Netherlands	✓	✓	✓	✓	✓	[33]				
37	UAE	✓[34]	✓	✓	✓	✓	✓				
38	Ukraine		✓	✓[35]	✓	✓				✓	✓
39	US	✓	✓		✓	✓	✓	✓		✓	✓

Quick counts by question

Question	YES (✓)	NO (blank)
Q1	37	2
Q2	38	1
Q3	24	15

29 **Jersey, Q4:** Response qualified. A foreign claimant would possibly be entitled to compensation depending on the facts, cross-referring to hurdles in Q1. Intelligence from financial-crime and law-enforcement bodies remains relevant.

30 **Montenegro, Q3:** The respondent acknowledges that 'the answer is not unanimous', although the 'yes' box was checked.

31 **Montenegro, Q10:** The positive answer has been inferred by the authors from the written explanation, which identifies an authority competent to represent the state and to engage private counsel for such proceedings.

32 **Serbia, Q3:** The respondent acknowledges that 'the answer is not unanimous'. 'Yes' was attributed by the authors, on consistency grounds.

33 **The Netherlands, Q6:** Local counsel is generally required for any party in Dutch proceedings, subject to limited exceptions such as cases involving a monetary amount lower than €25,000.

34 **UAE, Q1:** The UAE answered 'yes, subject to its jurisdictional rules'. Direct recovery is available but establishes a difference between the onshore civil-law courts and the offshore DIFC/ADGM common-law courts. As the qualification is procedural, the UAE is counted among jurisdictions where direct recovery is available.

35 **Ukraine, Q3:** Ukrainian law permits a claimant to pursue a civil claim as part of an ongoing criminal proceeding but does not permit joining an active civil lawsuit to a criminal trial.

Question	YES (✓)	NO (blank)
Q4	39	–
Q5	39	–
Q6	27	8
Q7	17	22
Q8	0	39
Q10	22	15
Q11	24	15

Question 14 – Pre-litigation, tracing and costs

39 responding jurisdictions · ✓ = option selected · A = such tools are available and effective · B = such tools are available but limited or ineffective · C = such tools are generally not available · superscript = footnote

No.	Jurisdiction	Q14 – Pre-litigation asset tracing tools		
		A	B	C
1	Australia	✓		
2	Austria		✓	
3	Brazil		✓	
4	British Virgin Islands	✓		
5	Bulgaria		✓	
6	Canada	✓		
7	Cayman	✓		
8	China		✓	
9	Curaçao		✓	
10	Cyprus	✓		
11	England and Wales	✓		
12	Estonia			✓
13	France		✓	
14	Ghana	✓		
15	Hong Kong	✓		
16	India		✓	
17	Ireland	✓		
18	Italy		✓	
19	Jersey	✓		
20	Latvia			✓
21	Liechtenstein		✓	
22	Lithuania		✓	
23	Luxembourg		✓	

No.	Jurisdiction	Q14 – Pre-litigation asset tracing tools		
		A	B	C
24	Malta		✓	
25	Montenegro	✓[36]		
26	Nigeria		✓	
27	Poland			✓
28	Portugal		✓	
29	Korea (South)		✓	
30	Serbia	✓		
31	Singapore	✓		
32	Slovenia		✓	
33	Spain		✓	
34	Switzerland			✓
35	The Bahamas	✓		
36	The Netherlands		✓	
37	UAE	✓		
38	Ukraine		✓	
39	US	✓		

Question 15 – Likelihood of recovery and influencing factors

39 responding jurisdictions · ✓ = option selected · A = high likelihood · B = moderate likelihood · C = low likelihood · superscript = footnote

No	Jurisdiction	Q15 – Likelihood of Recovery and Influencing Factors		
		A	B	C
1	Australia			✓[37]
2	Austria		✓[38]	
3	Brazil		✓	
4	British Virgin Islands	✓		
5	Bulgaria		✓	
6	Canada		✓	

36 **Montenegro, Q14:** The narrative response identifies several publicly accessible registers, namely the Central Register of Business Entities, the Register of Beneficial Owners, the Central Register of Taxpayers and the Real Estate Cadastre, as functional pre-litigation tracing tools. The authors have read this response as coming closest to option A, such tools are available and effective.

37 **Australia, Q15:** The answer affirms that 'low to moderate is the default position'. Alongside the box 'low likelihood', 'cases involving individuals or failed companies' were mentioned. The authors interpreted these comments as a prevailing 'low likelihood' landscape.

38 **Austria, Q15:** The respondent referred to two distinct scenarios. One generally illustrated by the loser-pays principle, in which the losing party must bear the all proceeding-related costs. Another, more closely related to practical complex asset recovery cases, in which 'the difference between the costs awarded on the basis of the tariff and the actual costs can be significant'. The authors opted to leave only the 'moderate likelihood' box checked, for consistency with the other answers and because they interpreted the written clarification as more aligned with the subject of this report.

No	Jurisdiction	Q15 – Likelihood of Recovery and Influencing Factors		
		A	B	C
7	Cayman	✓		
8	China			✓
9	Curaçao			✓
10	Cyprus		✓	
11	England and Wales	✓		
12	Estonia	✓		
13	France			✓
14	Ghana		✓	
15	Hong Kong			✓
16	India		✓	
17	Ireland		✓	
18	Italy	✓		
19	Jersey		✓[39]	
20	Latvia			✓
21	Liechtenstein		✓	
22	Lithuania		✓	
23	Luxembourg		✓	
24	Malta		✓	
25	Montenegro	✓		
26	Nigeria		✓	
27	Poland			✓
28	Portugal			✓
29	Korea (South)		✓	
30	Serbia	✓		
31	Singapore	✓		
32	Slovenia		✓	
33	Spain		✓	
34	Switzerland		✓	
35	The Bahamas		✓	
36	The Netherlands		✓	
37	UAE			✓
38	Ukraine			✓

39 **Jersey, Q15:** The respondent checked no option. Based on the affirmation that 'the standard position is that a successful plaintiff will obtain an order for their costs of the action' and, at the end of the response, on the statement that 'the key point arising from the above is that on whichever basis costs are ordered, in practice this will not result in full cost recovery', the authors interpreted these circumstances as a 'moderate likelihood'.

No	Jurisdiction	Q15 – Likelihood of Recovery and Influencing Factors		
		A	B	C
39	US			✓

Annex B – Relevant laws and provisions

This annex compiles the relevant authorities referenced by respondents in their questionnaires. The first section contains a summary chart presenting which countries included this information in response to each question. The second section lists the specific laws and provisions cited, organised by survey question. This compilation aims to facilitate further discussions and comparative analysis of the diverse frameworks applicable to participating jurisdictions.

I. Overview

Country × survey question. ✓ = the respondent cited specific legislation or a named provision in the written answer to that question; a blank cell = no legislation cited.

No.	Country	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Australia		✓	✓	✓	✓				✓	✓	✓	✓		✓	✓	✓	✓
2	Austria	✓	✓	✓		✓	✓					✓		✓	✓		✓	✓
3	Brazil	✓	✓	✓	✓	✓		✓	✓			✓				✓		✓
4	British Virgin Islands	✓	✓	✓		✓					✓							
5	Bulgaria						✓			✓					✓			✓
6	Canada	✓	✓	✓	✓	✓				✓	✓	✓	✓	✓			✓	
7	Cayman Islands		✓		✓				✓	✓		✓	✓					
8	China	✓	✓	✓	✓		✓	✓				✓			✓		✓	✓
9	Curaçao	✓	✓					✓							✓			
10	Cyprus	✓			✓	✓									✓	✓		✓
11	England and Wales	✓				✓						✓	✓		✓			
12	Estonia	✓	✓	✓	✓	✓	✓	✓	✓		✓						✓	
13	France		✓	✓	✓	✓		✓		✓			✓		✓	✓		✓
14	Ghana										✓	✓						
15	Hong Kong	✓	✓		✓	✓	✓			✓		✓			✓		✓	✓
16	India	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	
17	Ireland	✓			✓	✓					✓	✓	✓		✓	✓	✓	✓
18	Italy	✓	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓	✓
19	Jersey	✓				✓							✓					
20	Latvia	✓			✓	✓	✓						✓			✓	✓	
21	Liechtenstein			✓	✓			✓							✓			
22	Lithuania	✓	✓			✓						✓	✓					
23	Luxembourg	✓		✓		✓											✓	
24	Malta	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
25	Montenegro	✓	✓	✓	✓	✓	✓	✓			✓		✓	✓		✓	✓	✓

No.	Country	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
26	Nigeria	✓	✓	✓	✓	✓					✓	✓	✓		✓	✓	✓	✓
27	Poland												✓					
28	Portugal			✓	✓	✓		✓	✓	✓		✓	✓				✓	✓
29	Korea (South)	✓	✓	✓	✓	✓	✓				✓		✓		✓	✓	✓	✓
30	Serbia	✓	✓	✓	✓	✓	✓	✓			✓		✓	✓		✓	✓	✓
31	Singapore	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
32	Slovenia	✓		✓	✓													
33	Spain	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
34	Switzerland	✓	✓	✓	✓	✓	✓	✓				✓	✓		✓			✓
35	The Bahamas	✓			✓	✓	✓					✓	✓			✓		
36	The Netherlands	✓	✓	✓									✓		✓			
37	UAE	✓	✓	✓	✓	✓						✓						
38	Ukraine	✓	✓	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓	✓	✓
39	US	✓	✓	✓	✓	✓	✓	✓	✓			✓			✓	✓	✓	✓

II. Legislation and Authorities Cited

Organised by survey question. For each question, the jurisdictions that cited specific legislation are listed with the provisions exactly as referenced in their answers.

