The Impact of Anti-Money Laundering Regulations on Asset Recovery Performance

A study of underlying reasons for countries' asset recovery efforts

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Abstract

Asset recovery (AR) is an important tool in combating corruption since it ensures that criminals are not allowed to keep the proceeds of their crime. The fact that criminals use financial institutions in foreign jurisdiction to hide their stolen assets suggests a relationship between money laundering (ML) and AR. This thesis aims to analyze the impact countries' anti-money laundering (AML) regulations have on the amount of assets recovered. This is done by determining crucial factors in AR cases and assessing whether there is an empirical relationship between those factors and the amount of assets which has actually been recovered as well.

This thesis finds that several factors correlate positively with countries' AR performance, which is defined as the amount of assets which a country has recovered. The correlations between different proxies for AML performance and AR performance as well as AR efforts support the hypothesis that AML performance has an impact on the amount of assets that is actually recovered. However, these findings have to be interpreted with caution since correlation does not equal causality. Further results of this thesis imply that having a variety of AR mechanisms, including the recognition of non-conviction based proceedings and civil law actions, as well as encouraging international cooperation and having a specialized AR unit all have a positive relationship with AR performance.

The findings of this thesis show on the one hand, that adherence to AML regulations and AR performance are indeed positively correlated, and on the other hand, that future research is needed in order to find causal effects as well.

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Acronyms

AML	Anti-Money Laundering
AR	Asset Recovery
CTF	Counter-Terrorist Financing
FATF	Financial Action Task Force
FIC	Financial Intelligence Centre
FIU	Financial Intelligence Unit
FUAR	Follow-Up Assessment Report
FUR	Follow-Up Report
ICAR	International Centre For Asset Recovery
MAA	Mutual Administrative Assistance
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
NCB	Non-Conviction Based
PEP	Politically Exposed Person
TF	Terrorist Financing
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime

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1. Introduction

1.1 Motivation and purpose

It is estimated that every year, a staggering amount of USD 20 billion to USD 40 billion is detracted through corruption from developing countries and placed in foreign jurisdictions (Oduor et al, 2014). This amount does, however, not include assets that originated in criminal activities, which is with approximately USD 500 billion even larger (StAR, 2007). Thus, there are huge amounts of assets deposited in foreign bank accounts which were illicitly obtained. However, even though it would only be reasonable to restitute those assets to the victims, AR has received comparably little attention (Søreide, 2016). Only a small fraction of those misappropriated assets is returned and only little goes to the victims of the underlying offense (Søreide, 2016).

Nevertheless, there are some cases which have been successful in restituting assets to the victims. One of those cases is the *Abacha Case*. General Sani Abacha had been the head of the state of Nigeria from 1993 to 1998. He and his accomplices were accused of having embezzled a total of USD 5.3 billion which were subsequently laundered in bank accounts in Switzerland, Luxembourg, Liechtenstein, Hong Kong, UK and USA. Nigeria's succeeding head of the state, President Obasanjo, filed a mutual legal assistance (MLA) request for Switzerland and as a result, after overcoming some challenging legal hurdles, Abacha's stolen assets in Switzerland were frozen and finally returned in 2005 and 2006 (Shehu, 2014).

The preceding paragraphs imply that firstly, there are large amounts of assets which could be recovered and restituted to the victims of the crime and secondly, that there have been successful AR cases. This raises the question why AR does not seem to be a priority as mentioned in the first paragraph. The *Abacha Case* provides us partially with the answers by exemplifying several important aspects as well as difficulties that international AR cases entail. International AR involves at least two countries, namely the country where the assets come from, e.g. where the crime has taken place, and the country which is asked to assist in returning the assets. In the present case, it even involves more countries since the stolen assets had been transferred to several jurisdictions. Thus, the international character of AR complicates legal proceedings. Even though only the collaboration of Switzerland and Nigeria was mentioned above, Nigeria was dependent on the support of the other jurisdictions as well in order to recover all the stolen assets. Furthermore, international AR cases are very

complicated and typically stretch over several years which implies high costs of prosecution. Another central aspect which was mentioned in the case is that AR seems to be intertwined with ML since the proceeds of crimes are often hidden in other jurisdictions (Pinto, 2007). This raises the question whether countries who adhere to AML regulations are more successful in recovering stolen assets or if countries' AR performance is dependent on other factors. This leads us to the research question of this thesis which will be addressed in the succeeding section.

1.2 Research question

The thesis aims to answer the following research question:

Do anti-money laundering regulations have an impact on countries' asset recovery performance?

As already discussed above, AR and ML seem to be inextricably linked. Since ML involves the transfer of funds to other jurisdictions in order to conceal their illicit origin, this thesis is going to focus on international AR. However, studying AR entails two main challenges. Firstly, the academic literature to AR specifically is scarce since AR is often part of the greater AML and criminal justice policy mix (Fleming, 2008). Secondly, information about actual AR performance, e.g. how many assets are actually recovered by countries, is very limited (Gray et al., 2014). The scarce data on assets which have actually been recovered limits the availability of econometric methods to empirically analyze AR performances. Thus, this thesis is focusing on correlations between variables of interest to assess whether or not hypotheses, which have been chosen on the basis of the theory, can be supported.

The thesis is organized as follows. Chapter two explores the phenomenon of AR and provides the reader with the required knowledge about relevant legal tools in AR cases. The third chapter elaborates on the process of ML and its connection to AR. Chapter four represents the theory part of this thesis, which presents the incentives - or lack thereof - of different stakeholders to engage in AR cases and introduces the hypotheses which will be empirically analyzed in the following chapter. With chapter five begins the empirical part of this thesis. Chapter five describes the different sources of data which were used, illustrates how the Asset Recovery Index was constructed and ends by explaining the econometrical methods which were applied to assess the hypotheses. Chapter six presents the different results and findings

of the empirical analysis and is followed by a discussion of these results in chapter seven. Finally, chapter eight concludes the thesis.

2. Asset Recovery

2.1 Definition and importance

Asset Recovery is the process of depriving criminals from the proceeds of crime (Fleming, 2008; Dubourg & Prichard, 2008). Even though the definition is quite simple to understand, the topic itself is very extensive and complex (International Centre for Asset Recovery, n.d.). AR involves gathering information from different jurisdictions, tracing financial transactions and requires technical skills as well as expertise (International Centre for Asset Recovery, n.d.). The typical AR process consists of the four following steps (Fozzard & Steele, 2010):

1. Identification: The underlying criminal activity or the suspected proceeds of crime are detected and identified.
2. Investigation, tracing and freezing: Evidence is gathered during the investigation and simultaneously, assets are being traced. Those assets are subsequently being frozen in order to prevent them from being dispersed and lost.
3. Confiscation or forfeiture: The assets are being confiscated or forfeited, either after proceedings in criminal- or in civil law.
4. Return: Upon a definitive court judgement, a court order assigns ownership to or between the state or states, the victims or in some cases third parties.

There are, however, large variations between jurisdictions as there are different legal avenues and procedures, which will be discussed in greater detail in the following section. The fact that AR usually involves several countries adds to the complexity of the topic. In AR cases, there are usually two countries collaborating to return the stolen assets. The *requesting country* is the country which seeks cooperation in the return of assets and is the country where the proceeds of the crime originated (Fozzard & Steele, 2010). The *requested country* is the country where the assets are being held and which assists the *requesting country* (Fozzard & Steele, 2010). In practice, developing countries are often *requesting countries* and developed countries often *requested countries* (Fozzard & Steele, 2010). However, it has to be noted that this is not always the case. Developing countries can be the *requested country* and developed countries the *requesting country* as well. Subsequently, the motivation of *requesting*- and *requested countries* to engage in AR differs, which will be addressed in chapter four.

AR pursues five different aims (Dubourg & Prichard, 2008):

1. *Show that crime does not pay*: Ensuring that criminals do not benefit from crimes is an obvious aim of AR. In addition, the confidence of the public in the criminal judicial system will increase when criminals are deprived from the proceeds of the crime.

2. *Disrupt criminal markets*: Depriving criminals from the proceeds of the crime and returning them to the victims ensures that the proceeds will not be used to finance other illegal undertakings.

3. *Act as a deterrent*: AR reduces the net benefit of the crime. If criminals act rationally, taking away the proceeds of the crime reduces their benefits of the crime.

4. *Improve crime detection*: Crime detection can be improved by increasing knowledge about criminal markets and how they work.

5. *Reduce the harm caused by money laundering*: The relationship between ML and AR will be explained in more detail in chapter three. AR increases the stability of financial markets in the sense that it discourages criminals from laundering their proceeds in financial markets.

However, there is an ongoing discussion on whether AR really contributes in fulfilling the aims mentioned above. As far as the deterrence is concerned for example, on the one hand some academics argue that AR reduces crime by reducing the net benefit of the crime, as already explained above (Fleming, 2008). But on the other hand, some claim that the deterrence effect of AR depends on the type of crime and some even argue that AR may incentivize crime as criminals have to make up for their losses caused by AR (Sittlington & Harvey, 2018; Fleming, 2008). In general, it is important to mention that much of the AR literature is part of the greater AML and criminal justice policy mix (Fleming, 2008). Thus, it is not easy to find literature which empirically assesses how AR contributes in fulfilling the aims mentioned above. One major challenge worth mentioning with regards to empirical literature assessing whether AR really contributes in fulfilling the aims mentioned above is the scarcity of asset tracing data (Gray et al., 2014). This challenge relating to AR data will be addressed in greater detail in the empirical part of this thesis.

2.2 Legal tools in asset recovery cases

There are different legal instruments which can be used in AR cases (Fozzard & Steele, 2010). These include the following but vary between jurisdictions:

- Criminal forfeiture
- Private party to criminal procedure
- Non-conviction based forfeiture
- Civil forfeiture

Criminal forfeiture occurs as a part of sentencing following conviction at trial. Charges must be brought forward against a specific person and criminal forfeiture can only occur when there is a conviction for the underlying offense (Fozzard & Steele, 2010). However, different jurisdictions have different conceptions as far as the criminalization of certain corrupt acts is concerned (Fozzard & Steele, 2010). This may pose a challenge since jurisdictions have to collaborate in AR cases and the fact that a corrupt act may be criminalized in one country but not in the other may complicate this collaboration if one of the countries does not recognize the underlying offense (Fozzard & Steele, 2010).

Private party to criminal procedure provides private persons with the opportunity to become part of a criminal procedure in order to seek redress (Fozzard & Steele, 2010). Foreign states can use this procedure to become part of the trial (Fozzard & Steele, 2010). An important advantage of *private party to criminal procedure* over a civil procedure is that the foreign state has the same rights as the defendant (Fozzard & Steele, 2010). Furthermore, the action for damages is accessory to the criminal proceedings and will therefore advance on the same basis (Fozzard & Steele, 2010). However, the treatment of the claim to *private party to criminal procedure* depends on the jurisdiction as well. In some jurisdiction it may be required to file in front of a civil court.

Non-conviction based forfeiture (NCB) or *civil forfeiture* or *in rem forfeiture* is, in comparison to *criminal forfeiture*, a legal proceeding against the asset itself and not against the person owning the asset (Fozzard & Steele, 2010). NCB forfeiture does not substitute for criminal proceedings but the NCB procedure does not need a conviction of an underlying offense (Fozzard & Steele, 2010). It has to be shown that the asset is either an instrument of criminal activity or the proceed of a crime (Fozzard & Steele, 2010). Moreover, NCB forfeiture has a reduced burden of proof in comparison to criminal proceedings, which is very beneficial if there is insufficient evidence to secure a conviction (Fozzard & Steele, 2010). However, not all jurisdictions allow for NCB forfeiture and collaborating with those jurisdictions in AR cases may pose a challenge (Fozzard & Steele, 2010).

Civil proceedings allow the state to bring private actions to recover assets in the same way as a private person would (Fozzard & Steele, 2010). *Civil proceedings* neither demand a criminal conviction nor the initiation of criminal proceedings. As a consequence, the burden of proof is reduced, which is very beneficial in cases where it is difficult to gather sufficient proof (Fozzard & Steele, 2010). One disadvantage, however, is that the plaintiff has to bear the costs associated with civil actions. These costs may be substantial, which gives the defendant the incentive to drag proceedings on as long as possible, hoping that the plaintiff will be willing to settle whereby the defendant gets to keep some of the illicitly obtained proceeds (Fozzard & Steele, 2010).

As described above, there are different legal avenues which can be taken to recover stolen assets. AR requires a court order to return the assets and the aim of the different proceedings mentioned above therefore is to obtain a court order in favor of assets being returned (Brun et al., 2011). Thus, there are clear benefits in having proceedings where a criminal conviction is not required and consequently where the burden of proof is reduced. However, in practice there is not one strategy which works for all jurisdictions due to differences in legal systems (Brun et al., 2011). Providing NCB confiscation in jurisdictions is encouraged, however, not all jurisdictions allow for it (Stephenson et al., 2011). One reason is that there have been legal challenges, such as the constitutionality of NCB confiscation laws which have to be assessed first (Greenberg et al., 2009). This will be discussed in the succeeding paragraph below. Furthermore, the collaboration of two jurisdictions which offer NCB confiscation may still be difficult in practice due to differing systems (Stephenson et al., 2011).

