

The Beauty Queen case: non-conviction based forfeiture across borders

Lessons learned from Colombia–Guernsey cooperation

Oscar Solórzano and Diana Cordero | March 2026



About this Case Study

This Case Study outlines the asset recovery strategy implemented by Colombian authorities that led to the successful forfeiture of a Guernsey trust containing assets linked to drug trafficking and money laundering. It describes the legal tools and procedures in Colombia and in Guernsey that enabled Colombia's first international recovery of assets through its non-conviction-based forfeiture model, *Extinción de dominio*. The case offers valuable lessons for international cooperation between countries with different forfeiture laws or even legal traditions.

The International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance provided technical assistance as part of a Memorandum of Understanding with the General Prosecutor's Office of Colombia.

For more information on emerging standards on asset recovery, with a particular focus on the recently updated Financial Action Task Force (FATF) Recommendations 4 and 38 concerning non-conviction based confiscation and its international enforcement, see related Policy Brief 16: [Enforcing foreign non-conviction based forfeiture orders: FATF standards and asset recovery practice in Latin America and financial centres](#).

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Acronyms and abbreviations

FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GAFILAT	<i>Grupo de Acción Financiera de Latinoamérica</i> (Financial Action Task Force of Latin America)
ICAR	International Centre for Asset Recovery (at the Basel Institute on Governance)
MLA	Mutual legal assistance
UIAF	<i>Unidad de Información y Análisis Financiero</i> (Financial Investigation and Analysis Unit of Colombia)
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime

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Executive summary

On 30 November 2023, the Fourth Court of the Specialised Extinción de Dominio Circuit of Colombia in Bogotá ordered the non-conviction based forfeiture (“the Colombian forfeiture order”¹) of the Dasman Settlement Trust² account no. 16077, issued by Northern Trust Fiduciary Services (Guernsey) Limited (“the account / the Guernsey account”). The beneficiary of this account was María Marcela Serrano Camacho (“María Serrano”).

The Colombian forfeiture order extinguished the property rights over the Guernsey account – amounting to GBP 361,146 – on the grounds that the funds constituted the proceeds of drug trafficking offences committed by Efraín Antonio Hernández Ramírez (“Don Efra”³), a well-known Colombian drug trafficker, and by his former spouse, María Serrano, a widely recognised model and beauty queen in Colombia during the 1990s.⁴

On 30 January 2025, following successful mutual legal assistance (MLA) proceedings between the Republic of Colombia and the Bailiwick of Guernsey,⁵ both jurisdictions concluded an asset sharing agreement in London ordering the repatriation of the confiscated assets.⁶

This milestone adds to recent successes in Peru and Guatemala, whose authorities have enforced Extinción de dominio decisions abroad.⁷ It also marks Colombia’s first international non-conviction based forfeiture⁸ case resulting in a successful recovery.

The interaction between the authorities in both jurisdictions offers valuable lessons and examples of good practices. This Case Study examines how early and effective coordination between Colombia and Guernsey enabled the identification, freezing, forfeiture and repatriation of the assets. It also analyses the operational, legal and institutional strategies adopted by the authorities and the obstacles encountered throughout the proceedings.

1 Judgment of Extinción de dominio issued by the Fourth Court of the Specialised Extinción de Dominio Circuit of Colombia, 30 November 2023, Case File No. 110013120004202300048-4.

2 On the definition of “settlement” under Guernsey trust law, see: <https://www.careyolsen.com/insights/briefings/overview-types-and-uses-guernsey-law-trusts>.

3 See press release (in Spanish): <https://rutanoticias.co/alias-don-efra-efrain-hernandez-28-anos-despues-de-muerto-pierde-mas-bienes-de-la-mafia/>.

4 See information on the case: <https://www.infobae.com/colombia/2024/11/06/el-patrimonio-oculto-del-extinto-narcotraficante-alias-don-efra-en-europa-fue-incautado-por-la-fiscalia-de-colombia-y-la-isla-de-guernsey/>. See also: <https://agenciabk.net/BELLAMAFIA.htm>.

5 References to Guernsey include other islands within the Bailiwick of Guernsey.

6 See press release issued by the Colombian General Prosecutor’s Office: <https://x.com/FiscaliaCol/status/1885098229764702374>.

7 GAFILAT, *Guía de Buenas Prácticas sobre Extinción de Dominio y Decomiso no Basado en Condena*, 2024, p. 124-28. Available at: <https://biblioteca.gafilat.org/?p=6917>.

8 Variations on the term and concept include non-conviction based confiscation, civil forfeiture/confiscation or *in rem* confiscation. Different terms are used to refer to the permanent deprivation of assets in relation to a criminal offence in different jurisdictions. As the terms “forfeiture” and “confiscation” are often used interchangeably, both terms are understood as equivalent in this Case Study.

Section 1 provides the factual background and discusses the key elements of the case.

Section 2 outlines the main features of the Colombian non-conviction based forfeiture model (Extinción de dominio).

Section 3 presents the case, analysing how Extinción de dominio was applied in the proceedings concluded in 2024 with the Colombian court declaring the non-conviction based forfeiture of the Guernsey account.

Section 4 describes the procedural mechanisms used in Guernsey to execute foreign non-conviction based forfeiture orders.

Section 5 provides information on asset sharing and repatriation.

Section 6 offers the main takeaways of the case, which include:

- Early and trust-based international cooperation is decisive.
- Non-conviction based forfeiture is indispensable when criminal routes are closed.
- Identifying beneficial ownership is central to effective asset recovery.
- Direct enforcement of foreign forfeiture orders increases efficiency and legal certainty.
- Asset sharing agreements strengthen cooperation incentives.

The Case Study can be read alongside Policy Brief 16: [Enforcing foreign non-conviction based forfeiture orders: FATF standards and asset recovery practice in Latin America and financial centres](#), by Oscar Solórzano.

1 Background: key components of the case

1.1 Previous criminal proceedings

Criminal proceedings⁹ against María Serrano took place in the 1990s during Colombia's prolonged struggle against major drug cartels. She was found guilty of several serious offences, including private illicit enrichment – a distinct criminal offence under Colombian law designed to combat drug trafficking and the integration of illicit proceeds into the formal economy through the use of front men, relatives and intermediaries.¹⁰

The proceedings established that María Serrano managed and invested cartel proceeds in various commercial activities to disguise their criminal origin.¹¹ During the trial, the court determined that her marriage to Don Efra had been arranged, in part, to shield his illegally acquired wealth through asset protection rules available under Colombian family law.