Q1 – Foreign State/private party civil action to establish title or ownership

Austria – Austrian General Civil Code (ABGB); Austrian Code of Civil Procedure (ZPO);United Nations Convention against Corruption (UNCAC); Article 53 UNCAC; Article 35 UNCAC; section 57 ZPO

Brazil – Brazilian Civil Code

British Virgin Islands – *Versloot Dredging BV v HDI Gerling* [2013] EWHC 581; *Versloot Dredging BV v HDI Gerling* [2013] EWHC 658; Legal Profession Act 2015 (BVI), s.6(2) Mandatory Code of Ethics; *R (Factortame Ltd) v Secretary of State for Transport (No 8)* [2002]; *Arkin v Bouchard Shipping Lines*

Canada – *Bouzari v Iran* (Islamic Republic); *Chevron Corp v Yaiguaje*, 2015; *Club Resorts Ltd v Van Breda*, 2012 SCC 17

China – UNCAC, Article 53; Civil Procedure Law; Foreign State Immunity Law; Article 311 of the Civil Code; Article 153 of the Civil Procedure Law; Article 11 of the Supreme People's Court's Provisions on Economic Disputes Involving Economic Crime Suspects; Foreign State Immunity Law of 2024; Article 64 of the Criminal Law

Curaçao – The Curaçao Code of Civil Procedure (CCCP) and The Civil Code of Curaçao (CCC) are undefined; Article 6:212 CCC; Article 6:162 CCC; Article 5:2 CCC

Cyprus – Regulation (EU) No 1215/12 of the European Parliament and of the Council of 12 December 2012; Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters; section 32 of the Courts of Justice Law, 14/1960; UNCAC

England and Wales – BTA Bank litigation; Republic of Mozambique litigation

Estonia – Code of Civil Procedure section 3(1)

Hong Kong – *Democratic Republic of the Congo v FG Hemisphere Associates* [2011] HKCFA 41; Foreign State Immunity Law of the PRC (FSIL); section 21M of the High Court Ordinance (Cap 4); *American Cyanamid v Ethicon Ltd* [1975]; *A Co v B Co* [2002] 3 HKLRD 111; *Bankers Trust Co v Shapira* [1980] 1 WLR 1274; *China National Gold Group Hong Kong Limited v The Hongkong and Shanghai Banking Corporation Limited* [2025] HKCA 1068; High Court Ordinance (Cap 4)

India – Section 9 of the Code of Civil Procedure, 1908 (CPC); section 83 CPC; section 84 CPC; *Mirza Ali Akbar Kashani v United Arab Republic* (AIR 1966 SC 230); Bharatiya Sakshya Adhiniyam, 2023 (BSA); Insolvency and Bankruptcy Code, 2016 (IBC); Prevention of Money-Laundering Act, 2002 (PMLA); *Government of Canada v Sanjay Madan & Ors* (CS(OS) 379/2025, Delhi High Court)

Ireland – UNCAC, Article 53

Italy – Hague Convention of 1961 (apostille); Regulation (EU) No 1215/2012 ('Brussels I bis'); Cass Civ, Sec 1, No 6723 of 07-03-2023; Legislative Decree No 159/2011 (Anti-Mafia Code) Title IV; Law No 228/2012 (2013 Stability Law) Article 1 paragraphs 194–205

Jersey – Civil Asset Recovery (International Co-operation) (Jersey) Law 2007; Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018

Latvia – Criminal Procedure Law

Lithuania – Civil Code

Luxembourg – Article 53(1)(3) of the UNCAC

Malta – Article 39 of the Proceeds of Crime Act (Cap 621); Article 1051A of the Civil Code; Code of Organisation and Civil Procedure (COCP); *Run Logistics Limited v Kummisarju tal-Pulizija u l-Ufficju ghall-Irkupru tal-Assi* (3 June 2025); Civil Code, chapter 16; Directive 2014/42/EU

Montenegro – Law on Property Legal Relations, Articles 412, 413 and 415

Nigeria – UNCAC Articles 35 and 53; section 8 of the High Court Law of Lagos State; *Attorney General of Zambia v Meer Care & Desai (A Firm)*; *Libya v Capitana Seas Ltd*; Proceeds of Crime (Recovery and Management) Act, 2022; section 67 of the Proceeds of Crime Act; section 70(c), (d) and (f) of the Proceeds of Crime Act; Administration of Criminal Justice Act 2015, sections 337, 338(2) and 342

Korea (South) – Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague Apostille Convention, 1961), Articles 1, 2, 3, 4 and 15; Korean Civil Act; Supreme Court En Banc Decision 97Da39216 (17 December 1998); Supreme Court Decision 2010Do15350 (28 April 2011); Act on Special Cases Concerning the Confiscation and Return of Property Acquired Through Corrupt Practices, Article 2 subparagraph 1; Act on Private International Law, Article 1; Commercial Code of California

Serbia – Article 74 of the Civil Procedure Act; Article 82 of the Law on Basic Property Relations; Article 82a of the Law on Basic Property Relations; Law on Agricultural Land

Singapore – Section 16(1)(a) of the Supreme Court of Judicature Act 1969; Order 8 of the Rules of Court 2021; section 14 of the Prevention of Corruption Act 1960; *Leong Wai Kay v Carrefour Singapore Pte Ltd* [2007] SGCA 26; section 13 of the Prevention of Corruption Act 1960; section 4(1) r/w section 4(3)(a) of the State Immunity Act 1979; paragraph 63 of the Supreme Court Practice Directions 2021

Slovenia – UNCAC

Spain – Civil Procedure Act (LEC); Organic Law on the Judiciary (LOPJ); Law 29/2015 of 30 July on international legal cooperation in civil matters; Article 24 of the Spanish Constitution; Articles 6–11 LEC; UNCAC Article 53(a); Article 1902 of the Civil Code; Article 22 (LOPJ); Article 22 ter (LOPJ); Title V of the Law on International Legal Cooperation in Civil Matters; Regulation (EU) No 1215/2012 (Brussels I-bis); Articles 21–25 LOPJ; Article 40 LEC; Article 36 (LEC); Organic Law 16/2015 on privileges and immunities of foreign states and international organisations; STS 507/2020 (Gürtel); Article 122 CP

Switzerland – Article 122 of the Penal Procedure Code (PPC); Code of Obligations (CO); Article 41 CO; Federal Act on the Division of Forfeited Assets (DFAA); Federal Act on the Freezing and Restitution of Illicit Assets (FIAA); UNCAC chapter V; Article 70 PC; Article 71 PC; Article 73 PC; decision 4A_340/2015

The Bahamas – Proceeds of Crime Act, 2018; Prevention of Bribery Act, 1976; The Anti-Terrorism Act, 2018; The Criminal Justice (International Cooperation) Act, 2000; Evidence (Proceedings in Other Jurisdictions) Act, 2000; The Dangerous Drugs Act, 2000; The Criminal Procedure Code, 1969; Supreme Court Civil Procedure Rules, 2022; Reciprocal Enforcement of Judgments Act, 1924; *The Attorney General v Knowles Jr. et al* [2017] UKPC 5; *The Attorney General v Jonathan Reid & Others* [2021] UKPC 19; *The Attorney General v Aguilar/Pearson* 2010/CLE/gen/00688; *The Public Institution for Social Security v Fahad Maziad Al-Rajaan* 2020/CLE/gen/00976

The Netherlands – Article 5:2 of the Dutch Civil Code (DCC); Article 6:212 DCC; Article 6:162 DCC; Article 6:103 DCC

UAE – Federal Decree-Law No 31 of 2021 on the Issuance of the Crimes and Penalties Law (Penal Code); Federal Law No 25 of 2025 (Civil Code); UNCAC; Federal Decree No 8 of 2006

Ukraine – Law of Ukraine 'On Prevention of Corruption', Article 68

US – 18 USC section 1964(c); 28 USC section 1350; 18 USC section 1957; Fla Stat section 772.104; *Ferguson v The Republic of Trinidad & Tobago*, 422 So 3d 717 (Fla Dist Ct App 2025); Fla Stat section 772.11; Fla Stat section 78.01 et seq.; NY CPLR Article 71; NY Debt & Cred Law sections 270–281; Florida Uniform Transfer Act

Q2 – Court orders for compensation or damages

Australia – *ASIC v Richards* [2013] FCAFC 89; *Peterson v Merck Sharp & Dohme (Aust) Pty Ltd* (No 6) [2013] FCA 447

Austria – Section 1295 ABGB; section 1293 ABGB; sections 1293 et seq Austrian Civil Code; section 304 Austrian Criminal Code; section 305 Austrian Criminal Code; section 306 Austrian Criminal Code; section 153a Austrian Criminal Code; section 307 Austrian Criminal Code; section 307a Austrian Criminal Code; section 307b Austrian Criminal Code; section 153 Austrian Criminal Code; section 1013 Austrian Civil Code; section 1009 Austrian Civil Code; sections 1012, 1295 Austrian Civil Code; section 1302 ABGB

Brazil – Anti-Corruption Law (Law No 12,846/2013); Administrative Impropriety Law (Law No 8,429/1992); Civil Code Articles 186 and 927

British Virgin Islands – *Niru Battery Manufacturing Co v Milestone Trading Ltd* [2003] EWCA Civ 1446; Criminal Code (No 1 of 1997) (BVI)