The different legal instruments to recover assets have become a topic in the literature as well. Trinchera (2020) claims that traditional methods of confiscation, which only include the asset that was involved in a particular offense for which a criminal has been convicted, are insufficient to deprive criminals from their assets. He states that more powerful instruments, such as NBC procedures, are needed to recover assets efficiently (Trinchera, 2020). Van der Does de Willebois & Brun (2013) concur by claiming that civil remedies provide countries with a good opportunity to recover assets in another country, especially when other criminal legal avenues are not available or the likelihood of success is low. Sittlington & Harvey (2018) have found that as far as the deterrence effect of AR is concerned, the most effective deterrent is a prison sentence for a crime in combination with civil recovery. Even though NCB confiscation has many benefits, there are some important aspects, especially from a moral

perspective, which have to be considered (Boucht, 2019). The main controversy about NCB confiscation concerns the individual rights of the person whose assets are subject to NCB confiscation. There are fewer safeguards in civil proceedings than there are in criminal proceedings (Boucht, 2019). Thus, this raises concerns about for example the amount of assets which is subject to NCB confiscation. The confiscation measures only ought to target the ill-gotten wealth of a criminal. As a consequence of the diluted safeguards in NCB confiscation, the criminal's legally acquired assets may be targeted as well, which would attack the person's individual rights (Boucht, 2019). Hatchard (2014) concurs by calling this "constitutional issues" and stating that individuals have the right to a fair trial and to not be arbitrarily deprived from their property. Ivory (2014) calls this "the human rights of Bad Guys". Furthermore, NCB confiscation should only be used where it is appropriate and ought to be complementary to criminal proceedings (Boucht, 2019). NCB confiscation should not substitute criminal proceedings only for reasons of convenience (Boucht, 2019). Thus, the benefits of NCB confiscation have to be pondered while keeping an individual's human rights in mind.

Another aspect worth mentioning concerning differences in legal systems is *dual criminality*. *Dual criminality* is a requirement in which the conduct committed must be a predicative offense in both jurisdictions which are involved in a case (Schott, 2006). The collaboration between two countries will be complicated if one of the countries criminalized the underlying offense but the other one did not. This is very relevant in AR cases since corruption of foreign public officials and illicit enrichment are for example two offenses which are not criminalized in all jurisdictions (Stephenson et al., 2011). *Dual criminality* often complicates MLA due to the different requirements in the *requesting*- and *requested country* (Stephenson et al., 2011). That is why many practitioners often revert to *informal cooperation,* which will be discussed in greater detail in chapter four (Nainappan, 2019).

3. Money Laundering

3.1 Definition and process

The United Nations Office on Drugs and Crime (UNODC) defines money laundering as *"... the process that disguises illegal profits without compromising the criminals who wish to benefit from the proceeds"* (UNODC, n.d.a). The process of ML can be divided into three stages:

1. Placement
2. Layering
3. Integration

In the *placement* stage, the illicitly obtained funds are placed into the financial system. This can be done by depositing cash into bank accounts. Large amounts of cash will thereby be divided into smaller, less suspicious amounts and deposited into various financial institutions over a longer time frame. In addition, illegal funds may be converted into financial instruments or cash may be used to purchase securities. The second stage, *layering*, involves moving the funds, securities etc. to other financial institutions. In this stage, the funds may be used to purchase further financial instruments, which can be sold through another institution. The funds can move through various institutions and shell companies may be used as well. All this is done to further conceal the true origin of the funds. In the third and last stage, called *integration*, the funds are integrated into the legitimate economy. This can be done by buying assets such as real estate, securities or other financial assets, or luxury goods (Schott, 2006). Considering the three steps mentioned above, it is fairly obvious that in some instances it is impossible to trace all the proceeds of crime (Van der Does de Willebois et al., 2011). This is especially the case for long trails consisting of several layered bank accounts and investments (Van der Does de Willebois et al., 2011). There may be uncooperative jurisdictions along the trail which can make it impossible to follow the complete trail (Van der Does de Willebois et al., 2011). Criminals who want to launder the proceeds of their crimes have made use of a wide variety of opportunities provided by financial havens and offshore centers (Blum et al., 1998). The possibilities offered by financial havens for criminals to hide the true origin of their illicitly obtained funds have made prosecution for law enforcement from other jurisdictions very difficult (Blum et al., 1998). Even though ML itself is a fundamentally simple concept,

tracing the hidden proceeds can quickly become very complex in praxis since criminals increasingly use sophisticated methods to launder their proceeds (Schott, 2006).

3.2 Link to asset recovery

After discussing AR and ML in general, this section is going to assess the relationship between the two. The link between ML and AR is rather obvious when we consider the aforementioned definition of ML. ML was defined as *"... the process that disguises illegal profits without compromising the criminals who wish to benefit from the proceeds"* (UNODC, n.d.a). Therefore, the aim of ML is to disguise illicitly obtained proceeds. AR focuses exactly on those illicitly obtained proceeds with the aim of returning them to the victims (International Centre for Asset Recovery, n.d.). ML, AR, crimes of bribery and corruption in general are therefore inextricably linked (Pinto, 2007). ML is used to break the direct link between the criminal or politically exposed person (PEP) and the stolen assets by disguising the ownership (Pinto, 2007). Criminals use increasingly sophisticated methods to break the link from the PEP to the proceeds of the crime, which make AR more difficult for prosecutors. If there was no ML, identifying stolen assets and returning them to the victims of the crime would be substantially simpler.

The Financial Action Task Force (FATF) is a key organization in AML. The FATF promotes policies to protect the global financial system against ML and Terrorist Financing (TF) (FATF, 2019). They proposed a framework consisting of forty *recommendations* and eleven *immediate outcomes.* The recommendations assess to which extent a country has implemented the technical recommendations and the immediate outcomes measure to which extent a country's measures are effective (FATF, 2019). However, not all of the recommendations and immediate outcomes are relevant for AR for two reasons. Firstly, the FATF recommendations include TF as well which is not directly linked to AR. Secondly, ML is broader than AR and therefore includes other aspects which are irrelevant for AR as well. In 2011, the G20 have agreed on nine key principles for an effective AR framework (G20 Anti-Corruption Working Group, 2013). Two out of these nine principles consist of FATF recommendations. Those are *Principle 2, Strengthen Preventive Measures against the Proceeds of Corruption*, and *Principle 5, Adopt Laws that Encourage and Facilitate International Cooperation.* Those FATF recommendations in *Principle 2* and *Principle 5* are therefore deemed relevant for AR. Table 1 below summarizes the AR-relevant recommendations. The recommendations (and

their numbers) have slightly changed in the last 20 years and thus a column on the very right was included which depicts the current number of the recommendation. Fleming (2008) agrees that there is a relationship between AR and ML. He claims that AR in the literature is often part of the larger AML or criminal justice policy mix and therefore sees AR as a subcategory of ML (Fleming, 2008). This is in line with the G20 decision to declare some, but not all FATF recommendations as AR-relevant.

Table 1: AR-relevant FATF recommendations

Principle	Recommendation	FATF 2003 Recommendation (#)	FATF 4th Round (#)
Principle 2	Customer Due Diligence by Financial Institutions	R. 5	R. 10
	Politically Exposed Persons (PEPs) - Enhanced Due Diligence	R. 6	R. 12
	Designated Non-Financial Businesses and Professions – Customer Due Diligence	R. 12	R. 22
	Legal Persons – Beneficial Ownership	R. 33	R. 24
	Legal Arrangements – Beneficial Ownership	R.34	R. 25
Principle 5	International Instruments	R. 35	R. 36
	Mutual Legal Assistance (MLA)	R. 36	R. 37
	Dual Criminality	R. 37	-
	MLA on Confiscation and Freezing	R. 38	R. 38
	Extradition	R. 39	R. 39
	Other Forms of International Cooperation	R. 40	R. 40

Note: Since there has been another round after the G20 Anti-Corruption Working Group survey was published and the number of the recommendations have changed, the right column shows the corresponding recommendation for the fourth FATF evaluation round.

Considering the two principles with the underlying recommendations in the table above, there are two ways how AML regulations impact AR. The first one is represented by *Principle 2*, which can be summarized as the recommendations which ensure that it is clear who funds belong to. As mentioned in *Principle 2*, these are *preventive* measures. If it is clear who those funds owns, it is much simpler to detect suspicious activities and to return assets in case they

originated from a crime. The second way how AML regulations impact AR is represented by *Principle 5*, which deals with the international character of AML. This principle is, in comparison to *Principle 2*, not preventive. The international component of AR has often been mentioned as one of the main obstacles in AR (Stephenson et al., 2011; Pinto, 2007; Schott, 2006, Brun et al, 2011; Nainappan, 2019). Therefore, international cooperation is one of the key factors in successful AR cases (Pinto, 2007). Due to the importance of international cooperation in AR cases, mutual legal assistance will be discussed separately in chapter four.

The fact that ML makes AR more difficult postulates that the recovery of assets would be easier if countries would adhere to the FATF recommendations. However, if countries are not compliant with the FATF recommendations, this will result in providing criminals with the opportunity to exploit the weaknesses in AML systems and to hide the proceeds of their crimes. Therefore, in order to have an effective AR framework, AML performance ought to matter. However, it has to be emphasized that the AR-relevant FATF recommendations only account for approximately 25% (11 resp. 10 out of 40) of all FATF recommendations. Thus, from an AR perspective, it is of importance in which of those 40 recommendations countries perform well. Consequently, there is also the possibility that a country performs well in all of the recommendations except for the AR-relevant ones. Or the other extreme where a country performs well in all the AR-relevant recommendations, but poorly in the other ones.

The preceding paragraph raises the questions why countries not just simply follow the recommendations and implement an effective AML system and why countries may perform well in some recommendations, but poorly in others. If countries are holistically non-compliant, they may be blacklisted by FATF (Mekpor et al., 2018; Jensen & Png, 2011). Being blacklisted results in serious reputational repercussions and non-compliant or partially-compliant countries therefore try to do just enough to avoid being blacklisted (Mekpor et al., 2018). However, why are some countries just doing the bare minimum instead of proactively implementing an effective AML system? Mekpor et al. (2018) found five determinants of countries compliance with the FATF recommendations. Those are *trade openness*, *regulatory quality*, *bank concentration*, *financial intelligence centre or unit* (FIC/FIU) and *technology* (Mekpor et al., 2018). According to Mekpor et al. (2018), countries thus perform poorly in the FATF recommendations if they have a lack in one of the aforementioned determinants. Having a high level in one of the determinants and a low level in another one also helps explaining why some countries may perform well in some recommendations, but poorly in others. Even though countries may know how to improve their compliance rating, they may not be able to

or choose not to do so. Jensen & Png (2011) found three challenges for developing countries in improving their compliance rating. Firstly, implementing the FATF recommendation is rather complex and developing countries lack the expertise to formulate and implement suitable reforms. Secondly, national policy maker may choose to prioritize other affairs than AML. Thirdly, developing countries have limited capacity. This capacity constraint is detectable on the one hand considering the low level of human resources employed at government bodies, and on the other hand the lack of technical expertise of such human resources (Jensen & Png, 2011).

4.   Theoretical background and hypotheses

As already mentioned in the introduction, this thesis focuses on international AR. As a consequence, there is always a *requesting*- and a *requested country*. The theory will first assess factors which concern both *requesting*- and *requested countries*. Subsequently, the *requesting*- resp. *requested country*-specific characteristics are going to be considered by discussing the governments'- and the institutions' incentives - or lack thereof - to engage in AR cases. In addition, the motivation to file or respond to MLA requests for *requesting*- and *requested countries*, respectively, will be discussed separately since international cooperation has been mentioned as a crucial success factor in AR cases (Stephenson et al., 2011)

4.1 Political economy concerning both coutries

Political will has been mentioned as a crucial factor in AR cases (Pavletic, 2009; Fozzard & Steele, 2010; Stephenson et al., 2011; Smith et al., 2007). Even though *political will* is an expression which is ambiguous and has rarely been specified, it is generally used to describe a government's willingness or engagement in various areas (Odugbemi & Jacobson, 2008). The often-mentioned lack of political will with regards to AR stems from underlying issues, such as *collective action dilemmas* and groups trying to secure *economic rents* (Pavletic, 2009). *Collective action dilemmas* occur when a public good is neither excludable nor rival in consumption. Since everyone will benefit from the good, nobody wants to be the one bearing the costs (Olson, 1965). This is highly relevant in AR cases since the beneficiary of AR and the one bearing the costs are not the same. The people who decide whether AR cases are pursued bear the costs in form of having fewer resources available for other undertakings. However, they are not the ones benefitting from it and therefore lack incentive to engage in AR. Coordination is needed to overcome collective action dilemmas. However, this is especially difficult in AR cases due to their international character which complicates coordination.

Economic rent-seeking entails creating, maintaining or transferring rents (Khan, 2000). Having institutions which mitigate those underlying issues is therefore paramount. It is one of the state's main responsibilities to provide institutions with adequate control and sanction mechanisms (Pavletic, 2009). This can be exemplified by using AR. If a country engages in AR, which would be beneficial for society as a whole, political groups who bear the costs in

terms of reduced power, economic resources or political discretion will not support this process. They may pretend to commit to it but will break their promise in order to maintain their political power (Pavletic, 2009). This is in line with Søreide & Moene (2014), who introduced the concept of good governance façades, which postulates that some governments build up a façade to hide their bad governance (Søreide & Moene, 2014). This concept will be discussed in more detail in the next section below.