María Serrano was also found guilty of *testaferrato* (fronting).¹² Prosecutors proved beyond reasonable doubt that she knowingly lent her name to invest Don Efra's criminal proceeds in fictitious ventures that did not generate the wealth publicly attributed to the Serrano family. The criminal conviction against María Serrano was upheld on appeal in 2004.¹³

1.2 Origin of the assets

The Colombian non-conviction based forfeiture order concluded that the assets held in the Guernsey account were the proceeds of drug trafficking by María Serrano's former husband; illicit funds that had been concealed in Guernsey decades earlier.

Don Efra served as the second-in-command of the criminal organisation known as the *Cartel del Norte del Valle*. From 1989 until his death in 1996, he led an international drug trafficking structure responsible for transporting cocaine from

9 Criminal Chamber of the Superior Court of Bogotá D.C., *Judgment of Appeal*, 28 October 2003, Case File No. 110016099068201900470.

10 Art. 327, *Law 599 of 2000 (Colombian criminal Code)*, Illicit enrichment of private individuals: "Anyone who directly or through an intermediary obtains, for himself or for another, an unjustified increase in assets, derived in one way or another from criminal activities, shall be liable, for that conduct alone, to imprisonment of ninety-six (96) to one hundred and eighty (180) months and a fine corresponding to double the value of the illicit increase achieved, not exceeding the equivalent of fifty thousand (50,000) legal monthly minimum wages in force". [Unofficial translation]. Available at: http://www.secretariasenado.gov.co/senado/basedoc/ley_0599_2000.html.

11 Judgment of Extinción de dominio issued by the Fourth Court of the Specialised Extinción de Dominio Circuit of Colombia, 30 November 2023, Case File No. 110013120004202300048-4, p. 18.

12 Criminal Chamber of the Superior Court of Bogotá D.C., *Judgment of Appeal*, 28 October 2003, Case File No. 110016099068201900470.

13 Criminal Chamber of the Superior Court of Bogotá D.C., *Judgment of Appeal*, 28 October 2003, Case File No. 110016099068201900470; upheld on appeal by the Criminal Chamber of the Supreme Court, Judgment of 13 October 2004.

Peru and Colombia to the United States, Europe and Africa. He was convicted for his role in acquiring, stockpiling and exporting cocaine between 1989 and 1996.¹⁴ The cartel emerged from splinter groups following the Cali Cartel's negotiated surrender to the Colombian government and was notorious for its extreme violence and brutality.

Previous criminal proceedings in Colombia had exposed Don Efra's methods for laundering his criminal profits. His strategy relied on concealing illicit assets by employing trusted intermediaries – front men, relatives and romantic partners – who appeared as the nominal beneficiaries of the assets. Investigators demonstrated that substantial sums of drug-related cash were routinely invested in legitimate commercial activities managed by third parties. Authorities also showed that his inner circle, including María Serrano and his former spouses, routinely lent their names to establish companies and open bank accounts in international financial centres.

1.3 Beneficial ownership

Transparency regarding beneficial ownership is a key international standard to prevent the misuse of legal arrangements and to support financial investigations and asset recovery (FATF Recommendations 24 and 25: Transparency and beneficial ownership of legal persons and arrangements). Beneficial ownership refers to the natural person(s) who ultimately own, control or benefit from assets or legal structures, regardless of the formal legal title.¹⁵

Consistent with FATF requirements, Guernsey has in place a comprehensive beneficial ownership framework that enables competent authorities to obtain accurate and latest information on the individuals behind financial arrangements. Its system was assessed as substantially effective by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe (MONEYVAL).¹⁶

Access to beneficial ownership information significantly facilitates and expedites international cooperation, as requesting authorities are often required to direct confiscation actions against the true beneficial owners of assets rather than against individuals who merely hold formal title. In the present case, one of the first steps taken by the Colombian prosecutors was to verify, with a high level of detail, the identity of the persons against whom the Extinción de dominio action should be brought. This process ensured that the proceedings targeted the individuals with the actual economic interest in the account and supported both due process and the effectiveness of the forfeiture action.

14 Judgment of Extinción de dominio issued by the Fourth Court of the Specialised Extinción de Dominio Circuit of Colombia, 30 November 2023, Case File No. 110013120004202300048-4, p. 16.

15 Financial Action Task Force (FATF). 2025. The FATF Recommendations, as amended October 2025. Paris: FATF (Glossary).

16 MONEYVAL (2024). *Anti-money laundering and counter-terrorist financing measures: Guernsey – Fifth Round Mutual Evaluation Report*. December 2024, p. 194. Available at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/MONEYVAL-MER-Guernsey.pdf.coredownload.inline.pdf>.

The Guernsey account designated María Serrano, her son Sebastián Sale Serrano and “other children and more distant descendants” as beneficiaries. Under this clause, her second son, Miguel Sale Serrano, was also included. María Serrano acted as guardian of her children’s economic rights while they were minors.

In accordance with the principles of due process, property protections under Colombian law and the 2014 Extinción de dominio Code¹⁷, prosecutors were required to notify all persons who appeared to hold a legal interest in the account and who might be affected by the proceedings.

17 Extinción de dominio, *Law 1708 of 2014*, art. 3, 5, 13.2 and 138. Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=56475>.

2 Non-conviction based forfeiture in Colombia (Extinción de dominio)

The criminal proceedings against María Serrano and Don Efra concluded decades ago in Colombia. Don Efra himself was killed in 1996 when he was shot by a hitman in a Bogotá shopping mall. Hundreds of assets – including real estate, bank accounts and luxury items – were confiscated as a result of the earlier criminal and non-conviction based forfeiture proceedings.¹⁸

However, as often occurs in large and complex cases, some investigative leads remained unresolved, particularly those that depended on international cooperation. Criminal proceedings frequently conclude without determining the fate of assets held abroad; either due to delays in MLA procedures or, as in this case, because prosecutors were unaware of the existence of certain accounts.

