

From cases to statutes: a history in three stages

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The history of illicit asset recovery in Switzerland can be read in three stages. The first, opened in 1986 by the Marcos and Duvalier cases, is that of freezes ordered case by case by the Federal Council, on the basis of the Constitution, in the urgency of a ruler's fall. The Salinas case in 1996 and the Mobutu case in 1997 revealed, according to Public Eye, the weaknesses of Swiss legislation in combating illicit financial flows. They led to the adoption of the Anti-Money Laundering Act in 1998, which imposes on financial intermediaries heightened vigilance towards politically exposed persons.¹

The second stage, in the 2000s, is that of the major restitutions: Abacha in Nigeria, Dos Santos in Angola, Nazarbayev in Kazakhstan, Montesinos in Peru. These cases showed that restitution required, beyond the freeze, cooperation with the state of origin, a judicial confiscation decision and safeguards on the use of the funds. The failure of the Mobutu case, in which the frozen funds were returned in 2009 to the former president's entourage for want of cooperation from the Democratic Republic of the Congo, illustrated the limits of the system.²

The third stage, opened by the Arab Spring, is that of codification. The Federal Council froze the assets of Ben Ali on 19 January 2011, those of Mubarak on 11 February 2011 and those of the Libyan regime, as a precautionary measure, on 21 February 2011.³ According to the Swiss Bankers Association, Switzerland was the first country to freeze these funds, but what it mostly attracted was criticism for the fact that the money was there in the first place.⁴ These freezes, initially based on the Constitution, led to the adoption in December 2015 of the Federal Act on the Freezing and Restitution of Illicit Assets Held by Foreign Politically Exposed Persons, which entered into force in 2016.⁵

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Stage	Period	Characteristics
Case-by-case freezes	1986–1998	Marcos, Duvalier, Salinas and Mobutu cases; adoption of the Anti-Money Laundering Act
Major restitutions	2000–2010	Abacha, Dos Santos, Nazarbayev and Montesinos cases; failure of the Mobutu restitution
Codification	since 2011	Arab Spring freezes, 2015 Act on illicit assets

Key point. The Swiss framework for recovering illicit assets was built in three stages: the case-by-case freezes of 1986–1998, the major restitutions of the 2000s and the codification opened by the Arab Spring freezes in 2011, culminating in the 2015 Act.

1 Notes

1. Public Eye, “Avoirs illicites” [Illicit assets], thematic dossier, publiceye.ch (accessed September 2026). ↩
2. Public Eye, “Avoirs illicites”, cited above, which refers to the “fiasco” of the restitution of the Mobutu assets in 2009. ↩
3. Federal Department of Foreign Affairs, “Blocage des valeurs patrimoniales” [Freezing of assets], eda.admin.ch (accessed September 2026). ↩
4. “Loi modèle pour la restitution des fonds de dictateurs” [A model law for the restitution of dictators’ funds], swissinfo.ch (accessed September 2026). ↩
5. “Accord conclu sur la restitution des fonds Abacha” [Agreement reached on the restitution of the Abacha funds], swissinfo.ch (accessed September 2026), which dates the approval of the Act to December 2015. ↩

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