Fleming (2008) agrees that the limited efficacy of AR is often caused by failings of the authorities. These include inadequate police training and resources, inadequate coordination and intelligence exchange between relevant parties and a reluctance of the judiciary to employ and enforce AR powers and penalties (Fleming, 2008). An independent third-party enforcement agency is needed which ensures that the government adheres to their commitment (Acemoglu, 2003). In the absence of such an enforcement agency, there will be an enforcement problem (Acemoglu, 2003). Furthermore, Tullock (2005) elaborates on the incentives to cheat in international agreements. Cheating is thereby defined as countries' failure to comply with international agreements (Søreide, 2016). He states that the extent of cheating depends on the opportunity to conceal cheating (Tullock, 2005). Therefore, if governments know that it is rather easy to hide their cheating, they will be more inclined to cheat (Tullock, 2005). Thus, international agreements which are not consistently enforced provide governments with an opportunity to gain politically while not giving up many benefits as they will not have to comply with the agreement (Søreide, 2016). Considering these shortcomings in the enforcement of governments' commitments, Pavletic (2009) emphasizes how crucial it is in both requesting- and requested countries to have individuals and groups in strategic positions which support AR initiatives. Governments respond to pressure from those groups and will therefore adhere to their commitment if it is demanded by them (Pavletic, 2009).

4.2 Requesting countries

4.2.1 Governments

Requesting countries are the ones benefitting the most from AR since they are the ones who receive the assets after a successful recovery. However, even requesting countries may be reluctant to engage in AR. At first, this seems counter-intuitive. However, a *cost-benefit*

analysis from the perspective of politicians and the concept of the *principal-agent problem* can help in shedding light on the reasons behind that.

When doing a *cost-benefits analysis*, the government in a requesting state will not only evaluate the costs and benefits for society as a whole, but also for the government. If the costs exceed the benefits for the government in an AR case, it is rather unlikely that the government will support the AR process (Pavletic, 2009). Therefore, governments do not focus on the beneficial aspects of recovering large amounts of assets, but will rather evaluate how it will affect their political- as well as economic power (Pavletic, 2009). In developing countries for example, the gains from corrupt acts often represents a large part of public officials' income (Pavletic, 2009). These gains are incorporated in the cost-benefit calculation of persons in power since they can be used to maintain and further acquire power (Pavletic, 2009).

Another way to look at the problem is using the *principal-agent theory*. The *principal-agent problem* arises when one party, the *agent*, acts on behalf of another party, the *principal,* whereby the two parties have different objectives and asymmetric information (Ross, 1973; Laffont & Martimort, 2002). An important aspect of the *principal-agent problem* is that the agent has been chosen by the principal due to his specialized knowledge and that the principal cannot completely monitor the agent's performance (Laffont & Martimort, 2002). The problem therefore stems from the fact that the two parties have different objectives and that the principal has imperfect information (Laffont & Martimort, 2002). If the two parties had the same objective or the principal could perfectly observe the agent's behavior, the problem would not arise (Laffont & Martimort, 2002). The application of this theory is manifold and can be applied wherever there is a contractual arrangement (Ross, 1973). The *principal-agent problem* assists in understanding the government's behavior in requesting countries since the government has been chosen by the people to represent society's interests. In this situation, the government represents the agent and society the principal since the government is acting on behalf of society. However, the government and society may have conflicting interests and society may lack control mechanisms to check the government's behavior. This leads to *moral hazard*, whereby the agent takes actions which are unobserved by the principal (Laffont & Martimort, 2002).

This is mainly the case in countries with poor governance in which state institutions lack appropriate control and oversight mechanisms (Pavletic, 2009). There are groups, such as civil society groups, which are in favor of political change. However, those groups often do not

possess the power to change it (Pavletic, 2009). They are often too weak and dispersed in poor governance countries to have a say in the policy-making process (Pavletic, 2009). They further compete with other civil society groups for resources and their incentives only overlap in certain areas and thus only have a temporary incentive to cooperate with each other (Pavletic, 2009). The ones who have the power to bring about institutional change, on the other hand, lack the incentives to do so (Pavletic, 2009).

The unwillingness of people in power to engage in AR cases and the inability of willing groups to change institutions raises the question why some countries still manage to recover assets. The first reason is that in the light of a credible threat following public outrage or international pressure, government officials are forced to announce the fight of corruption (Pavletic, 2009). However, if the threat cannot be sustained, government official will try to conceal their corrupt activities or circumvent their own rules by for example staffing oversight agencies with unqualified personnel (Pavletic, 2009). Another alternative for them is to implement anti-corruption measures which are, however, directed at their political opponents (Pavletic, 2009). This window-dressing enables them to stay in power while not truly fighting corruption (Pavletic, 2009). This is in line with the findings of a study which assessed whether United Nations Convention Against Corruption (UNCAC) provisions were actually implemented. The results were that agencies assigned to AR lacked authority, political backing or capacity to carry out their duties (Hussman, 2007).

Furthermore, Søreide & Moene (2014) introduced the idea of good governance façades, which was already mentioned above and which postulates that some governments build up a façade to hide their bad governance. This is highly relevant for AR for two reasons. Firstly, the government representatives who engage in illegal activities may hide their illicit enrichment behind a façade of good governance. Secondly, political reform is a factor which supports AR in requesting countries with weak institutions and where assets are misappropriated (Pavletic, 2009). However, the government in power who is diverting resources from the general public to their own group may use this reform to cover up their illicit activities (Søreide & Moene, 2014). Thus, international pressure for integrity, as mentioned in the preceding paragraph, may exacerbate the problem since this will only lead to more fake supplies of good governance, (Søreide & Moene, 2014). Therefore, it is important to not evaluate politicians on procedures, but on results (Søreide & Moene, 2014).

4.2.2 Institutions

A very central aspect in explaining why AR is not prioritized by requesting countries which would clearly benefit from it is its costs (Stephenson et al., 2011). AR cases are complex and expensive with uncertain outcome (Stephenson et al., 2011; Smith et al., 2007). Law enforcement agencies have limited funds and have to make decisions which cases to pursue and which not. Given these resource constraints, law enforcement will allocate their resources to cases which yield the greatest benefit (Sproat, 2007). Fleming (2008) agrees by stating that opportunity costs of AR may arise in the form of funds which could be used elsewhere in the criminal justice system, perhaps with a greater effect. For requesting countries which are developing countries, AR is only one of many pressing matters which requires funding (Pavletic, 2009). Thus, they may decide to allocate funds elsewhere.

However, limited resources represent one of the barriers of AR (Fleming, 2008; Stephenson et al., 2011). AR authorities are insufficiently staffed, they lack training with regards to the complexity of AR cases and lack experience in dealing with MLA requests, which will be discussed in more detail below (Stephenson et al., 2011). Stephenson et al. (2011) mention a study which found that one of the main obstacles of cooperation between different agencies was the lack of qualified personnel. This stems from a lack of financial resources dedicated to AR, the low prioritization of financial investigation by law enforcement and general hindrances, such as recruiting qualified and experienced investigators (Stephenson et al., 2011). Stephenson et al., (2011) argue that jurisdictions could avoid these problems by allocating sufficient resources to train and staff the various actors involved in AR cases. Thus, there seems to be a vicious circle since on the one hand, AR authorities require more resources to work effectively but on the other hand, not more resources are allocated to them since AR is not profitable enough which is partly due to the lack of resources.

4.2.3 Mutual Legal Assistance

As already mentioned in chapter three, international cooperation is a crucial success factor in AR cases (Pinto, 2007; Stephenson et al., 2011; Schott, 2006; Brun et al, 2011; Nainappan, 2019). An important part of international cooperation is mutual legal assistance. The United Nations Office on Drugs and Crime (UNODC) explains MLA as follows: *"Mutual legal assistance (MLA) in criminal matters is a process by which States seek for and provide assistance to other States in servicing of judicial document and gathering evidence for use in*

criminal cases. " (UNODC, n.d.b) The motivation of requesting countries to file MLA requests with regards to AR is clear: To receive help in recovering stolen funds. However, MLA requests from requesting countries are often not prioritized by requested countries, which will be discussed in more detail below (Stephenson et al., 2011, Nainappan, 2019). Furthermore, MLA is very cumbersome. Legal system differences, language problems and a basic lack of understanding of how to draft requests are further obstacles with regards to MLA (Bacarese, 2009). That is why many countries resort to so-called *informal assistance* or *Mutual Administrative Assistance (MAA)*, which is less cumbersome than engaging in MLA (Brun et al, 2011; Nainappan, 2019). Any official assistance outside of the context of MLA can be considered as informal assistance. Even though informal assistance can be more quickly obtained, the main drawback of informal assistance is that information gathered through informal assistance is, in comparison to MLA, not admissible in court (Brun et al, 2011). However, practitioners often use informal assistance to build up relationships to foreign jurisdictions, which provides a good foundation for sending MLA requests at a later stage (Brun et al, 2011).

4.3 Requested countries

Requested countries are typically characterized by having low tax levels, bank-client-confidentiality, lacking excessive regulations and being politically stable (Pavletic, 2009). These characteristics make them attractive for capital inflows and subsequently those countries are often used to hide stolen proceeds (Pavletic, 2009). However, to state that only those countries are requested countries in AR cases would be wrong as countries with other characteristics can be requested to assist in AR cases as well. Nevertheless, since those countries are more often the requested countries in AR cases, much of the following theory is directed towards those countries.

4.3.1 Governments

The governments and banks in countries with high capital inflow have often been accused of contributing intentionally or unintentionally to ML (Pavletic, 2009). There has been the demand for more transparency and the abolishment of bank secrecy (Pavletic, 2009). Those countries, however, are reluctant to change since bank secrecy allows for privacy and is highly valued (Pavletic, 2009). Abolishing it would hurt the attractiveness of their country and since

the financial sector is often a crucial sector in those jurisdictions and the worldwide competition is becoming fiercer, those countries are opposing stricter regulations (Pavletic, 2009).

However, concerns about ML and the opportunity of criminals to hide illicitly obtained assets in those countries have exerted pressure on them to become more transparent (Pavletic, 2009). As a result, they face a trade-off. On the one hand, they can relent to the international pressure to become more transparent and potentially lose clients who enjoy privacy. On the other hand, they can continue doing business as usual but may face consequences in the form of severe reputational damages, which may deter investors with legitimate capital to deposit their money there and simply choose another, more transparent country (Pavletic, 2009). The reputational costs which would lead to economical costs have been taken very seriously, which led to many countries adopting stricter regulations (Pavletic, 2009).

Even though there has been a shift to more transparency, there still remain many obstacles to effective AR. First of all, as it was the case for requesting countries, there is still a large discrepancy between the regulatory framework and its implementation (Pavletic, 2009). Furthermore, as already mentioned above, international collaboration is crucial in AR cases. However, many requested countries are reluctant to provide information and legal assistance, especially towards requesting states with which they usually do not collaborate, which will be discussed in more detail below (Pavletic, 2009). As already discussed above, multilateral agreements lack sufficient enforcement mechanisms, which results in countries not complying with them (Søreide, 2016). Considering the insufficient enforcement mechanisms, government officials will first serve the needs of individuals and groups in strategic positions to secure their political power (Pavletic, 2009). They will be lenient towards foreign criminals if they help them securing business contracts which subsequently increases employment and satisfies the voters (Pavletic, 2009). The country will hesitate to prosecute large and influential companies since they receive economic benefits from the company being in their jurisdictions (Stephenson et al., 2011). This is in line with Søreide (2016), who claims that large corporations can have substantial political influence on countries which they are operating in. Even though she elaborates on companies' role in countries with an exploitative regime, the concept can be applied in AR as well since the government's decision to engage in certain AR cases may be influenced by companies from who the requested country benefits in the form of employment, even though the country itself may not have an exploitative regime.

4.3.2 Institutions

AR efforts are expensive and responding to MLA requests means that some of the administrative resources are used for the benefit of another country, which will be discussed in more detail in the next section (Pavletic, 2009). Harvey (2014) concurs and adds that the Asset Recovery Agency (ARA) in the UK seized assets worth £23 million over a four-year period but ARA's costs added up to £65 million. Sproat (2009) raises concerns about the efficacy of AR efforts as well by comparing the amount of assets actually recovered to the amount of assets which was announced to be available for recovery. Statistics like these disincentivizes law enforcement agencies to allocate funds there and to make AR a priority (Fozzard & Steele, 2010). High costs in AR cases lead to investigators and prosecutors having less resources for domestic cases (Pavletic, 2009). However, prosecutors are evaluated on certain proxies, such as conviction rate (Rasmusen et al., 2009). The conviction rate is the ratio of convictions to cases prosecuted (Rasmusen et al. 2009). Thus, prosecutors favor cases which they are likely to win (Rasmusen et al., 2009). This can be exemplified as a *principal-agent problem*, whereby the voters are the principal and the prosecutors the agent (Rasmusen et al., 2009). The voters instruct the prosecutors to prosecute criminals. The objective of the voters is therefore to convict criminals. The prosecutors' objectives, however, differs from the one of the principals. The prosecutors' objectives are to use their resources for their own benefits or for their post-prosecutorial career in the private sector (Rasmusen et al., 2009). The voters may not understand the prosecutors' job and since prosecutors are therefore evaluated on proxies, they will simply focus on the variables which are measurable by the principal (Rasmusen et al., 2009). If, for example, conviction rates are high, this will give the principal the impression that the agent is doing a good job, even though they do not act in the interests of the principal since they may simply only pursue easy cases (Rasmusen et al., 2009). This is highly relevant for AR cases since they are complex and require a great deal of resources. Prosecutors will therefore avoid those complicated and expensive AR cases and turn to easier ones (Rasmusen et al., 2009). This is in line with Stephenson et al. (2011) who claim that it may be preferred to prosecute a petty drug dealer domestically for money laundering than to assist another jurisdiction in a large-scale corruption case.