Canada – Freezing Assets of Corrupt Foreign Officials Act; Special Economic Measures Act (SEMA); section 5.6 of the SEMA; Corruption of Foreign Public Officials Act (CFPOA); Justice for Victims of Corrupt Foreign Officials Act (Magnitsky Law); Criminal Code, Part XXII.1; *R v Ultra Electronics Forensic Technology Inc*; sections 3(1)(a) and 3(1)(b) of the CFPOA; section 380(1)(a) of the Criminal Code; *R v SNC-Lavalin Construction Inc*; section 738 of the Criminal Code; section 2 of the Criminal Code; OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Cayman – Criminal Justice (International Cooperation) Act

China – UNCAC; Civil Code Article 1165; Civil Code Article 235; Civil Code Article 1184; Civil Code Article 985; Company Law Article 148; Company Law Article 149

Curaçao – Article 6:162 CCC; Article 6:212 CCC; revindicatie Article 5:2 CCC; Article 6:170(1) CCC; Article 6:172 CCC; Article 6:166 CCC; Article 6:96 CCC; Article 6:97 CCC; Article 6:106 CCC; Article 6:103 CCC

Estonia – Law of Obligations Act (LOA) section 1043; LOA section 115; LOA section 1037; LOA section 128

France – Articles 2, 3, 4, 80 and 418–420 of the Criminal Procedure Code; Article 2 of the Criminal Procedure Code; Articles 1240 and 1241 of the Civil Code

Hong Kong – *Idemitsu Chemicals (Hong Kong) Co Limited v Yanqing Limited and Others* [2024] HKCFI 1075; *China Medical Technologies, Inc (In Liquidation) and others v Bank of China (Hong Kong) Limited* [2021] HKCFI 3042

India – Section 73 of the Indian Contract Act, 1872; Bharatiya Nagarik Suraksha Sanhita, 2023

Italy – Article 2059 Civil Code; Article 185 Criminal Code; Article 2043 Civil Code; Joint Sections judgment No 500/1999; Article 2055 Civil Code; Article 125 Industrial Property Code

Lithuania – CC Article 6.249; Article 6.263(2); CC Article 6.249(2); CC Article 6.263; Article 6.247; CC Article 6.163(3)

Malta – Article 1051A(2); *Kap tal-Oppożizzjoni u Kap tal-Partit Nazzjonalista Bernard Grech u Onor Adrian Delia v Avukat tal-Istat* (2 December 2024); Article 1051A(4); Article 1051A(8); Act No XXVI of 2025 (Holders of Public Office and Public Entities (Responsibility) Act, 2025); Article 1045 of the Civil Code

Montenegro – Law on Obligations, Articles 148, 149 and 197

Nigeria – Section 372 of the Administration of Criminal Justice (Amendment) Law 2021 of Lagos State; Administration of Criminal Justice Act 2015, section 314(1); section 319(1)(a); section 326; Proceeds of Crime (Recovery and Management) Act 2022, section 70(b) and (c); section 70(d); *Foskett v McKeown*

Korea (South) – Korean Civil Act Article 750; Korean Civil Act Article 751 paragraph 1; Act on Special Cases Concerning the Confiscation and Return of Property Acquired Through Corrupt Practices (Articles 2, 7 and 11)

Serbia – Law on Obligations; Articles 185, 189 and 190 of the Law on Obligations

Singapore – Section 14 of the Prevention of Corruption Act 1960

Spain – Criminal Code; Criminal Procedure Act; Article 109 of the Criminal Code; Article 116.1 of the Criminal Code; Article 100 of the Criminal Procedure Act; Article 110 of the Criminal Code; Article 1106 CC; Article 109.2 of the Criminal Code; Article 116 of the Criminal Code; Article 120 of the Criminal Code

Switzerland – Article 41 CO; Article 28 CO; Article 97 CO; Article 62 CO; Article 20 CO; Article 21 CO; Article 23 CO; Article 29 CO; Article 50 paragraph 1 CO; Article 50 paragraph 2 SCO; Article 50 paragraph 3 CO; BGE 143 III 348

The Netherlands – Article 3:40 DCC; Article 6:162 DCC; Article 6:104 DCC; Article 6:170(1) DCC; Article 6:172 DCC; Articles 51a–51h DCCrP; Article 51a DCCrP; Article 36f DCrC; Article 36f(1) DCrC; Article 36f(2) DCrC; Article 116(2)(a) DCCrP; Article 353(2)(a)(b) DCCrP; Article 353(2)(b) DCCrP; Article 353(2)(c) DCCrP; Articles 552a, 552ab and 552b DCCrP; Article 6:6:26 DCCrP; Article 36e DCrC; Article 6:6:26(1) DCCrP; Article 6:95 DCC; Article 6:96(1) DCC; Article 6:96(2) DCC

UAE – Civil Code; Dubai Law No 37 of 2009 on the Procedures of Refund the Public Property and Illicitly Collected Money

Ukraine – Civil Code of Ukraine, Articles 22, 23 and 1166

US – 18 USC section 1964(c); Fla Stat section 772.104; Fla Stat section 772.11; Fla Stat section 768.72; Fla Stat section 55.03; NY CPLR 5001; NY CPLR 5002; NY CPLR 5004

Q3 – Civil claim within criminal proceedings (*partie civile*)

Australia – Sections 49 and 174 of the Criminal Procedure Act 1986 (NSW); section 9(1), Director of Public Prosecutions Act 1986; *Taylor v Attorney-General (Cth)* (2019) 372 ALR 581; Director of Public Prosecutions Act 1983 (NSW); *Hanna v DPP* (2005) 62 NSWLR 373; *Boyle v Director of Public Prosecutions* (Cth) [2024] SASCA 73; Victims Rights and Support Act 2013 (NSW); *Upadhyaya v R* [2017] NSWCCA 162; Crimes (Sentencing Procedure) Act 1999 (NSW); Crimes Legislation Amendment (Victims) Act 2018 (NSW)

Austria – Sections 67 et seq StPO (Code of Criminal Procedure); EU-JZG (Federal Act on Judicial Cooperation in Criminal Matters with EU Member States); European Investigation Orders (EIO); Articles 53 and 57 UNCAC; ARHG (traditional mutual legal assistance)

Brazil – Criminal Procedure Code, Articles 268–273

British Virgin Islands – UK's Proceeds of Crime Act (POCA)

Canada – Section 504 of the Criminal Code

China – Criminal Procedure Law, chapter VII of Part One; Article 101 of the Criminal Procedure Law; Article 199 of the Judicial Interpretation of the Criminal Procedure Law

Estonia – Code of Criminal Procedure (CCP) section 38(1)(2); Regulation (EU) 2018/1805 of the European Parliament and of the Council; section 48953 of CCP; section 48954(1) of CCP

France – Article 427 of the Criminal Procedure Code; Cass Crim 15 June 1993, no 32-82.509; Article 4 of the Criminal Procedure Code; CA Paris, pole 4, chambre 13, 16 September 2025, no 24/20327; Articles 10-2, 15-3-1-1, 80-3 and 89-1 of the Criminal Procedure Code; Articles 694 and 694-1 of the Criminal Procedure Code; Articles 694-15 and 694-16 of the Criminal Procedure Code; Article D45-2-1 of the Criminal Procedure Code

India – Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS); PMLA

Italy – Article 246 Code of Civil Procedure; Hague Convention of 15 November 1965; Strasbourg Convention of 24 November 1977; Legislative Decree 71/2011 Article 37; Article 142 Code of Civil Procedure

Liechtenstein – Article 31–34 of the Code of Criminal Procedure (StPO)

Luxembourg – Article 56 UNCAC

Malta – Article 532A; Article 410; Article 39 of the Proceeds of Crime Act; Articles 82–86 Treaty on the Functioning of the European Union; Articles 43 and 57 UNCAC; Title VIII of the Criminal Code (Articles 628A–628B); Article 628B(1); Title IX of the Criminal Code (Articles 628C–628I); Council Regulation (EU) 2017/1939; Articles 628D and 628E

Montenegro – Articles 234–245 of the Criminal Procedure Code; Law on International Legal Assistance in Criminal Matters, Articles 2, 9 and 10; Law on Confiscation of Proceeds of Crime, Article 35; Article 10a; Article 19; Law on Restrictive Measures (2024), Article 23

Nigeria – Administration of Criminal Justice Act 2015, section 314(1); section 319(1)(a); sections 337, 338 and 342

Portugal – UNCAC; Lei no 144/99

Korea (South) – Act on Special Cases Concerning the Prevention of Illegal Trafficking in Narcotics, Article 23; Act on Regulation and Punishment of Criminal Proceeds Concealment, Article 12

Serbia – Articles 252–258 of the Criminal Procedure Code; Law on Seizure and Confiscation of Proceeds from Crime, Article 64; Law on International Legal Assistance in Criminal Matters

Singapore – Section 11 of the Criminal Procedure Code 2010; section 359 r/w section 361 of the Criminal Procedure Code 2010; *Lim Tien Hou William v Ling Kok Hua* [2023] SGHC 18; *Myo Kwaw and another v Public Prosecutor* [2025] SGMC 30

Slovenia – UNCAC

Spain – Article 112 of the Criminal Procedure Act; Article 110 of the Criminal Procedure Act; Article 116 of the Criminal Code; Article 116 of the Criminal Procedure Act; Article 114 of the Criminal Procedure Act; Criminal Procedure Act; Law 29/2015 on international legal cooperation; Organic Law 16/2015