Colombia's Extinción de dominio addresses precisely these scenarios. Once criminal proceedings have ended, forfeiture of criminal proceeds may still be pursued through a special in rem procedure directed against the asset itself. Extinción de dominio may be applied retroactively, based on the principle that the proceeds of crime can never mature into legitimate property rights through the mere passage of time. This feature embodies the criminal policy rationale that "crime does not pay".

2.1 Concept of Extinción de dominio

Extinción de dominio is a regional non-conviction based forfeiture model¹⁹ currently present in 11 Latin American countries, although national laws differ to varying degrees from one country to another. Since the early 1990s, Colombia has successfully used this model in the context of the fight against drug trafficking.

Extinción de dominio is generally defined as an economic [financial] consequence of crime that implies the transfer of property to the state of assets linked to crimes (proceeds and instrumentalities of crime).²⁰ Extinción de dominio is remedial and not a penalty or punishment.²¹

18 Judgment of Extinción de dominio issued by the Second Court of the Specialised Extinción de Dominio Circuit of Colombia, 5 March 2010, Case File No. 2008-0065.

19 UNODC, *Ley Modelo sobre Extinción de Dominio. Programa de Asistencia Legal para América Latina y el Caribe*, 2011. Available at: https://www.unodc.org/documents/legal-tools/Ley_Modelo_Sobre_Extincion_de_Dominio.pdf.

20 Ibid.

21 GAFILAT, *Guía de Buenas Prácticas sobre Extinción de Dominio y Decomiso no Basado en Condena*, 2024, p. 20. Available at: <https://biblioteca.gafilat.org/?p=6917>.

2.2 Procedure

Extinción de dominio has two main procedural phases:

- The investigation phase carried out by the prosecution (a financial investigation).
- The judicial phase, during which a judge decides on the evidence provided by the prosecution.

During the **investigation phase**, the prosecution conducts a financial investigation and collects evidence. During this phase, the prosecution applies to the judge for all necessary protective measures and, if necessary, initiates the MLA proceedings. At the end of this phase, the Extinción de dominio procedure requires the prosecution to duly notify the asset holder, any interested third party and other person(s) whose legally protected interests may be affected by the procedure.

The **judicial phase** concludes with a decision that can be appealed to a court with broad powers to review the facts of the case acting as the final instance. In some exceptional cases, a constitutional review of the decision may be possible.

2.3 Fair trial and procedural safeguards

It is important to highlight that Extinción de dominio laws establish complex procedural rules ensuring robust, fair and public proceedings. The protection of human (fair trial) and procedural rights is comprehensive, combining substantive, procedural and interpretative safeguards within a robust legal framework.²²

These protections ensure that affected individuals can be heard in a public hearing before an independent and impartial judge. In line with human rights obligations, Extinción de dominio also guarantees expanded procedural rights, including full access to the case file, the ability to present evidence, and the right to free and public legal defence.

2.4 Standard and burden of proof

The balance of probabilities evidentiary standard applies in the Extinción de dominio trial. Such standard requires the judge to accept the prosecutor's arguments as proven if the prosecutor can show that it is more likely than not that a certain fact or event has occurred.

The obligation to provide evidence (burden of proof) in Extinción de dominio falls on the prosecution. However, the Extinción de dominio procedure applies a mechanism that partially shifts the burden of proof to the defendant (known

²² Ibid., p. 130.

as “dynamic burden of proof”²³). This means that, if on the basis of a preliminary investigation the initial evidence provided by the prosecutor is deemed appropriate up to a balance of probabilities standard of proof, it creates a general presumption regarding the illicit origin of the assets.

The Extinción de dominio procedure allows the defendant to rebut any initial presumption by providing evidence (on a balance of probabilities standard of proof) that the disputed assets are of a lawful nature.²⁴

2.5 Anticipated ruling special procedure

Law 1708 of 2014 (Colombia’s Extinción de dominio Code) provides for the anticipated ruling procedure. Through this procedural route, “at any stage of the procedure [...] the affected party may expressly recognise that the asset meets the requirements of one or several of the grounds for Extinción de dominio to be applied and waive the right to file an opposition. In this case, the court shall consider that what has been done [by the affected person] is sufficient to support the Extinción de dominio claim before the judge and the case can be sent to the judge so that they can issue the corresponding anticipated ruling.”²⁵

The Colombian Extinción de dominio Code of 2014 included this shortened procedure to improve efficiency in the administration of justice. The aim was to reduce the costs and time involved in these types of proceedings, while ensuring due process requirements and other rights of the affected parties.

23 The concept of a “dynamic burden of proof” is central to modern civil confiscation. In these cases, the burden is initially on the government but shifts to the defendant once the prosecution establishes a preliminary link between the property and a crime.

24 Similar mechanisms apply in Europe. See for example, European Court of Human Rights, *Radio France v. France*, 30 March 2004, para. 24.

25 Extinción de dominio, *Law 1708 of 2014*, art. 133 [unofficial translation]. Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=56475>.

3 The case: investigation and judicial proceedings

3.1 Identification of the account in Guernsey

Guernsey identified the Dasman Settlement Trust account during routine due-diligence checks. The checks raised concerns regarding the adequacy of the information provided to demonstrate the lawful origin of the assets. This triggered an internal investigation by the financial institution, the results of which were subsequently communicated to law enforcement authorities in Guernsey.

In a notable example of good practice, Guernsey's authorities spontaneously transmitted information to their Colombian counterparts through the Egmont Group, which serves as a platform for the secure sharing of information between financial intelligence units on money laundering and terrorist financing cases.

The Colombian Financial Investigation and Analysis Unit (UIAF)²⁶ received the information and redirected it to the competent prosecutorial authorities specialised in money laundering. There are no reports indicating that this information has led to any investigations into money laundering or asset recovery by this specialised unit at the time.

Some years later, in 2019, following further investigative actions, the Colombian Judicial Police referred the case file to the Specialised Directorate for Extinción de dominio of the Colombian General Prosecutor's Office in Bogotá ("the Specialised Directorate for Extinción de dominio"). At that stage, however, the information did not immediately lead to the initiation of Extinción de dominio proceedings, and the matter remained inactive.