Simser (2010) concurs that prosecutors prefer domestic cases due to their lower costs and adds that it may be unclear in AR cases whether the money is going back to the victims or to the criminal itself. If a requesting country is characterized by having poor governance structures,

the requested countries may be disincentivized to repatriate assets to that country since they are uncertain whether those funds will be misused again (Pavletic, 2009). Successful AR cases have included jurisdictions which are characterized by having prosecutors which are dedicated to AR and have developed proactive ways of dealing with MLA requests. This raises the question why there are some individuals which have a higher willingness to dedicate themselves to AR and others who try to avoid it. There are two main reasons for that. First, there may be material motivations, such as career-related considerations and second, some individuals may have ideal motivations, such as having a strong sense of what is just (Pavletic, 2009). Furthermore, they may be aware that some short-term benefits may entail reputational costs which can hurt them in the long run (Pavletic, 2009).

4.3.3 Mutual Legal Assistance

MLA requests from requesting countries are often not prioritized by requested countries (Stephenson et al., 2011, Nainappan, 2019). The reason behind this is that MLA requests imply that some of the administrative resources of the requested country will be used for the benefit of another country (Pavletic, 2009). Since requested countries bear the costs but the requesting country obtains the benefits, requested countries prefer to use their resources for domestic cases (Pavletic, 2009). This raises the question why countries answer MLA requests at all. The first reason is that multilateral conventions, treaties or agreements contain binding provisions which oblige signatories to provide MLA (Brun et al, 2011, Nainappan, 2019). However, as already mentioned above, multilateral agreements lack adequate enforcement mechanisms which ensure that countries comply with their commitments (Søreide, 2016). Therefore, deviating from their commitment does not result in negative consequences for the counties. Thus, countries will do a basic cost-benefit analysis. If the expected benefits of non-compliance exceed the expected costs of non-compliance – which are rather low due to the lack of enforcement mechanisms – countries will decide that it is more beneficial for them to simply not comply (Pavletic, 2009).

Another reason why countries engage in MLA is reciprocity (Brun et al, 2011). Requested countries often demand reciprocity from the requesting country in exchange for their assistance. This entails that the requesting country is going to assist the requested country in a similar matter in the future (Brun et al, 2011). However, it is questionable whether reciprocity really encourages requested countries to respond to MLA requests and to collaborate with requesting countries since they bear high costs when responding to those MLA requests and

those costs most likely outweigh the benefit that the requesting country would assist the requested country in a similar case. This makes sense for two reasons. Firstly, the requested country must first find itself in the position of being a requesting country and secondly, it would need to be with the same country which MLA was given to.

4.4 Hypotheses

Based on the theoretical background of AR above, the following hypotheses will be tested in the empirical part:

1. *Countries which perform well in AML recover more assets.* This thesis established that there is a clear relationship between AR and AML. Thus, the null hypothesis that countries which comply with AML regulations recover more assets will be empirically analyzed in this thesis

2. *Countries which facilitate international cooperation recover more assets.* It has been emphasized that international cooperation is one of the crucial components in AR cases. This thesis is going to assess whether this relationship is empirically observable as well by using appropriate proxies.

3. *Countries with political will to engage in AR recover more assets.* As already mentioned above, *political will* is a very central, yet also ambiguous term in AR. On the one hand, the importance of political will in AR cases has been emphasized, but on the other hand, doubts on whether to believe statements by politicians have been raised as well. This thesis is going to contribute to this discussion by assessing the null hypothesis that countries with political will to engage in AR recover more assets.

4. *Countries which offer a wide variety of legal instruments for AR recover more assets.* The literature has emphasized that legal instruments, such as NCB proceedings, are of great value in AR cases due to the reduced burden of proof. Thus, this thesis empirically analyzes the null hypothesis that countries which offer a wide variety of legal instruments in AR cases recover more assets.

5. Data and empirical method

The empirical part will first describe the main sample, the sources of data as well as the methodology used to construct the Asset Recovery Index. Subsequently, the econometric methods which were used are presented. Afterwards, the results of the descriptive statistics as well as the four hypotheses are depicted and limitations are highlighted. Finally, the results are being discussed within the limitations of the econometric methods used.

5.1 Main sample

The sample consists of 14 G20 states as well as two invited nonmembers which endorsed the G20 Cannes declaration. These are the following 16 countries: Argentina, Australia, Brazil, Canada, France, Germany, Italy, Japan, Mexico, South Africa, South Korea (Republic of Korea), Spain, Switzerland, Turkey, United Kingdom and United States of America. These countries have been assessed on the same basis on their performance with regards to the nine AR principles. Thus, their AR efforts can be compared. Furthermore, those countries being G20 members - with the exception of Spain and Switzerland - provides the opportunity to compare AR efforts within the G20 states and to discern differences between them. Given the G20's crucial role in international affairs and international economic collaboration as well as their commitment to anti-corruption measures, they play a vital part in AR efforts and it is therefore important that they lead by example (StAR, 2017).

5.2 Data

As already mentioned above, data on AR is scarce (Gray et al., 2014). The limited access to reliable data lies in the nature of AR. AR is strongly linked to ML. Criminals try to hide the proceeds of crimes in financial havens and offshore centers, which makes it difficult to estimate the amount of assets which have originated in criminal activities since secrecy is one of the major advantages of offshore centers (Blum et al., 1998). Therefore, getting a reliable estimate of assets available for recovery is a nearly impossible undertaking (Blum et al., 1998). Obtaining a reliable estimation of assets actually recovered by countries is a difficult endeavor as well. International organizations, such as the UNODC, are familiar with the problem and have emphasized the necessity of data collection as well as the necessity to share information about AR cases in their jurisdiction (Fozzard & Steele, 2010). Thus, the availability of AR

data is dependent on countries' willingness to share their AR efforts. However, not all countries prioritize AR and therefore do not allocate sufficient resources to it. The consequence of this is that although some countries engage in AR, they allocate the resources to the return of assets and neglect the sharing of information about it since this requires resources as well.

5.2.1 StAR Asset Recovery Watch database

The StAR Asset Recovery Watch database used in this thesis is a collection of AR cases worldwide (StAR, 2012). The StAR Asset Recovery Watch database is the product of a collaboration between the World Bank Group and the UNODC. The objective is to gather and systemize information about completed and ongoing AR cases (StAR, 2012). However, the database relies on receiving updated information on cases and thus is not always current and accurate. There are some cases with lacking or ambiguous information about the amounts recovered. Furthermore, due to the fact that it relies on receiving information, it only includes the cases reported to them. There may be further cases which have not been published. This depends again on the countries' willingness to share information. Therefore, if there are only a few AR cases for a country, the reason for this may either be the lack of AR efforts or the lack of reporting.

The StAR AR Watch database indicates many different aspects. The variables which are relevant for this thesis will briefly be explained. The database distinguished between *requesting jurisdictions* and *requested jurisdiction*. *Requesting jurisdiction* are thereby defined as "Jurisdiction of Origin of Public Official/Entity" and *requested jurisdictions* as "Jurisdiction of Asset Recovery/Settlement" (StAR, 2012). Furthermore, the database documents whether assets have been *frozen*, *adjudicated* or *returned* (StAR, 2012). *Frozen* thereby includes all assets that are *currently* frozen, *adjudicated* represents the assets where judgments have been rendered but the assets not yet returned, and *returned* accounts for the assets that have actually been returned (StAR, 2012).

5.2.2 FATF

The FATF put forward forty recommendations which have been recognized as the global AML- and counter-terrorist financing (CTF) standards (FATF, 2012-2019). The original forty FATF recommendations were established in 1990. In the meantime, they have been revised and updated three times, in 1996, 2003 and 2019. The FATF rates countries with *non-*

compliant, partially compliant, largely compliant and *compliant*. Countries are rated with *non-compliant* if there are major shortcomings, *partially compliant* if there are moderate shortcomings, *largely compliant* if there are only minor shortcomings, and *compliant* if the countries are compliant with the recommendation. This was computed as follows in the AR Index constructed in this thesis and which will be described in more detail below: 1 corresponds to *non-compliant*, 2 corresponds to *partially compliant*, 3 corresponds to *largely compliant*, and 4 corresponds to *compliant*. *Not applicable* (N/A) is used when a requirement does not apply, due to structural, legal or institutional features of the country. The G20 Anti-Corruption Working Group (2013) has used the 3rd FATF evaluation round for principles 2 and 5. However, ten out of the sixteen countries assessed in this thesis have already been evaluated in the 4th round. Hence, the compliance rating from the 4th round – where it was available – was used in this thesis to have a as current picture as possible. As far as the FATF recommendations which are relevant for *Principle 2* are concerned, only the numbers of the recommendations have changed and thus the criteria have not been changed (FATF, 2012-2019). The same is true for the FATF recommendations which are relevant for *Principle 5* with the exception of recommendation number 37 in the 3rd round evaluation (FATF, 2012-2019). This recommendation concerns *dual criminality* and there is no recommendation in the 4th round evaluation which exclusively concerns dual criminality. However, *dual criminality* was included in Recommendation 37 in the 4th round evaluation, which addresses the topic of MLA (FATF, 2012-2019). Therefore, it can be expected that using the latest available FATF ratings for the different recommendations should not limit the comparability between the ten countries which have been assessed using the 4th round evaluation and the six countries which have been assessed using the 3rd round evaluation. Since the evaluation rounds extend over several years, having a time difference between the points in time when countries have been assessed is inevitable. Thus, it is reasonable to use the latest rating even though the numbers of the recommendations and one recommendation itself have slightly changed.

5.2.3 Basel AML Index 2020

The Basel AML Index was developed by the International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance and was used as a proxy for countries' AML performances. However, it has to be noted that the Basel AML Index does not only assess countries ML risk, but also countries' TR risk (Basel AML Index 2020). Risk is thereby defined as country's vulnerability to ML/TR and country's capabilities to counter them (Basel

Institute on Governance, 2020). The Basel AML Index 2020 ranks countries on a scale from 0 to 10, where 10 indicates the highest risk. The Basel AML Index is based on various sources, including the following:

- Financial Action Task Force (FATF)
- Transparency International
- The World Bank
- The World Economic Forum

As it can be observed above, the Basel AML Index 2020 is based on FATF data as well. It consists to 35% of FATF mutual evaluation reports. Therefore, two points have to be mentioned. First, since both the AR Index constructed in this thesis and the Basel AML Index 2020 are partially based on FATF evaluation reports, there will naturally be a correlation. This will be discussed in more detail in the results part of this thesis. Second, as it was the case for the AR Index, some countries have already been assessed during the 4th round evaluation while for others only the compliance rating from the 3rd round is available. The Basel AML Index 2020 always uses the latest available rating, as does the AR Index.

The Basel AML Index 2020 consists of the following domains with their corresponding weights in the Index:

- Quality of AML / CTF Framework (65%, of which 35% are based on MERs)
- Corruption Risk (10%)
- Financial Transparency and Standards (10%)
- Public Transparency and Accountability (5%)
- Legal and Political Risk (10%)

Experts have thereby decided on the weight allocation. (Basel Institute on Governance, 2020).

5.3 Asset Recovery Index

5.3.1 Variables in the Asset Recovery Index

The G20 Anti-Corruption Working Group "Nine Key Principles of Asset Recovery Benchmarking Survey" (2013) was used as the base of the AR Index. The G20 has played a vital role in AR efforts (StAR, 2017). Subsequently, the G20 states and invited non-member

states have agreed on nine key principles of an effective AR framework. Those countries have been assessed on their efforts in fulfilling those nine principles. Table 2 below depicts the different principles, their type, their description as well as the sources they are based on.