Switzerland – Civil Procedure Code (CPC); Article 123 PPC; Article 70 paragraph 1 PC; Article 305bis paragraph 3 PC; Article 70 PC; Article 73 PC; Article 67a paragraph 1 IMAC; Article 18 IMAC; Article 19 IMAC; Articles 263 ff. PPC

The Netherlands – Articles 51a–51h DC2CrP; Article 36f DCrC; Article 51a DCCrP; Article 6:6:26 DCCrP; Article 51f(1) DCCrP; Article 361(3) DCrC; Article 36f(5) DCrC; Articles 116 and 353 DCCrP; Article 361 DCCrP; Article 552b DCCrP; Articles 51a–51h DCCrP; Article 421(4) DCCrP; Dutch Code of Civil Procedure (DCCP); UNCAC

UAE – Article 148 of Federal Law No 38 of 2022 (Criminal Procedure Code); Article 29 of the Criminal Procedure Code; Article 269 of the Criminal Procedure Code; Article 88 of Federal Decree-Law No 35 of 2022 (Law of Evidence in Civil and Commercial Transactions)

Ukraine – Criminal Procedure Code of Ukraine, chapter 9; Civil Procedure Code of Ukraine

US – 18 USC section 3663A; 18 USC section 3663; 18 USC section 3771; 18 USC section 1963(m); 21 USC section 853(i); 18 USC section 981 et seq; Fla Stat section 775.089; NY Penal Law section 60.27; Fla Const Article I, section 16; Fla Stat section 960.001; NY Exec Law Article. 23; Fla Stat section 895.05(6)

Q4 – Foreign claimant's entitlement to compensation

Australia – *Edwin Davey Pty Ltd v Boulos Holdings Pty Ltd* [2022] NSWCA 65; *Arsalan v Rixon* (2021) 395 ALR 390; *Livingstone v Rawyards Coal Co* (1880) 5 App Cas 25; *Haines v Bendall* (1991) 172 CLR 60; *Arsalan v Rixon* [2021] HCA 40; *Hospital Products Limited v United States Surgical Corporation* [1984] HCA 64; *Naaman v Jaken Properties Australia Pty Ltd* [2025] HCA 1; A*BN Amro Bank NV v Bathurst Regional Council* [2014] FCAFC 65; section 236 Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)); *Murphy v Overton Investments Pty Ltd* [2004] HCA 3; *Gates v City Mutual Life Assurance Society Ltd* [1986] HCA 3; *Sunland Waterfront (BVI) Ltd v Prudentia Investments Pty Ltd* (No 2) [2012] VSC 239; *Marks v GIO Australia Holdings* [1998] HCA 69

Brazil – 1988 Constitution, Article 5; Civil Code, Articles 21–25, 186 and 927; Law No 12.846/2013

Canada – Justice for Victims of Corrupt Foreign Officials Act (JVCFOA); UNCAC

Cayman – Criminal Justice (International Cooperation) Act

China – Article 584 of the Civil Code; Article 1184 of the Civil Code; Article 996 of the Civil Code; Article 1183 of the Civil Code

Cyprus – Section 14 of the Limitation of Actionable Rights Law (66(I)/2012)

Estonia – LOA section 1043; LOA section 115; LOA section 1037

France – Article 427 of the Criminal Procedure Code; Articles 1240 and 1241 of the Civil Code; Article 9 of the Civil Code; Cass Ass Plén 12 Dec. 2023, no 20-20.648; Article 1162 of the Civil Code; Article 1132 of the Civil Code; Article 1137 of the Civil Code

Hong Kong – FSIL

India – BSA

Ireland – Section 228 of the Companies Act 2014; *Fyffes plc v DCC plc & ors* [2005] IEHC 477

Italy – Article 1226 Civil Code; Article 1453 Civil Code; Article 1223 Civil Code; Cass. Civ, Sec 3, No 25851 of 22-09-2025; Article 125 Industrial Property Code (Legislative Decree 30/2005)

Latvia – Articles 1770–1792 of the Latvian Civil Law

Liechtenstein – Section 1293 ff ABGB; section 1041 ABGB; section 366 ABGB; section 372 ABGB

Malta – Article 1051A; Article 1045 of the Civil Code; *Cem Kofoglu vs L-Agenzija ghal Infrastruttura Malta u Kunsill Lokali tas-Siggiewi* (8 May 2025)

Montenegro – Law on Obligations

Nigeria – Administration of Criminal Justice Act 2015, section 319(1)(a); Proceeds of Crime (Recovery and Management) Act 2022, section 70(b), (c) and (d)

Portugal – Article 53 of the UNCAC

Korea (South) – Korean Civil Act Article 390; Korean Civil Act Article 393 paragraph 2; Korean Civil Act Article 750; Korean Civil Act Article 751; Supreme Court Decision 93Da59779 (13 December, 1994); Protection of Communications Secrets Act Article 15-2; Enforcement Decree of the protection of Communications Secrets Act Article 41

Serbia – Law on Obligations

Singapore – Mutual Assistance in Criminal Matters Act 2000 (MACMA); Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; section 14(1) of the Prevention of Corruption Act 1960

Slovenia – UNCAC

Spain – Articles 109, 110 and 116 of the Criminal Code; Article 100 of the Criminal Procedure Act; Supreme Court Ruling 507/2020 of 14 October 2020; Civil Code; LEC; Article 1902 of the Civil Code; Articles 1101, 1106 and 1107 of the Civil Code; Article 32 of Law 40/2015 on the Public Sector Legal Regime (LRJSP); Judgment of the Provincial Court of Cáceres, section 1 (Civil), No 981/2021 of 23 November 2021; Supreme Court Judgment of 16 December 1999; Supreme Court Judgment No 913/2021 of 23 December 2021; Articles 1,106 and 1,107 of the Civil Code; judgment of 21 April 2008 (First Chamber of the Supreme Court); Article 1964.2 Civil Code; Article 1968.2 Civil Code; Article 1107 Civil Code

Switzerland – Article 123 PPC; Article 126 paragraph 2 let b PPC; Article 126 paragraph 3 PPC; Article 73 PC; Federal Act on the DFAA

The Bahamas – Prevention of Bribery Act, 1976 (section 10); Prevention of Bribery Act, 1976 (section 4); Proceeds of Crime Act, 2018 (POCA); Criminal Procedure Code, 1969 (section 57); section 41 of POCA; section 43 of POCA; section 47 of POCA

UAE – Articles 245–258 of the Civil Code; Article 255 of the Civil Code; Article 254 of the Civil Code; Article 23(2) of the Penal Code

Ukraine – Article 22 of the Civil Code of Ukraine; Articles 23 and 1167 of the Civil Code of Ukraine; Article 1166 of the Civil Code of Ukraine; Article 68 of the Law of Ukraine 'On Prevention of Corruption'

US – Fla Stat section 772.17; Fla Stat section 95.031; NY CPLR 213(8); Federal Rule of Civil Procedure 9(b); Fla Stat section 768.72

Q5 – Provisional measures in civil proceedings

Australia – Section 23 Federal Court of Australia Act 1976 (Cth); Federal Court Rules 2011 (Cth) Division 7.4 and 7.5 (Rules 7.32 and 7.33); *Nicols as trustee of the bankrupt estate of Manietta v Manietta* [2022] FCA 39; *Victoria University of Technology v Wilson* [2003] VSC 299; *Lifetime Investments Ltd v Commercial (Worldwide) Financial Services Pty Ltd* [2005] FCA 226; *Chandrasekaran v Commonwealth of Australia* [2019] FCA 1169; *Television Broadcasts Limited v Nguyen* (1988) 21 FCR 34; *Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1968) 118 CLR 618; *American Cyanamid Co v Ethicon Ltd* [1975] AC 396; *Australian Broadcasting Corporation v O'Neill* (2006) 227 CLR 57; Corporations Act 2001 (Cth) section 437A(1), sections 477, 506, 530B and 596A-597

Austria – Austrian Enforcement Code (EO); sections 378 et seq EO; section 379(3) EO; section 382 EO; section 381 EO

Brazil – Civil Procedural Code, Articles 294–311; Administrative Dishonesty Act, Article 16

British Virgin Islands – *Broad Idea International Limited v Convoy Collateral Limited* [2021] UKPC 24; section 24A Eastern Caribbean Supreme Court (Virgin Islands) Act (Cap 80); *Ramilos Trading Ltd v Buyanovsky* [2016] EWHC 3175 (Comm); *Dos Santos v Unitel SA* [2024] EWCA Civ 1109; Part 17 Civil Procedure Rules of the Eastern Caribbean Supreme Court

Canada – *Sakab Saudi Holding Company v Jabri*

Cyprus – Section 32 of the Courts of Justice Law, 14/1960

England and Wales – *Republic of Angola v Court of Appeal*; *The Republic of Djibouti v Abdourahman Boreh & ors*

Estonia – Code of Civil Procedure section 377

France – Article L.511-1 of the Code of Civil Enforcement Procedure

Hong Kong – *Delco Participation BV v HWH Holdings Limited & others* [2025] HKCFI 4739

India – Code of Civil Procedure, 1908 (CPC); *Government of Canada v Sanjay Madan & Ors* (CS(OS) 379/2025, Delhi High Court); PMLA

Ireland – Order 50 of the Rules of the Superior Courts (RSC)