The case regained momentum only in 2021, when the authorities in Guernsey renewed their request for cooperation regarding the account. This renewed engagement coincided with the involvement of the International Centre for Asset Recovery (ICAR), which contributed to reactivating the case and supported the subsequent investigative and strategic actions.

26 The Financial Information and Analysis Unit (UIAF) is a special administrative unit of the Colombian State, with legal status, administrative and financial autonomy, of a technical nature, attached to the Ministry of Finance and Public Credit. See: <https://www.uiaf.gov.co/nuestra-entidad/quienes-somos>.

Spontaneous transmission of information

Spontaneous transmission of information²⁷ between States Parties to UN Conventions is a well-established international standard promoted by leading organisations and guidelines in the asset recovery field.²⁸ It enables authorities to strengthen investigations in all involved jurisdictions by enhancing the evidentiary picture, fostering coordination and improving the likelihood of successful outcomes.²⁹

3.2 Investigation

The Specialised Directorate for Extinción de dominio asserted that the funds held in account no. 16077 originated from drug trafficking offences committed by Don Efra between 1989 and 1996. María Serrano's criminal record and her status as the Guernsey account beneficial owner were enough initial evidence for the Specialised Directorate for Extinción de dominio to successfully initiate non-conviction based forfeiture proceedings. According to Article 16 of the Colombian Extinción de dominio Code,³⁰ neither the death of Don Efra, nor the passage of time, nor even the fact that the account is located in another jurisdiction, prevent the *proceeds* of crime from being confiscated.

The Specialised Directorate for Extinción de dominio advanced its case on two principal grounds:

- The assets constituted the direct or indirect proceeds of illegal activity (drug trafficking).
- They represented an unjustified increase in wealth.³¹

The prosecution argued that when the Guernsey account was established in November 1998, María Serrano was fully aware of her former husband's criminal background and nonetheless agreed to serve as the trust's beneficiary. According to the Specialised Directorate for Extinción de dominio, the Guernsey account was designed to conceal the true beneficiary of the assets and to shield Don Efra's illicit fortune from forfeiture.

27 See for example, United Nations Convention against Corruption, art. 46(4), (6). See also UNODC, *Legislative guide for the implementation of the United Nations Convention against Corruption*, 2012, p. 173 et seq. Available at: https://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/UNCAC_Legislative_Guide_E.pdf.

28 *Ibid.*, p. 173 et seq.

29 Oscar Solórzano, "Case Study: The Nun. Confiscating assets of the Shining Path terrorist organisation." Case Study 5, Basel Institute on Governance, 2021, p. 5. Available at: <https://baselgovernance.org/publications/case-study-the-nun>.

30 Extinción de dominio, *Law 1708 of 2014*, art. 16. Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=56475>.

31 Judgment of Extinción de dominio issued by the Fourth Court of the Specialised Extinción de Dominio Circuit of Colombia, 30 November 2023, Case File No. 110013120004202300048-4, p. 18.

3.3 Freezing, seizure and forfeiture

The Specialised Directorate for Extinción de dominio – in coordination with Colombia’s Central Authority – efficiently established a channel of communication with their counterparts in Guernsey, fostering rapid information exchange and helping identify potential legal constraints.

On 14 February 2022, Colombia’s Specialised Directorate for Extinción de dominio imposed precautionary seizure measures – including suspension of all disposal powers – over all assets held within the Guernsey account pursuant to Article 89 of *Law 1708 of 2014*. These measures were subject to judicial review and were upheld on 8 June 2022.

On 24 June 2022, the Specialised Directorate for Extinción de dominio, acting through its Central Authority, submitted an MLA request to Guernsey’s Central Authority (Her Majesty’s Procureur). The request sought the production of banking documentation and the formal restraint of the relevant account in Guernsey, with a view to preserving the assets pending forfeiture proceedings. In the absence of a bilateral treaty, international judicial assistance was grounded in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.³²

Guernsey’s Law Officers reviewed the MLA request under the framework of the *Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007*³³ and applied the procedure set out in section 10(5), which allows funds held in a bank account to be frozen while their origin or derivation is investigated, whether in Guernsey or in another jurisdiction.

On 21 October 2022, the Specialised Directorate for Extinción de dominio in Colombia activated a procedural mechanism known as an “anticipated ruling” – a negotiated justice tool previously applied in other international Extinción de dominio cases (see section 2.5 above).³⁴ In the anticipated ruling proceedings, María Serrano voluntarily acknowledged the assets in the Dasman Settlement Trust account no. 16077 as drug-related proceeds and formally waived any legal opposition in both the domestic Extinción de dominio proceedings and the international asset recovery procedure. Other beneficiaries likewise waived procedural rights. In exchange, María Serrano would receive 3 percent of the repatriated assets.

On 29 August 2023, the Royal Court of Guernsey issued a freezing order over the funds held in the Guernsey account. Colombia was formally notified on 31 August 2023. The order temporarily restrained the assets pending the final decision of the Colombian courts.

32 See arts. 5 and 7 of the Convention. Available at: https://www.unodc.org/pdf/convention_1988_en.pdf.

33 *Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007*, repealed by the *Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023*. Available at: <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=80706>.

34 Basel Institute on Governance, “Switzerland to return USD 15 Million in stolen assets to Peru in landmark extrajudicial agreement.” 3 December 2018. Available at: <https://baselgovernance.org/news/switzerland-return-usd-15-million-stolen-assets-peru-landmark-extrajudicial-agreement>.

On 30 November 2023, after all legal requirements had been met, the Colombian court declared the non-conviction based forfeiture of account no. 16077.³⁵ The judgment became final and enforceable on 12 January 2024.