Table 2: Variables in the Asset Recovery Index

Principle (Type)	Principle (#)	Principle	Description	G20 Source
Policy Development	1	Make Asset Recovery a Policy Priority; Align Resources to Support Policy	Assesses whether a country has specific AR policies or policy statements, the public availability if such a statement exists and the allocation of resources to support the policy	- Speeches or statements by national political leaders - Official government press releases or - Official notices publicly posted on governmental websites
Legislative Framework	2	Strengthen Preventive Measures against the Proceeds of Corruption	Assesses countries' preventive measures against the proceeds of the crime on the basis of their compliance with 5 specific FATF recommendation[1]	- FATF Mutual Evaluation Reports (MERs) and Follow-Up Reports (FURs)
	3	Set Up Tools for Rapid Locating and Freezing of Assets	Assesses countries' ability to locate assets on a timely basis and whether they allow the freezing of assets	- Former study by the G20 Anti-Corruption Working Group (2012)
	4	Establish a Wide Range of Asset Recovery Mechanisms Including Recognition of Non-Conviction Based Proceedings and Private Law Actions	assesses whether countries have a wide range of AR mechanisms, including the following: - Domestic non-conviction based confiscation/forfeiture or equivalent mechanisms - Recognition/enforceability of foreign non-conviction based confiscation/forfeiture orders - Existence of unexplained wealth/illicit enrichment as a criminal offense - Private law actions (civil remedies)	- G20 paper: "Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries: A Step-by-Step Guide" (2012) - Official government statements - Published laws - FATF assessments - FATF publications - StAR publications - World Bank publications - UNODC publication - Country feedback
	5	Adopt Laws that Encourage and Facilitate International Cooperation	Assesses countries' ability to undertake direct enforcement of foreign recovery orders, recognition of UNCAC as a sufficient basis for mutual legal assistance (MLA), and allow for ex parte freezing orders pursuant to MLA[2]	- FATF Mutual Evaluation Reports (MERs) and Follow-Up Reports (FURs)

[1] See Table 1 for the specific FATF recommendations considered

[2] See Table 1 for the specific FATF recommendations considered

Institutional Framework	6	Create Specialized Asset Recovery Team/ Kleptocracy Unit	Assesses whether a specialized AT Team or Kleptocracy Unit exists	- G20 Anti-Corruption Working Group Data- gathering questionnaire (2012) - Country feedback to the initial drafts of the benchmarking survey - Country Asset Recovery Guide for G8 countries
	7	Participate Actively in International Cooperation Networks	Consists of the following elements: - Establishing focal points of contact, for corruption and asset recovery cases - Working with existing networks (policy or operational) - Encouraging upstream contacts with foreign counterparts - Making information publicly available - Encouraging spontaneous disclosures by domestic authorities - Improving capacity to respond to MLA requests in corruption and asset recovery cases. - Countries' membership in international organizations and networks - Countries' resources assigned to dealing with MLA requests related to AR	- Official country websites - G20 publication, "Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries: A Step-by-Step Guide" (2012) - Research by StAR
	8	Provide Technical Assistance to Developing Countries	Assesses whether countries have offered technical assistance (in the case of developed countries) or have received technical assistance (in the case of developing countries) specifically pertaining to AR	- Country responses to the G20 Anti-Corruption Working Group Data-gathering questionnaire (2012) - Country feedback to initial draft of the benchmarking survey
	9	Collect Data on Cases; Share Information on Impact and Outcomes	Assesses whether countries 1. collect AR data and 2. share information about the outcome of AR cases	- Websites of government agencies - Regional and multilateral organizations concerned with asset recovery - Publications on asset recovery - StAR Asset Recovery cases database

5.3.2 Methodology of constructing the Asset Recovery Index

The construction of the AR Index followed the methodology proposed by Mazziotta & Pareto (2013). This approach is divided into four steps:

1. Defining the phenomenon to be measured
2. Selecting a group of individual indicators
3. Normalizing the individual indicators
4. Aggregating the normalized indicators.

1. Defining the phenomenon to be measured:

The phenomenon to be measured is countries' overall AR effort.

2. Selecting a group of individual indicators:

The nine AR principles were chosen as individual indicators. The G20 have at Cannes agreed that those nine principles are key elements of an effective AR framework. They are therefore highly relevant for countries' AR efforts. Possible redundancies caused by overlapping information as proposed by Salzman (2003) as a possible risk can be disregarded due to the fact that the G20 decided that all of the nine principles are crucial for an effective AR framework.

3. Normalizing the individual indicators:

Since the assignment of the scores for the countries in the different principles was carried out based on the narrative text in the G20's report for each country and is not based on data which could have different measurement units, no normalization had to be done which would make the indicators comparable. The scale for the various principles is going to be the same for all the principles. The scale is going to consist of natural numbers from 1 to 4 with the exception of Principle 2 and Principle 5 which allow for decimal numbers as well due to the fact that they have been constructed by using an arithmetic mean. Hence, rounding the scores in Principle 2 and Principle 5 would result in less adequate scores.

4. Aggregating the normalized indicators:

The aggregation of the normalized indicators involves combining the different indicators to one composite index. It has to be noted that different methods to aggregate the indicators to a composite index exist. The choice of method depends on the particular application (Mazziotta & Pareto, 2013). The determinants are the following: *Type of indicators*, *type of aggregation, type of comparisons* and *type of weights*. Since the indicators of the AR Index are substitutable – a deficit in one indicator may be compensated by a surplus in another one – the aggregation approach is *compensatory*. The type of aggregation is *simple* which means that an easily understandable mathematical function – such as the arithmetic mean – is being used. As far as the type of comparison is concerned, the comparison will be *absolute*. However, due to the fact that the index is based on narrative text instead of quantitative data, no normalization was done. The weights will be set equally since I would not be able to justify why and by how much one principle would weigh more than another one. An example of a country-specific assessment with random scores can be found in Table 3 below.

Table 3: Example country-specific assessment of AR efforts

Principle (#)	Score (1-4)
1	4
2	2
3	4
4	4
5	2
6	1
7	3
8	4
9	3
Overall score	**27**
Arithmetic average	**3**

The different countries have been assessed on a scale from 1 to 4 in the different principles. This scale was chosen in accordance with the FATF's assessment of its forty recommendations. Even though only two of the nine principles - Principle 2 & Principle 5 - are based on FATF data, the rating has been extended to the other principles as well. This was done for two reasons: Simplicity and adequacy. It may be obvious that it will be simpler since the arithmetic average of the different FATF recommendations which those two principles consist of can simply be calculated. But it also seems adequate to extend this ranking to the

other seven principles as countries will be either *non-compliant*, *partially compliant*, *largely compliant* or *compliant* in the other principles, too. Table 4 below gives a short summary.

Table 4: Compliance rating in AR Index

FATF compliance rating	Corresponding score in AR Index
Non-compliant	1
Partially compliant	2
Largely compliant	3
compliant	4
Not applicable	N/A

5.3.3 Quality of the Index

The benchmarking survey of the G20 Anti-Corruption Working Group (2013) includes a large variety of sources and thus provides a versatile picture by taking different aspects into account. However, there are some qualities with regards to constructing a quantitative index based on a narrative text which are important to point out. Firstly, some of the sources used by the G20 Anti-Corruption Working Group (2013) are based on countries' feedback and responses to questionnaires. Countries have an incentive to present themselves as good as possible and are therefore less objective. Secondly, the G20 Anti-Corruption Working Group paper was published in 2013 which results in a time difference of seven years between the publication of the G20 Anti-Corruption Working Group paper and the composition of this thesis. This entails the possibility that countries have improved their performance in the different AR principles in the meantime. Furthermore, Principle 2 and Principle 5 in the G20 Anti-Corruption Working Group paper (2013) are based on FATF recommendations. The G20 Anti-Corruption Working Group paper (2013) used the 3th round of Mutual Evaluation Reports (MERs) as base for Principle 2 and Principle 5 in 2013. However, in 2019, the 4th round of mutual evaluation has begun and some countries assessed in this thesis have already been subject to new evaluation. In addition, the evaluation rounds stretch over several years which results in countries being evaluated in different years. Thus, even if two countries have been assessed in the same evaluation round, there may still be a time difference of several years. The quality of the FATF data has already been described in more detail above. Thirdly, translating a narrative text to quantitative data always entails some degree of subjectivity by the author since it is inevitable to use one's own judgement in some circumstances.

5.3.4 Scores and ranking

The following table depicts the AR Index.

Table 5: AR Index

Rank	Country	Arithmetic average
1	Switzerland	3.69
2	United Kingdom	3.56
3	South Africa	3.52
4	United States of America	3.33
5	Argentina	3.26
6	Canada	3.22
7	Australia	3.2
8	France	2.97
9	Italy	2.73
10	Germany	2.69
11	South Korea	2.62
11	Turkey	2.62
13	Spain	2.6
14	Brazil	2.33
15	Mexico	2.09
16	Japan	1.7

Note: The detailed country-specific rating can be found in the appendix

5.4 Econometric method

The lack of data limits the available econometric methods a great deal. Since the sample consists of sixteen observations, it is very small and thus no causal effects can be concluded from performing a regression. A fundamental assumption in order to have a good estimator is normality. This assumption is met when the errors are independently and identically distributed, which is the case for large samples (Wooldridge, 2012). However, in the sample discussed in this thesis, this assumption is unlikely to hold due to the small size of the dataset. Another assumption for ordinary least square is variation in the explanatory variables (Wooldridge, 2012). Even though this assumption is a weak assumption since the independent variables usually vary, the assumption will not hold if there is no variation in the explanatory variables or the sample size is small, which is the case for the sample used in this thesis. Furthermore, the assumption of having a *random sample* was violated as the countries were selected due to a specific characteristic which may lead to a biased estimation (Wooldridge,

2012). Nevertheless, a regression using the countries' score in the nine AR principles (*Pr1, Pr2, Pr3, Pr4, Pr5, Pr6, Pr7, Pr8, Pr9*) as independent variables and countries' amounts actually recovered/being recovered (*AR Total*) as dependent variable was performed in order to estimate the explanatory variables' impact on AR performance. Thus, performance is defined as the amount of assets actually recovered/being recovered, which is the sum of assets actually recovered and assets frozen/seized/adjudicated. The regression was decided to have the form of an OLS log-level regression since the log-level form allows to infer the effect of unit changes in the independent variables as percentage changes in the dependent variable (Wooldridge, 2012). This seems reasonable since a unit change in one of the nine principles (the independent variable) would be, for example, from *partially compliant* to *compliant*. Thus, the percentage change in assets recovered/being recovered that is associated with a one-unit change in compliance level could be inferred. The model is specified as follows:

$$ln(ARTotal_i) = \beta_0 + \beta_1 X_i + u_i \tag{1}$$

Where X_i is a vector of *Pr1* to *Pr9*. However, as will be elaborated in more detail in the results part of this thesis, almost all of the coefficients were insignificant and therefore, this master thesis focuses on testing for correlations between the variables of interest. The general equation for calculating the correlation coefficient between two variables is given as follows:

$$r_{xy} = \frac{\sum_{i=1}^{n}(x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_{i=1}^{n}(x_i - \bar{x})^2 \sum_{i=1}^{n}(y_i - \bar{y})^2}} \tag{2}$$

Where r_{xy} represents the correlation coefficient between the two variables x and y. The correlation coefficient between two variables is by definition always between -1 and 1. If the correlation coefficient assumes a value of -1 or 1, it means that there is a perfect negative or a perfect positive correlation, respectively. A positive correlation between two variables indicates that if there is an increase (or decrease) in one variable, the other variable will tend to increase (or decrease) as well. In case of a negative relationship, the exact opposite is the case. If one variable increases (or decreases), the other variable will tend to move in the opposite direction and thus decrease (or increase). If there is neither a positive nor a negative

relationship between two variables, the correlation will have a value of 0 (Stock & Watson, 2012).

The first hypothesis suggests that countries which perform well in AML recover more assets. It will be assessed whether the correlations between the relevant variables support this hypothesis. This will be done in three steps. In a first step, countries' AR efforts will be compared with countries' AML performance, using the AR Index and the Basel AML Index 2020, respectively, as proxies. In a second step, countries actual AR performance, using the assets actually recovered/being recovered as proxy, will be compared with countries' AML performance, using again the Basel AML Index 2020 as proxy. In a third step, the correlation between countries' actual AR performance, using again the assets actually recovered/being recovered as proxy, and Principle 2 as well as Principle 5 will be assessed. These principles entail the FATF recommendations which have been deemed relevant for AR by the G20. The third step was conducted due to the unavailability of performing a proper regression.

The second hypothesis implies that countries which facilitate international cooperation perform better in AR. This hypothesis will be assessed by finding the correlation coefficients between the variables *ARTotal* and *Pr5* as well as *Pr7*, since Principle 5 and Principle 7 account for the international component in the AR Index.

The third hypothesis focuses on the political will of countries. As already mentioned above, even though the term political will is ubiquitous in AR cases, it is quite ambiguous. However, it generally refers to the government's willingness to engage in AR cases. Therefore, the variables *Pr1*, which assesses whether AR has been expressed as a policy priority, and *Pr6*, which examines the existence of an AR team or kleptocracy unit, have been chosen to represent political will since both signal that AR is a policy priority. Thus, the correlation coefficient between each of the two variables with the variable *ARTotal* has been calculated.

Since the availability of various legal instruments plays a crucial role in AR cases, hypothesis four suggests a positive correlation between countries which offer a wide variety of legal instruments and assets recovered/being recovered. Thus, hypothesis four will be assessed by calculating the correlation between *Pr4* and *ARTotal*.

6. Results

6.1 Descriptive statistic of countries' actual asset recovery performance

First results can already be depicted by simply looking at the amounts recovered/being recovered by the sixteen countries assessed in this thesis. As can be observed in Table 6 as well as in Figures 1, 2, 3 and 4, there are substantial differences between countries' actual AR performances. A total of four charts have been created to visualize these differences. As already mentioned above, there is always a *requesting-* as well as a *requested country* in international AR cases. Figures 1 and 2 depict how much of the assets a country recovered/is recovering by being the requested or the requesting country. The height of the bar thereby represents the total amounts recovered/being recovered and is thus the sum of the amounts where the country was the requesting- and the amounts where the country was the requested jurisdiction. Figure 1 depicts all countries whereas Figure 2 only depicts countries whose accumulated AR amounts are below USD 1 billion. The latter was constructed to see the AR performance of countries under USD 1 billion in more detail since the four countries with over USD 1 billion – France, Switzerland, United Kingdom and United States of America - and among those especially the United Kingdom, raise the scale as much as it becomes difficult to observe the remaining twelve countries' AR performances. Furthermore, Table 6 as well as Figure 1 and 2 clearly depict that some countries mainly act as requested countries and some countries mainly as requesting countries. Even though many countries have been requested as well as requesting legal assistance in AR cases, it is rather apparent whether a country is usually a requesting or a requested state. Moreover, it can be observed that the requested amounts are by far larger than the requesting amounts in the sample. The total amount which was requested of the countries in this sample adds up to USD 32'524'699'916, whereas the total amount which countries in the sample were requesting is USD 2'124'089'606 and therefore over 15 times smaller.