Italy – Article 2906 Civil Code; Article 155-sexies implementing provisions of the Code of Civil Procedure

Jersey – Practice Direction RC 20/12; Civil Asset Recovery (International Co-operation) (Jersey) Law 2007; Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018

Latvia – Article 140 of the Latvian Civil Procedure Law; Annex 3 to the Civil Procedure Law

Lithuania – Articles 144–152 of the Code of Civil Procedure of the Republic of Lithuania

Luxembourg – Article 54(1)(b) and (c) UNCAC

Malta – COCP

Montenegro – Law on Enforcement and Security, Articles 269, 279, 287, 270, Article 6

Nigeria – Order 28 of the Federal High Court (Civil Procedure) Rules 2019; Order 42 of the High Court of Lagos State (Civil Procedure) Rules, 2019

Portugal – Civil Procedure Code

Korea (South) – Civil Execution Act

Serbia – Law on Enforcement and Security; Article 447 of the Law on Enforcement and Security; Article 15 of the Law on Enforcement and Security; Article 424 of the Law on Enforcement and Security; Tariff of Public Enforcement Officers

Singapore – Supreme Court Practice Directions, Appendix A: Form 25; Form 24; Supreme Court Practice Directions, Appendix G

Spain – LEC; Article 727 LEC; Article 738 LEC; Article 733 LEC; Articles 721–747 LEC Article 728 LEC; Order of the Provincial Court of Granada, section 3 (Civil), No 1/2022 of 14 January 2022; Order of the Provincial Court of Málaga, section 5 (Civil), No 605/2019 of 27 December 2019; Article 728.1 LEC

Switzerland – Articles 271ff of the Federal Act on Debt Enforcement and Bankruptcy (DEBA)

The Bahamas – Part 17 of the Supreme Court Civil Procedure Rules, 2022

UAE – Article 252 of Federal Decree-Law No 42 of 2022 on the Civil Procedure Law (Civil Procedure Code)

Ukraine – Civil Procedure Code of Ukraine, chapter 10

US – Fed R Civ P 65(b); Fed R Civ P.65(a); Fed R Civ P.64; 18 USC section 1963(d); Grupo Mexicano; Fla R Civ P. 1.610; CPLR 6301; CPLR 6313; Fla Stat section 76.01 et seq.; NY CPLR 6201; Fla Stat section 77.031; Fla Stat section 48.23; NY CPLR 6501; Fla Stat section 78.01 et seq.; NY CPLR 7102; Fla Stat section 56.29; CPLR 6401; Fla Stat section 895.05; Fla Stat section 62.01 et seq.; Fla Stat section 76.04

Q6 – Requirement to hire local counsel

Austria – Section 5 European Lawyers Act (EIRAG)

Bulgaria – Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998; Council Directive 77/249/EEC of 22 March 1997; Bar Act, Article 10; Article 3 of Directive 98/5/EC; *Commission v Germany*, 427/85; *Commission v France*, C-294/89

China – Article 5 Civil Procedure Law (CPL); Regulations on Administration of Foreign Law Firms' Representative Offices in China; Article 274 CPL

Estonia – Code of Civil Procedure section 217(1); Code of Civil Procedure section 218(3); section 28(22) of the Republic of Estonia Education Act; Code of Civil Procedure section 226(1)

Hong Kong – Legal Practitioners Ordinance (Cap 159)

India – Advocates Act, 1961

Latvia – Article 82 of the Latvian Civil Procedure Law; Article 82.1

Malta – EU Directive 98/5/EC; Mutual Recognition of Qualifications Act

Montenegro – Article 88 of the Civil Procedure Act; Agreement between the Republic of Serbia and Montenegro on Legal Assistance in Civil and Criminal Matters; Article 89a of the Civil Procedure Act; Article 143 of the Civil Procedure Act

Korea (South) – Civil Procedure Act Article 150

Serbia – Article 85 paragraph 1 of the Civil Procedure Act; Article 85 paragraph 7 of the Civil Procedure Act; Article 146 of the Civil Procedure Act

Singapore – Order 4 Rule 3 of the Rules of Court 2021; section 29 of the Legal Profession Act 1966; section 15 of the Legal Profession Act 1966

Spain – Article 23 LEC; Article 31 LEC; LEC

Switzerland – Lawyers Act of 23 June 2000; Article 87 PC

The Bahamas – POCA (Proceeds of Crime Act)

Ukraine – Civil Procedure Code of Ukraine, Articles 15, 58; Commercial Procedure Code of Ukraine, Articles 16, 56

US – 28 USC section 1654; Local Rule 4(b) of the US District Court for the Southern District of Florida; Fla R Gen Prac & Jud Admin 2.510

Q7 – Pre-conditions to bringing a civil claim

Brazil – Article 83 CPC

China – CPL (Civil Procedure Law)

Curaçao – Article 3:303 CCC

Estonia – CCP section 38(1)(2); section 225(1); CCP section 38(1)(1)

France – Article 88 of the Criminal Procedure Code

India – Code of Civil Procedure (CPC)

Liechtenstein – Section 56 ff ZPO; Articles 31–34 Code of Criminal Procedure

Montenegro – Law on Private International Law, Article 137; Hague Convention on Civil Procedure (1954)

Portugal – Code of Criminal Procedure

Serbia – Hague Convention on Civil Procedure (1954); Civil Procedure Act of Serbia

Singapore – Order 5 Rules 1 and 2 of the Rules of Court 2021; Order 9 rule 12 of the Rules of Court 2021

Spain – LEC; LECrim; Organic Law 1/2025; Article 403.2 LEC; LO 1/2025; Article 110 of the Criminal Procedure Act; Article 270 of the Criminal Procedure Act; Article 280 of the Criminal Procedure Act; Article 281 of the Criminal Procedure Act

Switzerland – Article 41 CO; Article 28 CO; Article 98 CPC; Article 99 CPC; Articles 117–123 CPC; Article 197 CPC; Article 115 PPC; Article 118 PPC; Article 122 PPC; Article 123 PPC; Article 383 PPC; Article 136 PPC

US – Federal Rule of Civil Procedure 12(b)(1); New York CPLR 3211(a)(3); Florida Rule of Civil Procedure 1.140(b)(1); 28 USC section 1331; 28 USC section 1332; 28 USC section 1332(a)(2); 28 USC section 1367; Fla Stat section 48.193; NY CPLR 302; Federal Rule of Civil Procedure 12(b)(2); New York CPLR 3211(a); Florida Rule of Civil Procedure 1.140(b)(2); 28 USC section 1391; Fla Stat section 47.011 et seq.; NY CPLR section 503; Federal Rules of Civil Procedure 8 and 9; Rule 8(a); Rule 9(b); Fed R Civ P 11; Fla Stat section 57.105; 22 NYCRR 130-1; Florida's Uniform Foreign-Country Money Judgments Recognition Act, Fla Stat section 55.601 et seq

Q8 – Requirement of a prior criminal conviction

Brazil – Civil Procedural Code, Article 315

Cayman – *Hollington v F Hewthorn & Company Limited* [1943] KB 587

Estonia – CCP section 310(1); LOA

Malta – Act No XXVI of 2025

Portugal – UNCAC

Singapore – *Debenho Pte Ltd and others v Envy Global Trading Pte Ltd and Ng Yu Zhi* [2022] SGHC 7; section 134(2) of the Evidence Act 1893

Spain – Article 127 ter of the Criminal Code; Article 127 bis CP; Article 127 quater CP; Article 114 of the Criminal Procedure Act; Article 40.2 LEC; Article 108 of the Criminal Procedure Act; Article 112 of the Criminal Procedure Act; Article 116 of the Criminal Procedure Act

US – 18 USC section 1964(c); 18 USC section 981; 28 USC section 1355; Fla Stat section 772.104

Q9 – Direct civil claim versus Mutual Legal Assistance

Australia – Mutual Assistance in Criminal Matters Act 1987 (Cth)

Bulgaria – Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 (Brussels Ia); Article 41 Regulation (EU) No 1215/2012; Article 622a, paragraph 1 of the Civil Procedure Code; Private International Law Code

Canada – Mutual Legal Assistance in Criminal Matters Act (MLACMA)

Cayman – Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978; Criminal Justice (International Cooperation) Act (2025 Revision)

France – Articles 694–10 to 694–13 of the Criminal Procedure Code; Article 713-37 of the Criminal Procedure Code; Article 713-40 of the Criminal Procedure Code

Hong Kong – Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525); Evidence Ordinance (Cap 8)

India – Bharatiya Nagarik Suraksha Sanhita, 2023; PMLA

Italy – Article 671 Code of Civil Procedure

Malta – Article 1051A of the Civil Code

Portugal – Article 53 of the UNCAC; Law No 144/99; Regulation (EU) 2018/1805 on freezing and confiscation orders

Singapore – Mutual Assistance in Criminal Matters Act 2000 (MACMA)

Spain – Law 29/2015 of 30 July on international legal cooperation in civil matters

Q10 – Agency competent to bring civil claims abroad

Australia – Hague Evidence Convention

British Virgin Islands – *Attorney General of the British Virgin Islands v Lester Hyman* (US District Court for the District of Columbia, Case No 1:19-mc-164-RCL)

Canada – Department of Justice Act

Estonia – Government of the Republic Act, section 441

Ghana – Public Procurement Act

India – Prevention of Money-Laundering Act, 2002

Ireland – Criminal Assets Bureau Act 1996; Council Decision 2007/845/JHA

Italy – Public Contracts Code

Malta – Section 2(1) of the State Advocate Act; section 4(4); Public Procurement Regulations (S.L. 601.03); Constitution of Malta (Article 91A)