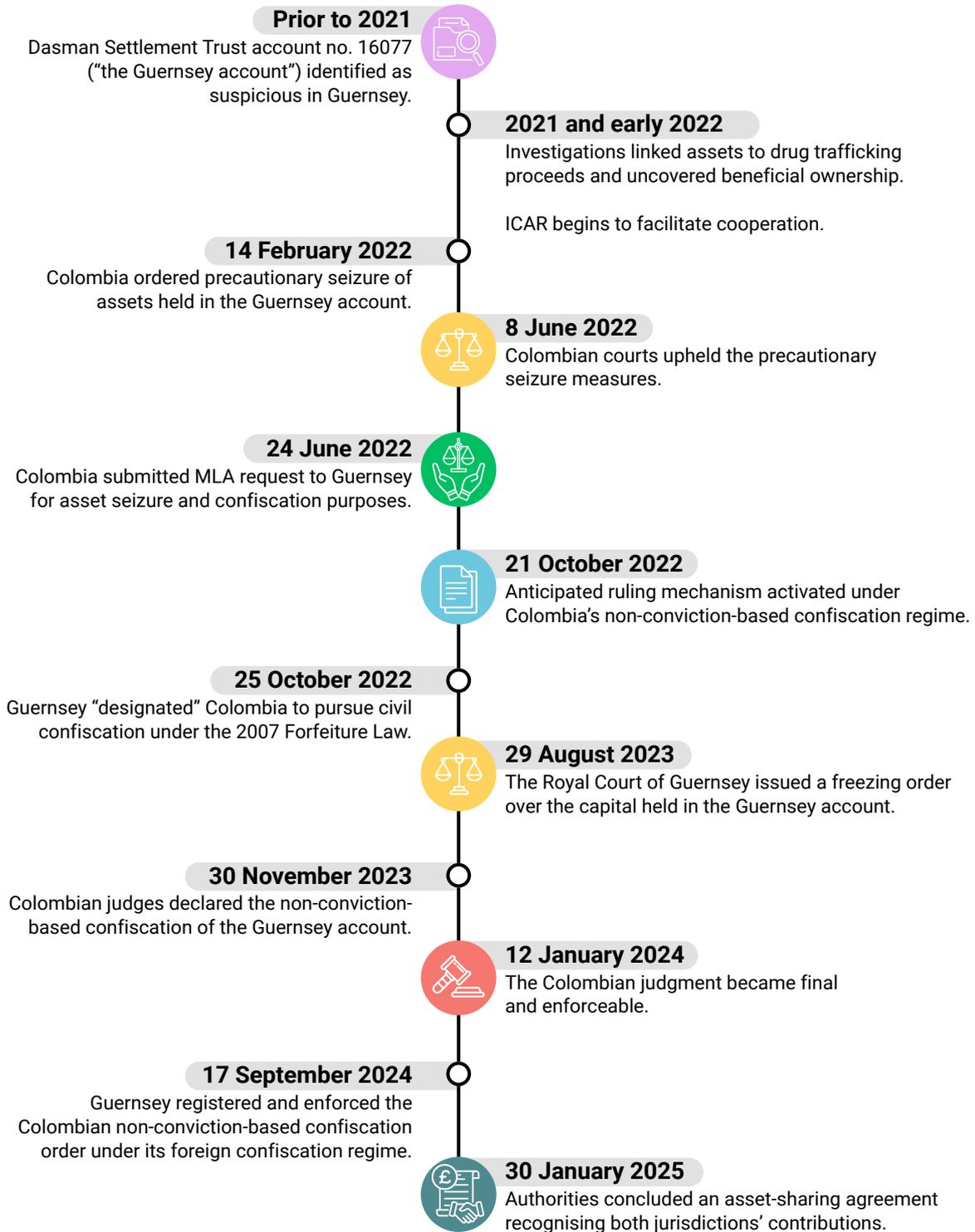


Figure 1: The Beauty Queen case: simplified timeline of the complex international non-conviction based asset recovery case.

35 The decision was taken in application of grounds 1 and 4 of art. 1 and art. 133 of Law 1708 of 2014 and the considerations set out above. Available at: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=56475>.

4 Executing Extinción de dominio in Guernsey

In February 2024, the Fourth Court of the Specialised Extinción de Dominio Circuit in Bogotá – acting as the enforcement authority – requested judicial cooperation from Guernsey to enforce the Colombian judgment issued on 30 November 2023. The request, transmitted through the Directorate of International Affairs of Colombia's Ministry of Justice acting as Central Authority,³⁶ was submitted to Her Majesty's Procureur in Guernsey.³⁷

4.1 Designation of Colombia for the purpose of enforcing forfeiture orders

At the time of the events, the *Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007* required Guernsey to “designate”³⁸ a foreign country before extending MLA to the registration of overseas civil forfeiture orders. The purpose of the designation requirement was to ensure that the requesting state has a valid non-conviction based forfeiture regime compatible with Guernsey's requirements.

The Committee for Home Affairs formally designated Colombia's Extinción de dominio regime as equivalent to “civil forfeiture” on 25 October 2022. The Colombian Prosecutor General's Office was recognised as the coordinating authority.³⁹

The designation process placed particular emphasis on human rights protections and procedural safeguards. This reflected a common international practice: states often evaluate foreign confiscation regimes by reference to shared human rights standards, which provide a neutral framework for assessing compatibility between different legal traditions.⁴⁰

36 In Colombia, the Prosecutor General's Office acts as the Central Authority for MLA related to investigative measures in criminal matters, while the Directorate of International Affairs of the Ministry of Justice of Colombia serves as the Central Authority for requests concerning the recognition and enforcement of foreign confiscation orders and other asset recovery measures.

37 In the context of MLA, His Majesty's Procureur is Guernsey's Central Authority acting on behalf of the Crown. It performs a role broadly comparable to that of a public prosecutor and central authority combined, particularly in asset recovery matters.

38 Under the *Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001* (as amended) and the *Enforcement of Overseas Forfeiture Orders Ordinance, 2007*, MLA and enforcement of civil forfeiture orders were available only in respect of “designated countries or territories”, designated by order of the competent authority; requests from such jurisdictions were processed through the Law Officers of the Crown.

39 *The Forfeiture of Money etc. in Civil Proceedings (Designation of Countries) (Bailiwick of Guernsey) Regulations, 2022*. Available at: <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=83831>.

40 Solórzano, Oscar. “Targeting illicit wealth through non-conviction based forfeiture: Identifying human rights and other standards for Latin America.” Working Paper 54. Basel Institute on Governance, 2024, p. 45 et seq. Available at: <https://baselgovernance.org/publications/wp-54>.