Figure 1: Total amounts requesting and requested: all countries
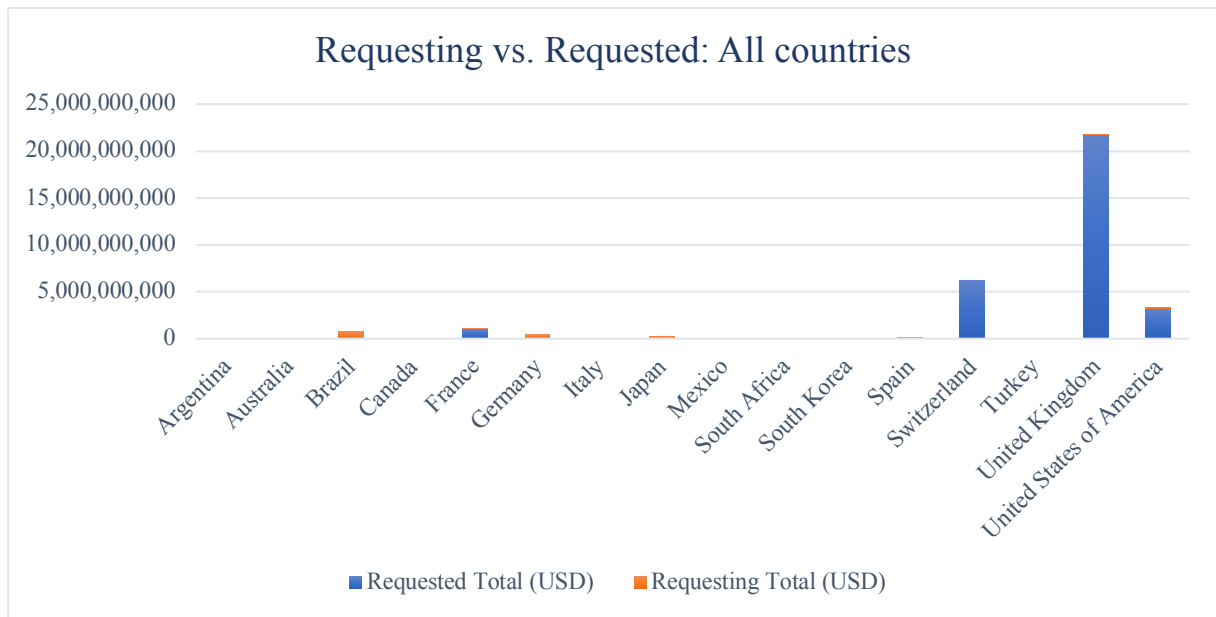
Figure 2: Total amounts requesting and requested: Countries below USD 1 billion
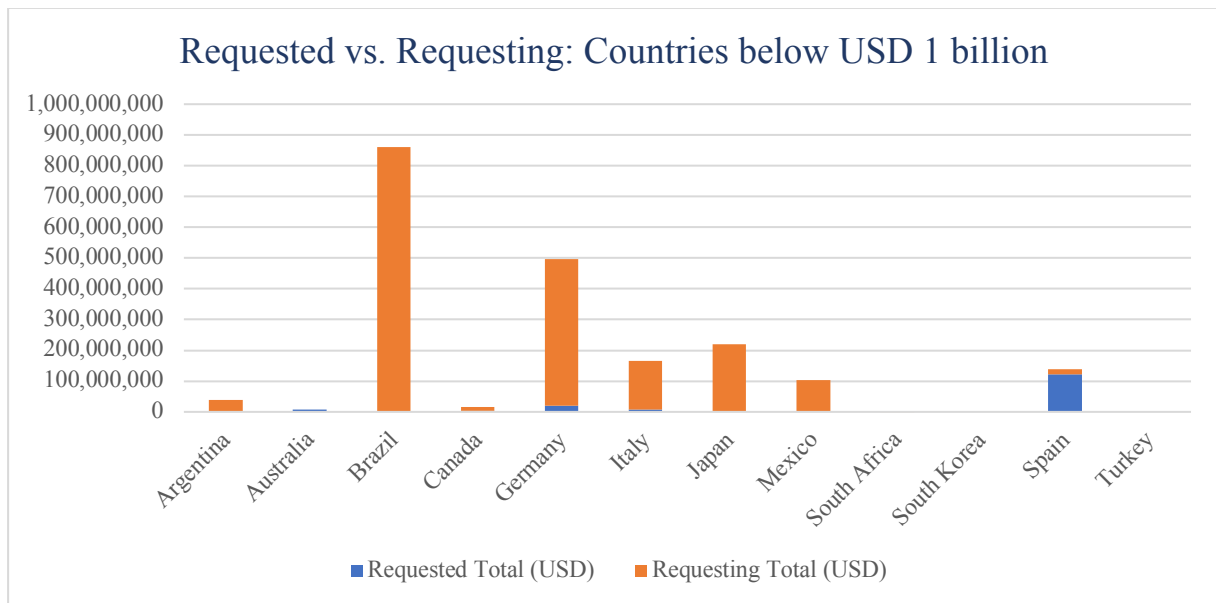
In addition, there are also large variations as far as the assets frozen/seized/adjudicated and the assets actually returned are concerned. To illustrate this fact, Figure 3 and 4 have been created. Figure 4 was constructed because of the same reason as Figure 2 was created, to see the performance of countries with under USD 1 billion in more detail. As can be seen in Table 6 as well as in Figures 3 and 4, there is a substantial difference between the amounts

frozen/seized/adjudicated and the amounts actually returned. A total of USD 27'994'572'332 has been frozen/seized/adjudicated whereas a total of USD 6'654'217'190 has been returned in the sample.

Figure 3: Total amounts frozen/seized/adjudicated and returned: All countries
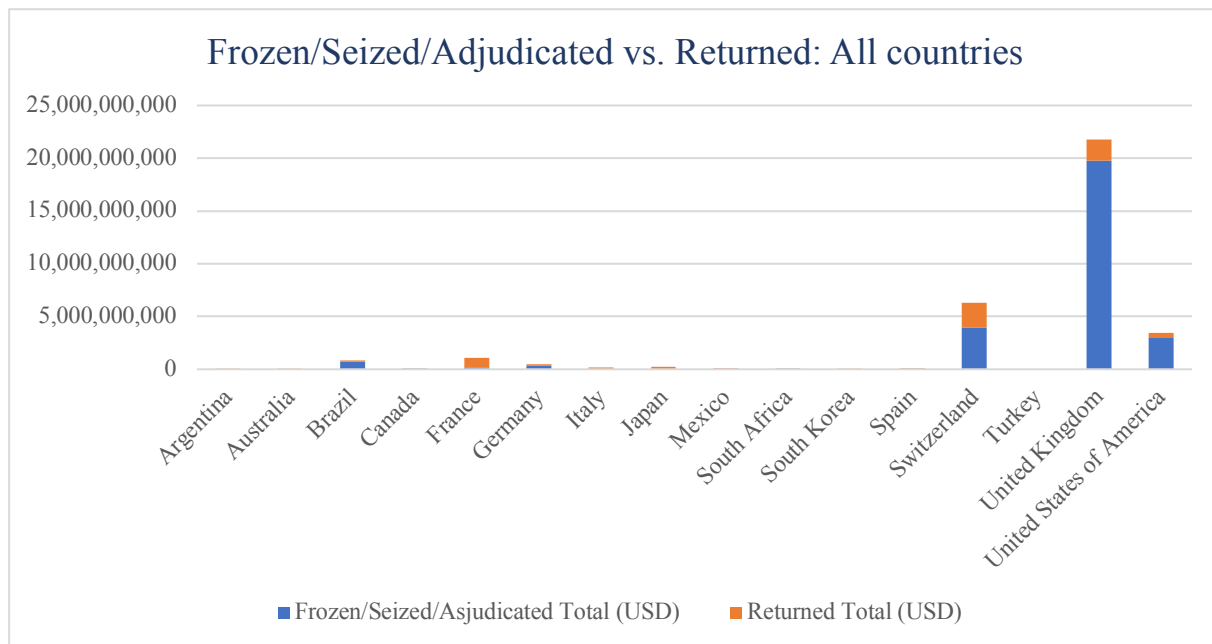
Figure 4: Total amounts frozen/seized/adjudicated and returned: Countries below USD 1 billion
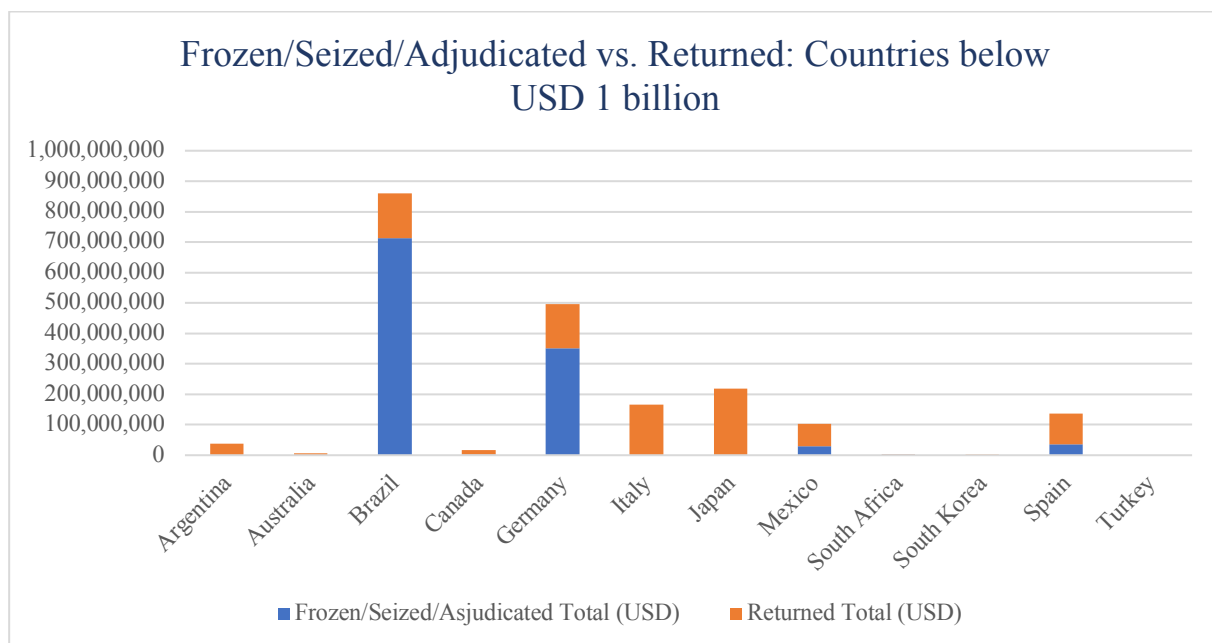
Table 6: Overview of amounts actually recovered/being recovered by countries

Country	Requested Frozen/Seized/ Adjudicated (USD)	Requested Returned (USD)	Requesting Frozen/Seized/ Adjudicated (USD)	Requesting Returned (USD)	Requested Total (USD)	Requesting Total (USD)	Frozen/Seized/ Adjudicated Total (USD)	Returned Total (USD)	AR Total (USD)
Argentina	0	0	0	38'500'000	0	38'500'000	0	38'500'000	38'500'000
Australia	0	6'929'417	0	0	6'929'417	0	0	6'929'417	6'929'417
Brazil	0	0	712'100'000	148'800'000	0	860'900'000	712'100'000	148'800'000	860'900'000
Canada	2'600'000	0	0	13'308'378	2'600'000	13'308'378	2'600'000	13'308'378	15'908'378
France	162'174'532	919'913'000	0	2'417'490	1'082'087'532	2'417'490	162'174'532	922'330'490	1'084'505'022
Germany	0	20'000'000	350'263'000	126'417'280	20'000'000	476'680'280	350'263'000	146'417'280	496'680'280
Italy	0	8'522'530	0	157'217'450	8'522'530	157'217'450	0	165'739'980	165'739'980
Japan	0	0	0	218'800'000	0	218'800'000	0	218'800'000	218'800'000
Mexico	0	0	28'674'757	74'000'000	0	102'674'757	28'674'757	74'000'000	102'674'757
South Africa	106'488	0	0	67'114	106'488	67'114	106'488	67'114	173'602
South Korea	0	0	0	1'126'951	0	1'126'951	0	1'126'951	1'126'951
Spain	36'470'300	86'285'714	0	15'000'000	122'756'014	15'000'000	36'470'300	101'285'714	137'756'014
Switzerland	3'952'774'010	2'314'883'448	0	15'500'000	6'267'657'458	15'500'000	3'952'774'010	2'330'383'448	6'283'157'458
Turkey	0	0	0	0	0	0	0	0	0
United Kingdom	19'790'411'380	1'999'282'100	0	7'075'426	21'789'693'480	7'075'426	19'790'411'380	2'006'357'526	21'796'768'906
United States of America	2'823'997'865	400'349'132	135'000'000	79'821'760	3'224'346'997	214'821'760	2'958'997'865	480'170'892	3'439'168'757
Total	**26'768'534'575**	**5'756'165'341**	**1'226'037'757**	**898'051'849**	**32'524'699'916**	**2'124'089'606**	**27'994'572'332**	**6'654'217'190**	**34'648'789'522**

6.2 OLS regression

The results of regression (1) described in section 5.4 are depicted in Table 7. The aim of the regression was to find out what impact a higher compliance rating in the different principles has on countries' AR performances. As can be seen from Table 7, the coefficients of all the principles are insignificant at the 10% level, except for Principle 2 which is significant at the 5% level and Principle 5 which is significant at the 10% level. To conclude that exactly the two principles which represent AML regulations in the regression are significant because they are the only variables which have a significant impact on countries' AR performance would be wrong. A more plausible explanation would be that this is the result of the characteristic of the data. Principle 2 and Principle 5 are the only two variables which allow for more variation in the explanatory variables than just 1,2 3 or 4 since the arithmetic average of their FATF rating was used. Since the estimation relies on variation in the data, it is not surprising that exactly those two variables are the ones with a significant effect. As already mentioned above, the OLS estimation needs variation in the explanatory variables (Wooldridge, 2012). However, the small sample does not allow for enough variation. The scatter plots of the different principles and the total amount of assets recovered/being recovered, which can be found in the appendix, depict this clearly. Therefore, no causal conclusion can be drawn from the results of regression (1) due to the lack of data.