Montenegro – Law on State Property; Law on Public Procurement of Montenegro

Nigeria – Section 150 of the Constitution of the Federal Republic of Nigeria 1999 (as amended); Sections 174(1) and (2)

Korea (South) – Act On Litigation To Which The State Is A Party, Article 2

Serbia – Article 5 of the Law on the State Attorney's Office; Articles 11 and 12 of the Law on the State Attorney's Office; Article 20 of the Statute of the Agency for the Conduct of Disputes in Privatisation Proceedings; Article 12(4)(2) of the Serbian Public Procurement Act

Singapore – Article 35(7) of the Constitution of the Republic of Singapore

Spain – Ley 52/1997 de Asistencia Jurídica al Estado; Royal Decree 1057/2024; Ley 29/2015

Ukraine – Presidential Decree No 581/2002 dated 25 June 2002

Q11 – Civil or non-conviction-based forfeiture

Australia – Proceeds of Crime Act 2002 (Cth) (POCA); Confiscation of Proceeds of Crime Act 1989 (NSW); Criminal Assets Recovery Act 1990 (NSW); *Australian Federal Police v Kalimuthu (No 2)* [2018] WASCA 192; *Lordianto v Commissioner of the Australian Federal Police*; *Kalimuthu v Commissioner of the Australian Federal Police* [2019] HCA 39; *Ng v Commissioner of the Australian Federal Police* [2022] WASCA 48; *The Commissioner of the Australian Federal Police v Memon* (No 4) [2025] NSWSC 967; *Mai & Ors v Commissioner of the Australian Federal Police* [2025] VCC 1935; *Commissioner of the AFP v Fysh* [2013] NSWSC 81; Criminal Code Act 1995 (Cth); *The King v Jacobs Group (Australia) Pty Ltd* [2023] HCA 23

Austria – Section 20 Austrian Criminal Code (StGB)

Brazil – Law No 12.850/2013; Law No 12.846/2013 (Anti-Corruption Law)

Canada – British Columbia's Civil Forfeiture Act; Ontario's Civil Remedies Act (CRA); Alberta's Civil Forfeiture Act; Manitoba's Criminal Property Forfeiture Act; Québec's Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity; New Brunswick's Criminal Forfeiture Act; Nova Scotia's Civil Forfeiture Act; *Ontario (Attorney General) v Chatterjee*, 2009 SCC 1

Cayman – Proceeds of Crime Act 2025 Revision; Criminal Justice (International Cooperation) Act

China – Procedure for Forfeiture of Illegal Gains in Cases Where a Criminal Suspect or Defendant Escapes or Dies (2012 amendment to the Criminal Procedure Law); 2017 Judicial Interpretation by the Supreme People's Court and Supreme People's Procuratorate; International Criminal Judicial Assistance Law

England and Wales – Part 5 of the Proceeds of Crime Act 2002

Ghana – Economic and Organized Crime Office Act; Office of the Special Prosecutor Act

Hong Kong – Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525); Organized and Serious Crimes Ordinance (Cap 455)

India – PMLA; Prohibition of Benami Property Transactions Act, 1988 (Benami Act); Fugitive Economic Offenders Act, 2018 (FEOA)

Ireland – Proceeds of Crime Acts 1996–2018 (POCA); *FMcK v AF*; *FMcK v EH* [2005] IESC 6; section 2 of POCA; section 3 of POCA; section 4 of POCA; Proceeds of Crime and Related Matters Bill 2025

Italy – Legislative Decree No 159/2011 (Anti-Mafia Code); Article 204 Code of Civil Procedure

Lithuania – Law on Civil Asset Confiscation of the Republic of Lithuania

Malta – Part VI of the Proceeds of Crime Act (POCA); Article 43 POCA; Article 56 POCA; EU Regulation 2018/1805

Nigeria – Section 17 of the Advance Fee Fraud and Other Fraud Related Offences Act 2006; *Dame Patience Ibifaka Jonathan v Federal Republic of Nigeria*; Proceeds of Crime (Recovery and Management) Act 2022, Part IV; section 67 of the Proceeds of Crime Act; section 70 (c), (d) and (f)

Portugal – Law No 5/2002; Article 54(1)(c) of the UNCAC

Singapore – Organised Crime Act; Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act; section 29(1) of the MACMA; section 16 of the MACMA; section 20(3) of the MACMA; section 30(2) of the MACMA

Spain – Organic Law 1/2015; Law 41/2015; Article 127 ter of the Criminal Code; Article 127 bis CP; Article 127 quater CP; Articles 803 ter e) et seq of the Criminal Procedure Act; Article 803 ter l) of the Criminal Procedure Act; Judgment No 29/2020 of the National High Court (SAN 29/2020, of 9 December 2020); Law 23/2014, of 20 November, on the mutual recognition of criminal judgments in the European Union; Article 158 of Law 23/2014; Article 167 of Law 23/2014; fourth additional provision of Law 23/2014; Article 803 ter h) of the Criminal Procedure Act; Articles 127, 127 bis and 127 ter of the Criminal Code

Switzerland – Article 70 PC; Article 72 PC; Articles 376 et seq PC; FIAA; Federal Act on International Mutual Assistance in Criminal Matters (IMAC)

The Bahamas – Proceeds of Crime Act, 2018

UAE – UAE Penal Code 2021; UAE Federal Anti-Money Laundering Law 2018 (AML Law); UN Convention on Corruption

Ukraine – Civil Procedure Code of Ukraine, chapter 12

US – 18 USC section 981; 21 USC section 881; 31 USC section 5317(c); 19 USC sections 1602–1619; Civil Asset Forfeiture Reform Act of 2000 (CAFRA)

Q12 – Litigation funding and contingency fees

Australia – *Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd* (2006) 229 CLR 386; *LCM Funding Pty Ltd v Stanwell Corporation Limited* [2022] FCAFC 103; Legal Profession Act 2006 (ACT) section 285; Legal Profession Uniform Law (NSW) section 183; Legal Profession Act 2006 (NT) section 320; Legal Profession Act 2007 (Qld) section 325; Legal Practitioners Act 1981 (SA) schedule 3 cl 27; Legal Profession Act 2007 (Tas) section 309; Legal Profession Uniform Law Application Act 2014 (Vic) schedule 1 cl 183(1); Legal Profession Uniform Law (WA) section 183; section 33ZDA Supreme Court Act 1986 (Vic)

Canada – Companies' Creditors Arrangement Act (CCAA)

Cayman – Private Funding of Legal Services Act 2020; Private Funding of Legal Services Regulations 2021

England and Wales – *PACCAR* (Supreme Court decision); Litigation Funding Agreements Bill 2024

France – Regulation 44/2001; CA Versailles 12 Ch section 2. 1 June 2006, no 05/01038; Bobigny Tribunal, 24 Ch 12 May 2025, no 24/08696; Décret no 2023-552 of 30 June 2023, Ethics Lawyers Code Article 10

India – Bar Council of India Rules; Advocates Act, 1961

Ireland – *Persona Digital Telephony Ltd & anor v Minister for Public Enterprise & ors* [2017] IESC 27

Italy – Article 13, Law 247/2012 (Professional Legal Act); Code of Professional Conduct

Jersey – *In the Matter of the Valetta Trust* (2012) (1) JLR 1

Latvia – Council of Bars and Law Societies of Europe (CCBE) Code of Conduct

Lithuania – Law on the Bar

Malta – Article 992(1) of the Civil Code; Representative Actions (Consumers) Act (2023); chapter IV, Rule 3 of the Professional Code

Montenegro – Article 196 of the Civil Procedure Act; Attorneys' Tariff adopted by the Bar Association of Montenegro

Nigeria – Rules of Professional Conduct for Legal Practitioners 2023, Rules 48–54

Poland – Polish Civil Code

Portugal – Article 106 of the Statute of the Portuguese Bar

Korea (South) – Attorney Act

Serbia – Attorneys' Fee Tariff (Serbian Bar Association)

Singapore – Section 5B(10) of the Civil Law Act; section 5B(3) of the Civil Law Act; section 4(1) of the Civil Law (Third-Party Funding) Regulations 2017; section 107(1)(b) of the Legal Profession Act 1966; Rule 18 of the Legal Profession (Professional Conduct) Rules 2015; Legal Profession (Amendment) Act 2022; section 115B of the Legal Profession Act 1966; Rule 3 of the Legal Profession (Conditional Fee Agreement) Regulations 2022

Switzerland – BGE 131 I 223

The Bahamas – Rule X, Bar Practice Regulations

The Netherlands – Dutch Settlement of Large-Scale Losses or Damages Act (WAMCA)

Ukraine – Resolution in case No 904/4507/18 (Grand Chamber of the Supreme Court)

Q13 – Main obstacle and potential reform

Austria – Regulation (EU) No 655/2014 (European Account Preservation Order Regulation)

Canada – British Columbia's Civil Forfeiture Act; Manitoba's Unexplained Wealth Act

India – Code of Civil Procedure, 1908; Article 53 UNCAC

Italy – Law No 89/2001 ('Pinto Law'); Milan Ordinary Court, Sec 3, Judgment No 922/2020; Article 492-bis Code of Civil Procedure; Decree-Law No 83/2015

Malta – Regulation (EU) No 655/2014 (European Account Preservation Order Regulation); Subsidiary Legislation 460.33