4.2 Enforcing a foreign civil or non-conviction based judgment in the Bailiwick of Guernsey

A foundational principle of international judicial cooperation is that MLA requests are executed in accordance with the law of the requested state (*locus regit actum*). Once Colombia obtained its final Extinción de dominio judgment, enforcement in Guernsey required registration under the applicable domestic law.⁴¹

4.2.1 Legal framework

Guernsey's legal framework for the enforcement of international forfeiture judgments was governed by the *Forfeiture of Money, etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007*⁴² when Colombia started MLA proceedings with Guernsey. This Law was later repealed by the new *Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023* (hereafter "the 2023 Law").⁴³ By the time the Colombian forfeiture order was executed in 2024 the new law had already come into force. However, it contains transitional provisions in Schedule 4, which means that where a freeze was in place prior to the 2023 Law coming into force, the 2007 Law continues to apply "in all respects". Consequently, the Colombian decision was still enforced in Guernsey according to the rules of the 2007 Law.

The new 2023 Law simplifies and clarifies the mechanisms for the international enforcement of confiscation orders, as has been demonstrated by more recent cases.⁴⁴ It establishes a clear statutory basis for enforcing foreign civil or non-conviction based forfeiture orders.

Section 111 (3) defines the mechanism and conditions through which foreign civil or non-conviction based forfeiture orders may be enforced in Guernsey. Under this provision, His Majesty's Procureur may apply to the Royal Court for the registration of an overseas forfeiture order, following which the order has effect as if it were a forfeiture order made by the Royal Court.

The 2023 Law represents a substantive enhancement of Guernsey's framework for international cooperation and MLA in asset recovery, in line with the requirements of FATF Recommendations 4 (Confiscation and provisional measures) and 38 (Mutual legal assistance: freezing and confiscation), which require member states to implement non-conviction based forfeiture

41 In Guernsey, a foreign judgment (including confiscation or civil forfeiture orders) is not immediately enforced. It must first be registered (recognised) by the Royal Court under the applicable domestic legislation. Registration is the legal step that gives the foreign judgment the same force and effect as a local Guernsey judgment, after which normal enforcement measures may be applied.

42 Available at: <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=80706>.

43 The 2023 Law came into force on 26 April 2024 (see section 151). It is available at: <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=84821>.

44 See, for example, the press release on the Ignatova case, dated 15 January 2026, on cooperation between Germany and Guernsey in a crypto asset case that led to the confiscation of the proceeds of crime. Available at: <https://www.guernseylawofficers.gg/article/207074/IGNATOVA-PRESS-RELEASE-JANUARY-15TH-2026>.

mechanisms and ensure the international enforcement of such judgments.⁴⁵ Its improvements encompass:

- An expanded definition of recoverable property to cover all typologies of assets.
- The removal of procedural preconditions that could delay enforcement, such as the prior “designation” of the country requesting assistance in civil forfeiture matters. Enforcement of foreign civil forfeiture orders now only depends on the judicial registration of the individual order by the Royal Court, subject to statutory and due process safeguards. By removing jurisdiction-based eligibility and focusing only on order-based judicial scrutiny, the 2023 Law enhances flexibility and effectiveness in compliance with FATF Recommendation 38, which requires jurisdictions to enable the timely enforcement of foreign civil confiscation orders without unnecessary procedural barriers.
- Improved international seizure. The law establishes an express statutory basis enabling courts to seize, freeze or detain assets in anticipation of the enforcement of a foreign non-conviction based forfeiture order from any country. Before the introduction of the current framework in 2023, asset preservation measures could only be used to assist designated countries.

4.2.2 Direct enforcement of foreign forfeiture orders

In line with FATF Recommendation 38 and its Interpretive Note, Guernsey has implemented a “direct” model for the enforcement of foreign forfeiture orders. This means that the foreign order is given effect as issued in the requesting state, without re-examining the merits of the case in the enforcement proceedings.⁴⁶ Direct enforcement, therefore, reduces duplication, shortens timelines and enhances predictability in international asset recovery cases.

Nevertheless, foreign civil forfeiture orders are not *automatically* enforceable in Guernsey. The fact that they are “directly” enforceable does not mean that they are immediately recognised and enforced. The Royal Court must first undertake a formal and substantive judicial assessment before registration and enforcement.

In particular, the Royal Court must be satisfied that:

- the foreign order qualifies as an overseas forfeiture order within the meaning of the law;
- it was made by a competent authority;
- the proceedings afforded appropriate procedural fairness and due process guarantees; and

⁴⁵ For more information on emerging standards on asset recovery, particularly the recently updated FATF Recommendations 4 and 38, see related Policy Brief 16: “Enforcing foreign non-conviction based forfeiture orders: FATF standards and asset recovery practice in Latin America and financial centres.” Available at: <https://baselgovernance.org/publications/pb-16>.

⁴⁶ For a comparison of direct and indirect models for executing foreign forfeiture orders, see *ibid*.

- enforcement would not be contrary to fundamental rights or public policy.
- The Royal Court may also consider whether the order is final or enforceable in the issuing jurisdiction and whether affected persons other than the accused parties and potential direct victims had an opportunity to be heard.

The Royal Court will only register the foreign forfeiture order once it is satisfied with these basic procedural elements. Once registered, the order may be executed using the full range of domestic enforcement powers available under Guernsey law, without requiring the initiation of domestic criminal or civil proceedings. The registration itself is not subject to appeal.

On 17 September 2024, the Royal Court ordered the registration and enforcement of the Colombian judgment. It held that:

- the order was enforceable “in all respects”;
- the Northern Trust Fiduciary Services (Guernsey) Limited was required to transfer the funds “to a nominated account held by the States of Guernsey, for the benefit of the Seized Assets Fund, in satisfaction of the Overseas Forfeiture Order”.