Table 7: OLS regression output

	(1) lnARTotal
AR policy priority	-0.986
	(1.701)
Preventive measures against proceeds of corruption	4.995**
	(1.544)
Rapid locating and freezing of assets	-0.00382
	(0.991)
Variety of AR mechanisms	-1.745
	(1.371)
Laws for international cooperation	-4.085*
	(1.759)
AR team / Kleptocracy unit	-0.260
	(1.075)
Participation in international networks	-0.542
	(2.587)
Technical assistance to developing countries	0.200
	(1.601)
Collect & share AR data	1.879
	(1.082)
Constant	26.66***
	(5.656)
Observations	15
R^2	0.726

Standard errors in parentheses
$^*p < 0.10$, $^{**}p < 0.05$, $^{***}p < 0.01$

6.3 Correlations

As aforementioned above, this thesis focuses on correlations between the variables of interest due to the limitations of econometric methods which having a small sample imposes. The correlation matrix below depicts the correlation coefficients between the various variables. The results of the different hypotheses will be presented separately. It has to be noted that obtaining a correlation between two variables does not imply a causal effect of one of the variables on the other variable. Since this is the case for all the results obtained below, it will not be mentioned again when presenting the different results. Further limitations will be addressed in section 6.4.

Table 8: Correlation matrix

	Requested Total (USD)	Requesting Total (USD)	Frozen/Seized/Adjudicated Total (USD)	Returned Total (USD)	AR Total (USD)	AR policy priority	Preventive measures against proceeds of corruption	Rapid locating and freezing of assets	Variety of AR mechanisms	Laws for international cooperation	AR Team / Kleptocracy unit	Participation in international networks	Technical assistance to developing countries	Collect & share AR data	AR Index Score	Basel AML Index 2020 Score
Requested Total (USD)	1															
Requesting Total (USD)	-0.1732	1														
Frozen/Seized/Adjudicated Total (USD)	0.9945	-0.1208	1													
Returned Total (USD)	0.7857	-0.1750	0.7235	1												
AR Total (USD)	0.9991	-0.1319	0.9958	0.7834	1											
AR policy priority	0.0209	-0.2897	-0.0076	0.1178	0.0088	1										
Preventive measures against proceeds of corruption	0.5002	-0.2323	0.4775	0.4826	0.4936	0.1568	1									
Rapid locating and freezing of assets	-0.0726	-0.2268	-0.1122	0.1391	-0.0827	0.3560	-0.0103	1								
Variety of AR mechanisms	0.3503	-0.3382	0.3324	0.2947	0.3382	0.3780	0.0303	0.1705	1							
Laws for international cooperation	0.1378	-0.2550	0.1560	-0.095	0.1279	0.0473	0.5386	0.0816	0.0056	1						
AR Team / Kleptocracy unit	0.3756	-0.0278	0.3541	0.4402	0.3769	0.4167	0.2265	0.0593	0.2268	0.1218	1					
Participation in international networks	0.3381	-0.6294	0.2933	0.3750	0.3136	0.4191	0.0907	0.4476	0.6110	0.1980	0.4490	1				
Technical assistance to developing countries	0.3768	-0.2718	0.3410	0.4593	0.3677	0	-0.1219	0.2136	0.4384	0.0227	0.4	0.7543	1			
Collect & share AR data	0.3636	-0.1156	0.3567	0.3021	0.3611	0.1582	-0.3787	0.3492	0.5955	-0.0717	0.2847	0.6308	0.7024	1		
AR Index Score	0.4588	-0.4107	0.4196	0.5043	0.4443	0.4997	0.1606	0.5313	0.6780	0.24016	0.6105	0.8990	0.7416	0.7369	1	
Basel AML Index 2020 Score	-0.2938	0.1962	-0.2818	-0.2556	-0.2874	0.1784	-0.5138	0.0722	-0.1428	-0.5366	-0.1349	-0.3770	-0.5250	-0.0334	-0.3416	1

Note: Rounded to 4 decimal digits

6.3.1 Results hypothesis 1

The first hypothesis implies that countries which perform well in AML recover more assets. This hypothesis was tested by assessing how different variables with regards to AML and AR correlate. Firstly, the correlation between countries' AML performance and countries' AR efforts was computed by using the Basel AML Index 2020 and the AR Index, respectively, as proxies. The result for the correlation coefficient was -0.3416, which implies a negative correlation. Since the Basel AML Index 2020 measures countries' ML and TF risk, a higher score implies a higher risk to be exposed to ML and TF. Thus, a negative correlation between the Basel AML Index 2020 and AR Index suggests that on average when countries have a high risk of being subject to ML and TF, they have a low score on the AR Index and vice versa. This postulates that countries with a low ML- and TF risk, which is the result of having a good AML- and TF regime, on average have high AR efforts as well. Therefore, countries with a high ML and TF risk, which is the result of having a weak AML- and TF regime, on average have low AR efforts as well. This implies a positive correlation between countries' AML performance and countries' AR efforts.

The second comparison included again the Basel AML Index 2020 and the assets actually recovered/being recovered. This comparison assesses, in addition to the previous comparison, whether there is an empirically observable relationship between AR- and AML performance as well by looking at the assets actually recovered/being recovered by countries. The correlation coefficient is -0.2874, which implies a negative relationship between the two variables. As already mentioned in the first comparison, a negative correlation of assets actually recovered/being recovered with the Basel AML Index implies a positive correlation between actual AR performance and AML performance.

The third and fourth comparisons have been conducted due to the unreliable results of regression (1) mentioned above. Both, Principle 2 and Principle 5 are based on AR-relevant FATF recommendations and are therefore used as proxies for AML performance. The third comparison assesses the relationship between Principle 2 and countries total amount of assets recovered/being recovered. Principle 2 includes the preventive measures against the proceeds of the crime. The correlation coefficient between Principle 2 and assets recovered/being recovered is 0.4936. This suggests a positive correlation between preventive measures against the proceeds of the crime and assets recovered/being recovered. Furthermore, as can be seen in the correlation matrix above, Principle 2 has the strongest correlation out of the nine

principles with assets recovered/being recovered. The fourth comparison assesses the relationship between Principle 5 and countries total amount of assets recovered/being recovered. Principle 5 consists of the AR-relevant FATF recommendations which are crucial for international cooperation. The correlation coefficient between principle 5 and assets recovered/being recovered is 0.1279. This implies a positive, but rather weak correlation between Principle 5 and assets recovered/being recovered.

6.3.2 Results hypothesis 2

Hypothesis 2 concerned the relationship between international cooperation and the total amount of assets recovered/being recovered. The two principles in the AR Index which account for international cooperation were chosen as proxies. These are Principle 5 and Principle 7. As already presented in the results of hypothesis 1, Principle 5 consists of the AR-relevant FATF recommendations which are crucial for international cooperation. The correlation coefficient between Principle 5 and assets recovered/being recovered was found to be 0.1279. Principle 7 entails countries' participation in international networks. The correlation coefficient between Principle 7 and assets recovered/being recovered is 0.3136. Thus, there is a positive correlation between countries being part in international networks and assets recovered/being recovered.

6.3.3 Results hypothesis 3

The comparisons in hypothesis 3 were done to capture the relationship between political will and the total amount of assets recovered/being recovered. As already mentioned above, the term political will is very ambiguous. Even though political will is a broad term and it can therefore be argued to be represented in most of the principles, Principle 1 and Principle 6 were chosen to account for political will since making AR a policy priority, captured by Principle 1, and establishing an AR team or kleptocracy unit which is specialized in AR, captured by Principle 6, represent political will the best since they specifically focus on AR whereas the other principles are broader and also include other areas. The correlation coefficient between Principle 1 and assets recovered/being recovered was 0.0088. This suggests that there is hardly any correlation. This implies that the two variables neither move in the same- nor in the opposite direction in case of an increase or a decrease in one of the variables. The correlation coefficient of Principle 6 and assets recovered/being recovered is

0.3769, which implies a positive correlation between the existence of an AR team or kleptocracy unit and assets recovered/being recovered.

6.3.4 Results hypothesis 4

The fourth hypothesis concerned the relationship between having a large variety of AR mechanisms including the recognition of NCB proceedings as well as civil law actions. Thus, the correlation coefficient between Principle 4 and assets recovered/being recovered was computed. The correlation coefficient of the two variables was 0.3382, which implies a positive correlation between having a wide variety of AR mechanisms and the assets actually recovered/being recovered. Therefore, countries which offer a wide variety of AR mechanisms recover on average more assets.

6.4 Summary and limitations

In the first part of the results, countries actual AR performances were depicted. Table 6 as well as Figures 1 and 3 show how substantial the differences in the amounts recovered/being recovered between the assessed countries are. Furthermore, Table 6 as well as Figures 1 and 2 emphasize the fact that some countries mainly act as requested states whereas other countries are mainly requesting states. It can further be observed that the total amount that countries have been requested are far larger than the total amount that countries have been requesting in the sample. In addition, there are substantial differences between the total amount of assets frozen/seized/adjudicated and the total amount of assets actually returned. However, there are three characteristics of the data which limit the interpretation of the results. Firstly, the database relies on countries reporting their AR cases and thus only reported cases are included. Secondly, in some cases the exact amount has not been stated or was vague. In cases where the amount frozen/seized/adjudicated or returned has been omitted, the case was not included in this thesis. Thirdly, the sample only included sixteen countries and thus interpretations of the results cannot be generalized. The fact that this thesis has focused on only sixteen countries is also the reason why the amounts of *Total Requesting* and *Total Requested* do not match since there are other countries outside of the sample which collaborated with the countries in the sample. Otherwise, if the sample included all countries listed in the Asset Recovery Watch database, *Total Requesting* and *Total Requested* would need to be the same.

As already mentioned above, the regression performed in this thesis is biased due to the small sample size and the fact that the sampling did not occur randomly. Thus, it was not surprising that all the different principles - with the exception of Principle 2 and Principle 5 - were insignificant at the 10% level. The reason that exactly those two principles were significant lies in the fact that those two principles were based on FATF data where an arithmetic average was taken and which allowed for more variation in the explanatory variables. Due to the limitations as far as the available econometric methods are concerned, this thesis focused on correlations between the variables of interest. An important limitation with correlation is, however, that correlation does not imply causality. Therefore, it cannot be concluded that one variable affects the other variable. A correlation can only be interpreted as two variables moving in the same- or opposite direction in case the correlation is positive or negative, respectively (Stock & Watson, 2012).

Hypothesis 1 was tested by making four different comparisons. The findings were that there indeed is a positive correlation between AML performance and AR efforts as well as actual AR performance. However, there are some limitations which have to be considered in the interpretation of this result. First of all, the Basel AML Index 2020 includes TF as well. This suggests that a good performance in the Basel AML Index is not only the result of AML efforts, but CTF as well. Secondly, there is an overlap in the data the Basel AML Index 2020 and the AR Index are based on. As already mentioned above, the Basel AML Index is to 35% based on FATF MERs. Principles 2 and 5 in the AR Index are based on FATF recommendations as well. Therefore, there naturally is a correlation since it is based on the same data. Thirdly, the Basel AML Index includes all forty FATF recommendations and therefore not only AR-relevant-, but other recommendations as well. Thus, as already mentioned in chapter three, a country could theoretically perform well in all the recommendations except for the AR-relevant ones. Or the exact opposite could be the case where a country reaches a high compliance level in only the AR-relevant recommendations but has low compliance levels in all the other ones. Moreover, the AR Index is based on narrative text and has been quantified on a scale from 1 to 4. Quantifying the AR efforts in the different principles entails some subjectivity by the author. In addition, the G20 Anti-Corruption Working Group paper (2013), which the AR Index is based on, itself is based on other sources, which include among others country feedback to the original survey. Countries, however, have an incentive to present themselves as compliant as possible and therefore may exaggerate their efforts. Furthermore, there is a time difference between the Basel AML Index

2020 as well as the StAR database, which the countries' actual AR performances are based on, and the AR Index. The AR Index is, as aforementioned, based on the G20 Anti-Corruption Working Group paper which was written in 2013. In the meantime, countries could therefore have changed their AR efforts which is not reflected in the AR Index but which might be reflected in the Basel AML Index 2020 as well as in the StAR database.