Montenegro – Montenegrin Companies Act, Article 16(3)

Serbia – Serbian Companies Act

Spain – Article 589 LEC; Oficina de Averiguación Patrimonial / Punto Neutro Judicial (Asset Recovery Office)

Ukraine – Civil Procedure Code of Ukraine

Q14 – Pre-litigation asset tracing tools

Australia – *Norwich Pharmacal Co v Customs and Excise Commissioners* [1974] AC 133; *Australian Broadcasting Corp v Lenah Game Meats Pty Ltd* [2001] HCA 63; *Breen v Williams* [1996] HCA 57; *Palmer v Ayres* [2017] HCA 5; *Orb ARL v Fiddler* [2016] EWHC 361; *A Nelson & Co Ltd and Another v Martin & Pleasance Pty Ltd* (2021) 150 ACSR 314; section 23 Supreme Court Act 1970 (NSW); Rule 1.4 Uniform Civil Procedure Rules 2005 (NSW); Rule 25.12 UCPR; *Petrochemical Commercial Co International Ltd v Commonwealth Bank of Australia* [2019] NSWSC 849

Austria – Sections 384 et seq ZPO; sections 378 et seq EO

Bulgaria – Law on Commerce; Law on the Cadaster and the Real Estate Registry; Law on the Special Pledges

China – CPL (Civil Procedure Law)

Curaçao – Norwich Pharmacal order

Cyprus – Part 31.7 of the Civil Procedure Rules; Norwich Pharmacal order; *Bankers Trust Co v Shapira* [1980] 1 WLR 1274

England and Wales – Bankers Trust jurisdiction; Norwich Pharmacal jurisdiction

France – Article 145 of the Code of Civil Procedure; Cass 2e civ, 10 December 2020, no 19-22.619; Court of Appeals Versailles, 19 May 2022, no 21/06063

Hong Kong – Section 21 of the Evidence Ordinance (Cap 8)

India – CPC; PMLA

Ireland – Norwich Pharmacal Order (NPO); B*lythe v The Commissioner of An Garda Síochána* [2023] IECA 255; *Moore & Moore v Harris & Twitter* [2023] IECA 336; Bankers' Trust Order (BTO); *Boulbet v SumUp Ltd* [2025] IEHC 285

Italy – Article 492-bis Code of Civil Procedure; Article 210 Code of Civil Procedure; Article 119 Consolidated Banking Law

Liechtenstein – Section 384 ZPO; section 270 EO

Malta – Article 839 et seq COCP

Nigeria – Nigeria Data Protection Act, 2023

Korea (South) – Civil Execution Act Article 61; Civil Execution Act Article 74

Singapore – Order 11 Rule 11 of the Rules of Court 2021; section 47(1) of the Banking Act 1970; section 175(1) of the Evidence Act; *Alliance Divine Impex Pte Ltd v Arulappan Tony* [2025] 3 SLR 68; section 170 of the Evidence Act

Spain – Articles 127, 127 bis, 127 ter or 127 quater of the Spanish Criminal Code; Articles 256–263 LEC; Article 293 LEC

Switzerland – Article 158 CPC

The Netherlands – Article 194 DCCP; Article 195 DCCP

Ukraine – Civil Procedure Code of Ukraine, section 8; Commercial Procedure Code of Ukraine, section 8

US – New York's CPLR section 3102(c); 28 USC section 1782

Q15 – Recovery of legal costs

Australia – Civil Procedure Act 2005 (NSW) s 98; *Northern Territory v Sangare* (2019) 265 CLR 164; *Ohn v Walton* (1995) 36 NSWLR 77; *Allplastics Engineering Pty Ltd v Dornoch Ltd* [2006] NSWCA 33; UCPR Rule 42.1, 42.2, 42.15, 42.15A; *Oshlack v Richmond River Council* (1998) 193 CLR 72; T*omanovic v Global Mortgage Equity Corporation Pty Ltd* (No 2) [2011] NSWCA 256; *Legal Profession Uniform Law Application Act 2014* (NSW) ss 74-80; *Morgan v Johnson* (1998) 44 NSWLR 578; *Bluth v Boyded Industries Pty Ltd* (No 2) [2024] NSWCA 194

Brazil – Civil Procedure Code, Articles 82–85

Cyprus – Civil Procedure Rules

France – Articles 695, 696 and 700 of the Code of Civil Procedure

India – CPC

Ireland – Legal Services Regulation Act 2015 (LSRA); section 154(1) of the LSRA

Italy – Article 91 Code of Civil Procedure; Article 92 Code of Civil Procedure

Latvia – Latvian Civil Procedure Law Article 33(2)

Malta – Article 253(1)(c); *Hermann Zammit vs Joseph Camenzuli et* (23 January 2026); *Kummissarju tat-Taxxa u d-Dwana vs Digisec Media Limited* (26 February 2026); COCP, Tariff A; Tariff E

Montenegro – Montenegrin Civil Procedure Act

Nigeria – *FCMB v Abdul Gafaru & Co. Ltd & Ors*

Korea (South) – Civil Procedure Act Article 98; Civil Execution Act Article 56 Subparagraph 1; Costs of Civil Procedure Act; Rules on Inclusion of Attorney's Fees in Litigation Costs (Supreme Court Rules)

Serbia – Civil Procedure Act; Law on Court Fees

Singapore – Order 21 Rule 3(2) of the Rules of Court 2021; Order 21 Rule 2 of the Rules of Court 2021; Order 21 Rule 22 of the Rules of Court 2021; Order 22 Rule 3(1) of the SICC Rules 2021

Spain – Article 394 LEC; Supreme Court judgment no 595/2022 of 15 June 2022; Article 398 LEC; Article 4 LEC Article 243 LEC; Articles 539 and 241 LEC; Article 394.2 LEC; Article 36 of the Legal Aid Act (Law 1/1996 of 10 January); Article 1,967 of the Civil Code; Article 3 of the Legal Aid Act; Article 19 of the Legal Aid Act; Article 20 of the Legal Aid Act

The Bahamas – CPR

Ukraine – Methodology for Calculating the Fees of Lawyers Providing Free Secondary Legal Aid No 465 (Cabinet of Ministers of Ukraine, 17 September 2014)

US – 18 USC section 1964(c)

Q16 – Information-sharing challenges in public-private collaboration

Australia – Evidence Act 1995 (NSW) Part 3.5, s 92(3), s 178, s 91; *Hollington v F Hewthorn and Co Ltd* [1943] KB 587; *Gonzales v Claridades* (2003) 58 NSWLR 188; *Prothonotary of the Supreme Court of New South Wales v Sukkar* [2007] NSWCA 341; National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth); *HT v The Queen* [2019] HCA 40; *Collaery v The Queen* (No 2) [2021] ACTCA 28; *Roberts-Smith v Fairfax Media Publications Pty Limited* (No 31) [2022] FCA 271

Austria – StPO

Canada – Section 7 of the Charter; section 11(d) of the Charter

China – Law on Guarding State Secrets

Estonia – Bar Association Act

Hong Kong – Personal Data (Privacy) Ordinance (Cap 486)

India – Bharatiya Sakshya Adhiniyam, 2023 (BSA); PMLA

Ireland – *Wolinska v Commissioner of An Garda Síochána & Ors* [2025] IEHC 382; Freedom of Information Act 2014; *Nevin v Nevin* [2013] IEHC 80; GDPR; Data Protection Act 2018

Italy – Regulation (EU) No 1049/2001

Latvia – Latvian Civil Procedure Law; Law On Official Secret; Latvian Freedom of Information Law; Latvian Criminal Procedure Law

Luxembourg – GDPR

Malta – State Advocate Act (Cap 603); Article 4(4); Article 91A of the Constitution; Code of Ethics for Advocates (SL 12.03)

Montenegro – Criminal Procedure Code of Montenegro

Nigeria – Section 14 of the Evidence Act; *Mohammed v State*; *Ibrahim v Ogunleye*; Freedom of Information Act 2011, section 12

Portugal – Article 86 of the Code of Criminal Procedure; Article 92 of the Statute of the Portuguese Bar

Korea (South) – Protection of Communications Secrets Act Article 4; Attorney Act

Serbia – Criminal Procedure Code of Serbia

Singapore – Evidence Act; section 45A of the Evidence Act

Spain – LEC Law 19/2013 on transparency, access to public information and good governance

Ukraine – Criminal Procedure Code of Ukraine, Articles 221, 290; Law of Ukraine 'On the Bar and Practice of Law', Article 23

US – Model Rules of Professional Conduct

Q17 – Non-trial resolutions and settlements

Australia – Section 16A Crimes Act 1914 (Cth); *Barbaro v The Queen*; *Zirilli v The Queen* (2014) 253 CLR 58; *The Queen v Note Printing Australia Limited* (Sentence) [2012] VSC 302; *R v Jacobs Group (Australia) Pty Ltd* [2021] NSWSC 657; *R v Jacobs Group (Australia) Pty Ltd* [2023] HCA 23; *R v Jacobs Group (Australia) Pty Ltd* [2022] NSWCCA 152; *R v Jacobs Group (Australia) Pty Ltd* [2024] NSWSC 1000

Austria – UNCAC

Brazil – Anti-Corruption Law (Law No 12.846/2013); Administrative Dishonesty Act; Civil Code

Bulgaria – Mediation Act

China – Article 64 of the PRC Criminal Law

Cyprus – Part 35 offer (Civil Procedure Rules)