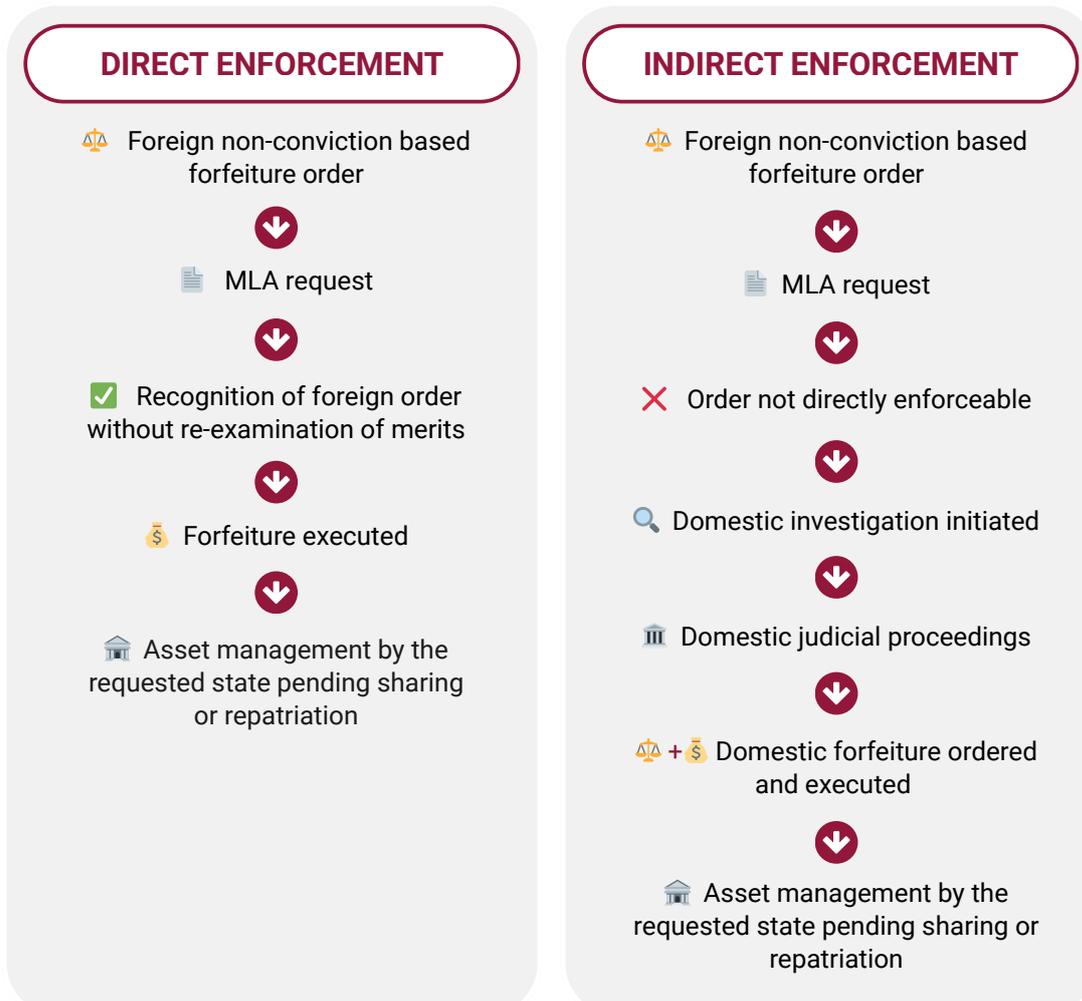


Figure 2: Direct and indirect enforcement of foreign non-conviction based forfeiture orders.

4.2.3 Dual criminality

Dual criminality is a fundamental requirement for MLA, ensuring that the conduct underlying the foreign forfeiture order would also constitute an offence in the requested state. The requirement is substantive, not formal: consistent with FATF Recommendation 37 (Mutual legal assistance), dual criminality does not require both jurisdictions to classify the offence under the same legal category or to use identical terminology.⁴⁷ What matters is that the underlying conduct is also criminalised in the requested state.

In non-conviction based forfeiture cases, the assessment of dual criminality focuses on whether the underlying conduct at the origin of the forfeited assets would be criminal under the requested state's law. Such assessment may prove challenging given variations in criminal offences across Latin America. Very often, requested authorities have to rely on the factual narrative accompanying the MLA request to understand the broader criminological context.

Under the *Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023*, "unlawful conduct"⁴⁸ is defined broadly to encompass conduct that constitutes a criminal offence under Guernsey law, as well as conduct occurring outside Guernsey that would constitute an offence if it had taken place in Guernsey. This dual criminality approach allows law enforcement authorities to recover criminal property where it is obtained through, or intended for use in, conduct that is criminal in nature regardless of where it occurred. It also greatly facilitates MLA procedures.

María Serrano was found guilty in Colombia for private illicit enrichment and *testaferrato* (fronting), which, as such, are not recognised offences in Guernsey. The Colombian authorities judged María Serrano's own obstructing conduct to constitute these criminal offences in a time when the offence of money laundering was not yet fully adopted and implemented in Colombia. However, it was clear to all parties involved that the assets she concealed were derived from illicit drug trafficking, which is also a criminal offence in Guernsey. This alignment of both domestic legal criminal frameworks during the early exchanges between cooperating authorities through the common focus on drug trafficking prevented potential shortcomings in the dual criminality requirement.

47 In the case of "The Blue Ridge Trust and The Hudson Trust", the Peruvian Public Prosecutor's Office pursued the last two accounts of former President Fujimori's Presidential Adviser, Vladimiro Montesinos in Luxembourg's banks. Montesinos was convicted of illicit enrichment in Peru. As this crime does not exist in Luxembourg, where the accounts were located, Luxembourg proceeded to interpret dual criminality based on the facts of the request for cooperation, stating that "if these acts had occurred in Luxembourg, they would have given rise to criminal prosecution and confiscation for acts of corruption". See: Solórzano, Oscar. *La recuperación de activos de la corrupción en Perú*. Virtual Law Library of the Instituto de Investigaciones Jurídicas, Universidad Nacional Autónoma de México (UNAM), 2018, p. 325 et seq. Available at: <https://archivos.juridicas.unam.mx/www/bjv/libros/11/5096/11.pdf>.

48 Art. 2 (Part I) on "Unlawful conduct" of the *Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023*. Available at: <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=84821>.

4.2.4 Fair trial requirements

Enforcement of foreign forfeiture orders is contingent on verifying that the requesting state respected basic rights of defence. This assessment can be difficult given the considerable diversity of non-conviction based forfeiture regimes worldwide.

As explained, the requested state conducts a formal and substantive assessment of the foreign MLA request for cooperation. The assessment is carried out in the first place by the Central Authority of the requested state, before referring the MLA request to the executing (enforcing) authorities.