France – Article 495-8 of the Criminal Code; Article 41-1-2 of the Criminal Procedure Code; Article 495-13 of the Criminal Procedure Code; Decree no 2025-660 of 18 July 2025; Article 1533 of the Code of Civil Procedure; Article 1528-3 of the Code of Civil Procedure

Hong Kong – Practice Direction 31

Ireland – Mediation Act 2017

Italy – Articles 1362 et seq Civil Code; Article 28 Code of Professional Conduct

Malta – Article 1718 of the Civil Code; Article 1729; Article 453A(5) of the Criminal Code

Montenegro – Civil Procedure Act, Article 322; Law on Enforcement and Security; Law on Alternative Dispute Resolution; Law on Notaries; Criminal Procedure Code; Criminal Code of Montenegro; Law on Seizure and Confiscation of Proceeds of Crime

Nigeria – Administration of Criminal Justice Act 2015 (ACJA)

Portugal – Code of Civil Procedure

Korea (South) – Civil Act Article 731; Civil Procedure Act Article 220; Civil Procedure Act Article 225; Civil Procedure Act Article 231; Act on Special Cases Concerning Expedition of Legal Proceedings Article 36

Serbia – Civil Procedure Act; Law of Public Notary

Singapore – Order 5 Rule 1 of the Rules of Court 2021; Order 5 Rule 3 of the Rules of Court 2021; Singapore Convention on Mediation Act 2020; section 12 of the Mediation Act 2017

Spain – LEC; Mediation in Civil and Commercial Matters Act (Law 5/2012 of 6 July); Article 9 of Law 5/2012; Organic Law 1/2025 of 2 January on measures to improve the efficiency of the Public Justice Service

Switzerland – Article 53 PC; Articles 352ff. PPC; Articles 358 et seq PPC

Ukraine – Civil Procedure Code of Ukraine, chapter 4; Commercial Procedure Code of Ukraine, chapter 4

US – Federal Rule of Evidence 408

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Stolen Asset Recovery Initiative
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IBA Asset Recovery Committee – StAR Initiative Questionnaire on direct recovery of assets

Presentation and structure

This project builds on the findings of the Brazil-StAR Initiative Report prepared under the auspices of the G20 Anti-Corruption Working Group and is grounded in the principles for DRA established in Articles 53 and 35 of the UNCAC. It is also aligned with the International Bar Association's core mission to promote, protect and enforce the rule of law.

While corruption is typically addressed through criminal law, transnational civil litigation offers a powerful, albeit underutilised, alternative for victims to recover assets and seek compensation. This survey aims to expand on the Brazil-StAR report by mapping the current legislation, procedures, and practical challenges across various jurisdictions to enhance the use of these civil remedies and provide practical examples for practitioners

A central goal is to foster public-private collaboration, recognising lawyers as essential partners with state authorities in designing effective cross-border recovery strategies. The data collected will be analysed for a joint IBA ARC-StAR Initiative Report, which will serve as a comparative reference tool to support legal reforms and strategic planning. The report may also feature brief, selected case studies to illustrate the operational features of how different groups of jurisdictions function.

For a detailed overview of the project's rationale, please consult the **Concept Note**. Most questions herein are structured with an initial binary (YES/NO) query, followed by an open-ended question to gather further qualitative data.

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Country/jurisdiction (Please identify. Only one form per country is recommendable):

Footnotes for this section have begun again numerically to reflect how they appeared in the original survey.

Section 1 – Domestic legal framework[1]

1. Does your country's legal framework permit a foreign state OR a foreign private party (natural or legal person) to initiate a civil action in its courts to establish title to or ownership of property acquired through corruption?

   ☐ YES ☐ NO

If YES, please describe the primary practical hurdles (e.g., procedural complexities, judicial receptiveness, unwritten rules) that a foreign claimant's counsel would face. What key precedents or landmark cases should they be aware of? If there is NO specific regulation, please specify if there are other means based on general legal provisions.

2. Does your country's legal framework permit its courts to order those who have committed corrupt acts to pay compensation or damages to another State party OR any other claimants, including private ones harmed by such acts?

   ☐ YES ☐ NO

If YES, what types of damages (e.g., material, loss of profits, non-pecuniary) are practically recoverable? From a strategic standpoint, which civil claims (e.g., tort, breach of duty, dishonest assistance against intermediaries) have proven most effective in corruption cases?

3. Does your country's legal framework permit a claimant (state or private) to pursue a civil claim in criminal court as part of an ongoing criminal proceeding or to join an active civil lawsuit to a criminal trial?

   ☐ YES ☐ NO

If YES, what are the strategic advantages or disadvantages (eg, regarding speed, cost, evidentiary rules, and burden of proof) for a claimant's counsel when choosing this route over a standalone civil action?

1 You can use the information your country provided under Article 53 of the second cycle UNCAC review.

Also, if you answered YES to the previous question, please inform if there is a mechanism to notify foreign States of the criminal trial involving their property, which may result in confiscation.

4. Based on your country's law, would a foreign claimant (state or private party) be entitled to claim compensation for damages suffered as a result of an act of corruption?[2]

   ☐ YES ☐ NO

If YES, what are the most significant practical and evidentiary challenges for a foreign claimant in proving harm and causation in your jurisdiction? Please describe the necessary elements from a practitioner's point of view.

Also, if YES, please describe which types of compensation States can seek before your national courts, for example, material damages, loss of profits, non-pecuniary damages, and explain or cite the legal provisions on which a claim for compensation in corruption cases could be based (eg, contractual or tort claims).

5. Are there provisional measures (eg, sequestration, seizure, freezing orders) available in civil proceedings to prevent dissipation of assets?

   ☐ YES ☐ NO

If YES, please assess their practical effectiveness. How quickly can a freezing order typically be obtained ex parte, what is the typical cost and evidentiary threshold, and what is the most common reason for courts to deny such applications?

6. Do foreign countries or private parties need to hire local counsel to represent them on such claims?

   ☐ YES ☐ NO

If NO, please specify other ways foreign states can be represented, including any relevant legal provisions.

Beyond any legal requirement, what are the key strategic advantages a well-connected local firm brings to a foreign claimant in a DRA case (eg, judicial insight, navigating informal procedures, media management)?

7. Is there any condition (eg, prior exhaustion of remedies, security for costs) that claimants must meet before bringing a civil claim to recover damages, establish prior ownership, or participate as 'partie civile' in a criminal procedure?

   ☐ YES ☐ NO

If YES, please specify and, from a practitioner's perspective, how are these conditions typically applied by the courts, and what is the best strategy to meet them efficiently?

2 Relevant information that pertains to this and the following questions can be found in your responses provided under Article 53 of the first cycle UNCAC review.

8. Does your country require a prior criminal conviction for corruption before a civil court will grant ownership or damages based on the same facts?

   ☐ YES ☐ NO

If YES, how does this condition affect litigation strategy? Please describe the practical impact on the timeline, cost, and overall viability of a civil claim.

9. From a cost-benefit and timeline perspective, under what specific circumstances would you advise a client (sovereign or private) to pursue a direct civil claim in your jurisdiction rather than relying on Mutual Legal Assistance (MLA) channels?

Section 2 – Representation and collaboration

10. Is there a specific agency or authority WITH the competency to bring civil claims on behalf of your State before foreign jurisdictions?

    ☐ YES ☐ NO

If YES, from a private practitioner's perspective, what is the typical model of engagement with this body (eg, lead counsel, local support)? What are the primary practical challenges in such a public-private collaboration (eg, communication, procurement, decision-making speed)?

11. Does your country's legal framework allow for civil or non-conviction-based forfeiture?

    ☐ YES ☐ NO

If YES, please describe how this tool is used in practice and whether it can be initiated based on a request or evidence from a foreign state or private party.

12. What is the legal and practical landscape for litigation funding in your jurisdiction regarding asset recovery claims? Are contingency or success-based fees for legal representation permitted and commonly used?

13. In your experience, what is the single most significant legal or practical obstacle to successfully recovering assets through civil litigation in your jurisdiction, and what is one potential reform that could address it?

Section 3 – Pre-litigation, tracing and costs

14. What pre-litigation asset tracing tools are available to a claimant before filing a full civil claim (eg, third-party disclosure orders, Norwich Pharmacal orders, bank disclosure mechanisms)?

- ☐ Such tools are available and effective
- ☐ Such tools are available but limited/ineffective
- ☐ Such tools are generally not available

Please briefly describe the most effective pre-litigation tracing tools, their typical cost, and the evidentiary standard required to obtain them.

15. How would you assess the practical likelihood of a successful claimant recovering their legal costs from the opposing party in a civil asset recovery case?

- ☐ High likelihood
- ☐ Moderate likelihood
- ☐ Low likelihood

Please briefly describe the procedure. Do courts typically award full cost recovery? What are the key factors influencing a judge's decision on costs in these types of cases?

Section 4 – Public-private collaboration dynamics

16. When a private firm is collaborating with a sovereign state on an asset recovery case, what are the primary practical and legal challenges regarding information sharing?

- Please consider issues such as:
  - Using criminally obtained evidence in a civil proceeding.
  - Managing legal privilege and confidentiality.
  - Protecting sensitive state or investigatory information.
  - What mechanisms or protocols have you found effective in managing these challenges?

17. What is your jurisdiction's practice in terms of non-trial resolutions or settlements? Is information made publicly available at the negotiation stage, and how have NTR or settlement funds been distributed in specific cases?



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