In assessing compliance with fair trial guarantees, requested states typically verify that the defendant received proper notice in a language they understand, had an effective opportunity to be heard and to obtain legal representation, and that the proceedings were conducted by an independent and impartial tribunal. Some states impose additional safeguards – for example, the United States requires assurance that the judgment was not obtained through fraud.⁴⁹

The 2023 Law defines key provisions dealing with fair trial requirements (see section 4.2.2 above). Beyond the safeguards expressly provided for in the law, fair trial requirements may also derive from the Bailiwick's domestic constitutional principles as well as from applicable international and regional human rights obligations, which impose the following independent due process standards:

Judicial authority and legality

The foreign forfeiture order must have been issued by a competent judicial authority (or an authority exercising judicial functions) acting within a lawful statutory framework. Orders of a purely administrative or executive nature without judicial control would raise concerns in an international context.

Notice and opportunity to be heard

Affected persons must have had proper notice of the proceedings and a real opportunity to participate, including the ability to contest the forfeiture. Enforcement will not be granted where proceedings were conducted *ex parte* without meaningful subsequent review.

Right to challenge and due process

The foreign proceedings must have allowed the respondent to:

- challenge the factual basis of the forfeiture;
- contest the link between the property and unlawful conduct; and
- raise legal arguments before an independent authority or court.

49 Financial Action Task Force (FATF). *Asset Recovery Guidance and Best Practices*. Paris: FATF, 2025, p. 293–94. Available at: <https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Methodsand Trends/asset-recovery-guidance-best-practices-2025.html>.

Civil (non-criminal) character

In order to be compatible with Guernsey's civil forfeiture regime, the foreign forfeiture order must arise from proceedings that are civil or non-conviction based in substance, rather than disguised criminal penalties imposed without the safeguards of criminal law.

Absence of fundamental injustice

Enforcement will be refused if recognition of the foreign order would result in:

- a denial of justice;
- a violation of fundamental rights; or
- an outcome contrary to Guernsey public policy.

5 Asset sharing and repatriation

Repatriation of illicit assets in international cases – particularly those involving drug trafficking – remains uncommon. Generally, if there is a restitution or sharing agreement between law enforcement agencies in cases of international drug trafficking, it remains unrecorded or receives little publicity due to the secret nature of the investigation and subsequent procedures. Unlike corruption cases governed by UNCAC, drug-related cases lack a binding global restitution framework.

In such circumstances, countries typically rely on asset sharing agreements, which allocate proceeds equitably based on contributions to the recovery effort. Because the recovered funds neither originate from public coffers nor from identifiable victims, equal division has become an accepted practice.

Asset sharing is discretionary rather than automatic and may be conducted on the basis of a formal agreement or on a case-by-case arrangement. In determining whether and how to share assets, the authorities must consider the extent of assistance provided by the foreign jurisdiction and the interests of justice.

With regard to the Beauty Queen case, Colombia and Guernsey signed an asset sharing agreement on 30 January 2025, during a ceremony held in London. The funds were subsequently transferred to the designated accounts,⁵⁰ marking the successful repatriation of assets.



Colombia's Attorney General, Luz Adriana Carmago Garzón, and HM Procurer of Guernsey, Megan Pullum KC, signing the asset sharing agreement in London, January 2025. Photo: Oscar Solórzano.

⁵⁰ In Colombia, the recovered funds were allocated to the Fund for Rehabilitation, Social Investment and the Fight against Organized Crime (FRISCO). See: "Colombia recupera fondos ilícitos del narcotráfico tras acuerdo con Guernsey, Reino Unido." *W Radio*, 30 January 2025. Available at: <https://www.wradio.com.co/2025/01/30/colombia-recupera-fondos-ilicitos-del-narcotrafico-tras-acuerdo-con-guernsey-reino-unido/>.

6 Lessons learned

This case illustrates how cooperation between Colombia and Guernsey made it possible to recover assets hidden abroad, decades after the underlying criminal activity and despite the legal complexities surrounding drug trafficking cases. In particular, this case leaves us with the following lessons learned:

1. **Early and trust-based international cooperation is decisive.** The case demonstrates that timely, informal and trust-based cooperation can be as important as formal MLA. The spontaneous exchange of information between Guernsey and Colombia enabled authorities to identify concealed assets early on, establish communication channels between the relevant authorities, and move quickly to freezing and recovery measures before assets could be dissipated.
2. **Non-conviction based forfeiture is indispensable when criminal routes are closed.** Where criminal proceedings cannot be reopened due to procedural barriers such as the prohibition of double jeopardy (*ne bis in idem*), the death of the offender or the passage of time, non-conviction based mechanisms such as *Extinción de dominio* provide an effective legal pathway to recover illicit assets. The case reinforces the principle that “crime should not pay”, i.e. that the illicit proceeds remain recoverable regardless of the time elapsed since the underlying criminal conduct.
3. **Identifying beneficial ownership is central to effective asset recovery.** The use of complex structures to conceal ownership is a common feature of transnational crime. This case shows that such structures can be dismantled through coordinated international action to identify real beneficiaries.
4. **Direct enforcement of foreign forfeiture orders increases efficiency and legal certainty.** Guernsey’s legal framework allowed the registration and execution of Colombia’s forfeiture order without reassessing the facts of the case or reopening a domestic case. Judicial review was limited to core safeguards, reducing duplication, shortening timelines and enhancing predictability in cross-border asset recovery. Colombia, for its part, ensured full respect for procedural rights that facilitated acceptance and enforcement of its decision abroad. These practices offer a promising blueprint for future cooperation between countries with different forfeiture laws or even legal traditions.
5. **Asset sharing agreements strengthen cooperation incentives.** The asset sharing agreement reached between Colombia and Guernsey provided an equitable solution that recognised the contributions of both jurisdictions in the absence of binding international rules on asset return in drug-trafficking cases. Alignment with international standards, including UN and FATF recommendations, helped create a common

framework of expectations and reinforced incentives for sustained cooperation.

This case is an example of the commitment of two countries and their officials to carry out a complex process of asset recovery. It demonstrates that it is possible to successfully recover and repatriate illicit assets when countries work towards shared goals and align their practices with international standards such as those promoted by the FATF.

For the Latin American region and the broader international community, this case provides a replicable precedent for effective asset recovery cooperation in non-conviction based forfeiture cases.

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