The aforementioned limitations are valid for the other hypotheses as well. Bearing these limitations in mind, the results of the second hypothesis were that there is a positive correlation between international cooperation and assets recovered/being recovered. The results of the third hypothesis, where the relationship between political will and assets recovered/being recovered was assessed, was less clear as one of the proxies representing political will had a correlation which was close to zero, whereas the other proxy had a positive correlation. However, it has to be mentioned that political will is an ambiguous term and thus difficult to capture with a proxy. The fourth hypothesis had the null hypothesis that the variety of available AR mechanisms, including the recognition of NCB proceedings as well as civil law actions, and the amount of assets recovered/being recovered are positively correlated. The correlation coefficient between those two variables supports this hypothesis.

7. Discussion

In the following, the aforementioned results will be discussed. First of all, the results of the descriptive statistics of countries actual AR performance will be addressed. Even though they are not part of the hypotheses described in chapter four, they are nevertheless important findings. However, the interpretations of some of the results of the descriptive statistics would require to assess other countries which are not included in the sample as well and are therefore beyond the scope of this thesis. Subsequently, the results of the four hypotheses are discussed within the limitations outlined above.

7.1 Descriptive statistics of countries' actual asset recovery performance

The purpose of the descriptive statistics was to emphasize the substantial differences as far as the amounts of assets recovered/being recovered by countries are concerned. The reasons for this difference can be manifold, however, the correlation coefficient of the AR Index constructed in this thesis and the assets actually recovered/being recovered is 0.4443, which indicates a positive correlation between assets actually recovered/being recovered and countries' AR efforts represented by the nine principles. However, correlation does not equal causality and therefore this result cannot be interpreted in a causal way, e.g. stating that a higher score in the AR Index will lead to higher amounts of assets recovered. Nevertheless, this result supports the hypothesis that at least some of the principles are relevant in assessing countries' AR performance, e.g. recovering higher amounts of assets.

Furthermore, the total amount which was requested of the countries in the sample is substantially higher than the total amount which countries in the sample were requesting. The fact that the amounts ought to be the same since requested must equal requesting implies that either the countries in the sample have primarily been acting as requested countries or that at least the countries with the largest amounts have been acting as requested countries. However, since the purpose of this thesis is to find the reasons for countries' AR performances as well as efforts and not to determine the factors for a country to become a requesting- or a requested country, it is beyond the scope of this thesis to find the underlying reasons for this.

In addition, the total amounts which have been frozen/seized/adjudicated were substantially larger than the total amount of assets that has actually been returned in the sample. As already

mentioned above, AR cases are very complex and usually stretch over several years (Stephenson et al., 2011). Therefore, it is difficult to infer the reasons why the amounts which have been frozen/seized/adjudicated are much higher than the amount of assets which has actually been returned. Possible reasons could be that this thesis has been written at a point in time where many assets have been frozen/seized/adjudicated, but the actual return would follow later. However, it could also be the case that exactly those countries with high amounts frozen/seized/adjudicated, such as the United Kingdom, have some legal characteristics which allow to freeze assets quickly, but not all the assets will be returned in the end. However, there may very well be other reasons for this but to find those reasons is beyond the scope of this thesis as well. In addition, we have to keep in mind that the sample is very limited and that it could seem very different if more countries were included.

7.2 Hypothesis 1

The first hypothesis entails the research question of this thesis since the relationship between AML performance, using the Basel AML Index 2020 as well as principles 2 and 5 as proxies, and AR efforts as well as AR performance, using the AR Index and assets actually recovered/being recovered, respectively, as proxies was assessed by calculating the correlation coefficient between those variables. Within the limitations outlined above, it can be concluded that there indeed is a positive correlation between countries' AML performances and countries' AR efforts as well as countries' AML performances and countries' AR performances. AR performance was thereby represented by the amount of assets recovered/being recovered, be it as a requesting- or requested country.

These findings are in line with the theory, which suggests that certain aspects of AML regimes are highly relevant for AR as well. As described above, AML regulations impact AR in two ways: By strengthening preventive measures against the proceeds of corruption and by adopting laws which encourage and facilitate international cooperation. This thesis tried to find a causal relationship between AML performance in the AR-relevant FATF recommendations and the amounts actually recovered/being recovered by performing an OLS regression. The OLS regression had a log-level form, which would have allowed for the interpretation of unit changes in the independent variables as percentage changes in the dependent variable. This is highly interesting since the percentage change in assets recovered/being recovered that is associated with a change from for example non-compliant

to partially compliant could have been inferred. However, due to the reasons discussed in the methodological section of this thesis, no causal relationship can be inferred. Nevertheless, the four comparisons conducted in this thesis under hypothesis 1 strongly support the hypothesis that there is a positive relationship between countries' AML performances and countries' AR performances. Furthermore, it is interesting to observe that there is a stronger correlation between Principle 2 and assets recovered/being recovered than between Principle 5 and assets recovered/being recovered. Within the limitations outlined above, it could be concluded that AML regulations which concern the preventive measures against the proceeds of corruption are more important for AR than AML regulations which include adopting laws which encourage and facilitate international cooperation. This is surprising since international cooperation has been mentioned as one of the main success factors in AR cases (Brun et al., 2011). In addition, out of all the nine principles, Principle 2 had the strongest correlation with assets recovered/being recovered which implies that Principle 2 does not only seem to be the principle out of the two AML-principles that is the more important one for AR, but Principle 2 seems to be in general the most important factor, which further emphasizes the crucial role AML regulations play in AR cases. However, further testing would be required to draw statistically significant conclusions.

7.3 Hypothesis 2

The second hypothesis implies that countries which facilitate international cooperation recover more assets. This hypothesis was tested by computing the correlation coefficients of Principle 5 and assets actually recovered/being recovered as well as Principle 7 and assets actually recovered/being recovered. The results suggest a positive but rather week correlation between adopting laws which encourage and facilitate international cooperation and a positive correlation between the countries being part of international networks and assets recovered/being recovered. These results are in line with the theory which suggests that international cooperation is a crucial factor in AR cases (Brun et al., 2011). Nevertheless, as already mentioned above, the result of the correlation coefficient between Principle 5 and assets recovered/being recovered is surprising since the correlation seems to be rather weak. The correlation would have been expected to be stronger due to the fact that international cooperation was emphasized to be a vital factor in AR. However, the correlation coefficient of the second variable which accounts for the international component in the AR Index –

Principle 7 – and assets recovered/being recovered was higher. Thus, further testing with a larger sample would be required for statistical inference.

7.4 Hypothesis 3

The third hypothesis suggests a positive relationship between political will and assets recovered/being recovered. Making AR a policy priority and the existence of an AR unit have thereby been used as proxies for political will. Political will is a term which is difficult to grasp, however. The results indicated that the correlation coefficient between making AR a policy priority and assets recovered/being recovered was very close to zero, which implies neither positive nor negative correlation. This might be startling at first since political will has been referred to as being a crucial component in AR cases and making AR a policy priority seems to be a good proxy for political will since it assesses whether political leaders have taken a clear stance to AR and allocated resources to it (Pavletic, 2009). However, after considering the concept of good governance façades by Søreide & Moene (2014), this result might not be as startling after all. As aforementioned in chapter four, this concept implies that governments may build up a façade behind which they hide their real actions (Søreide & Moene, 2014). Thus, politicians may openly state that they commit to AR but will not live up to their promise. The correlation between having an AR unit and assets recovered/being recovered, however, was positive. This is in line with the theory since having trained experts ought to increase the efficacy of AR efforts (Fleming, 2008). These contradicting results open up for different interpretations. First or all, it could be the case that the impact of political will on AR performance is not as crucial as the theory makes us believe since political leaders not always adhere to their statements. However, another interpretation would be that even though the two proxies used for political will seem to be theoretically appropriate since the first one indicates a clear stance and the second one implies that resources are dedicated to it, at least one of the two proxies is not appropriate. Thus, further testing is necessary to draw a well-founded conclusion.

7.5 Hypothesis 4

Hypothesis four implies a positive relationship between having a large variety of AR mechanisms, such as NCB proceedings as well as civil law actions, and assets recovered/being recovered. The correlation coefficient was positive which suggests a positive relationship.

This is in line with the theory which describes NCB proceedings as a useful tool in AR cases (Van der Does de Willebois & Brun, 2013). As already mentioned above, the different legal instruments in AR cases have been a topic in the academic literature as well and many have found NCB proceedings to be a powerful tool in AR cases. Concerns have been raised about the compatibility of NCB confiscation of assets with the constitutions of countries as well as with human rights (Boucht, 2019). However, this discussion was from a moral standpoint of view and not about the efficacy of NCB confiscation in AR cases. Furthermore, these findings must be interpreted within the limitations outlined above as it was the case for the other hypotheses. Further testing is required for causal inferences.

8.   Conclusion

The question whether anti-money laundering regulations have an impact on countries' asset recovery performances was addressed in this thesis. In order to answer this question, in a first step, the connection between ML and AR was explained. In the theory part, relevant hypotheses were formulated on the basis of various stakeholders' incentives to engage in and/or to facilitate AR. Subsequently, those hypotheses were empirically analyzed by computing the correlation between variables of interest.

The main findings are very much in line with the theory. The empirical analysis supports the hypothesis that countries which adhere to AML regulations recover more stolen assets. Furthermore, the computed correlations suggest that countries which offer a variety of AR mechanisms, including the recognition of NCB proceedings as well as civil law actions, recover on average more assets. The same is true for countries which foster international cooperation, although the results were not as clear. The relationship between political will and assets recovered/being recovered was found to not be very conclusive and reasons for this were discussed. Nevertheless, having an AR team or kleptocracy unit is positively correlated with assets recovered/being recovered.

Another interesting finding were the large differences in the total amounts recovered/being recovered between the sixteen countries assessed in this thesis. Furthermore, some jurisdictions seem to primarily act as *requesting-* and some other jurisdictions mainly as *requested countries.* In addition, there are large differences in the amounts of assets actually returned and the amounts of assets frozen/seized/adjudicated but not yet returned as well. To find the underlying reasons for this was, however, beyond the scope of this thesis.

As already mentioned above, studying AR entails some challenges. The academic literature as well as data on assets actually recovered is very limited. The scarcity of data in the variables which I concluded to be of importance in AR cases was the reason why I decided to construct my own AR Index. However, due to the small sample, the econometric methods available to draw causal conclusions were nonetheless limited. Thus, this thesis had to focus on whether certain hypotheses are supported or not instead of inferring causal relationships. Therefore, given the importance of AR for restorative justice as well as the scarce academic literature about this topic, I would like to encourage further research in the area of AR and especially its relationship to AML regulations. This thesis focused on assessing the AR performances and

efforts of sixteen countries. Thus, a more extensive study from which causal conclusions could be drawn would be desirable. Furthermore, given that none of the sixteen countries in the sample are developing countries and the fact that there are some developing countries which actively engage in AR, such as Nigeria which was mentioned through the *Abacha Case* in the introduction, it would be interesting to assess their performances and efforts as well in order to get a more comprehensive picture. However, it could also be argued that governments first have to engage more in AR in order to provide more data which can be used by scholars.

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Appendix

A Country-specific rating

The following tables present the country-specific rating for the Asset Recovery Index. The scale as well as the methodology were already presented in chapter five and will not be discussed again. Only some points which are important for understanding the country-specific rating will be mentioned. First of all, the tables only include the most important aspects in assessing countries' AR efforts. The G20 Anti-Corruption Working Group paper (2013), which the AR Index is based on, provides a more detailed description. Secondly, the score justification includes not only positive, but also negative aspects of countries' AR efforts. Therefore, the length of the score justification does not indicate whether a country has put much effort into the principle. Thirdly, since some principles are partly based on countries' answers to a questionnaire, it has been objectively evaluated whether the countries' responses are relevant for the underlying principles or whether countries just tried to justify their low effort. And finally, principle 9 has been inferred by principle 7 since countries share information about AR cases in international meeting, conferences etc. as well. Since this applies for most countries, it has not been mentioned again in the score justification for the different countries.

Table 9: Argentina country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Clear stance, published on website - "Recupero de Activos en Casos de Corrupción: El Decomiso de las Ganancias del Delito - Estado Actual de la Cuestión," by the Anti-corruption Office affirms AR as policy priority - Comprehensive investigative manual for AR cases - Increased resources for agencies involved in AR cases (for example Financial Information Unit) - Creation of "the Office of the Prosecutor for Economic Crimes and Money Laundering (PROCELAC)" with the aim to combat complex economic crime and the recovery of assets
2	1.2	See table with AR-relevant FATF recommendations below
3	4	- Request must be sent for identifying and locating unknown bank accounts - Increased resources and staffing in FIU and creation of PROCELAC - National System of Information of Real Estate Registries - Centralized data of legal persons - Good information system with regards to ownership information - FIU has much power - New options for freezing of terrorism-related assets
4	4	- Permits various alternative AR mechanisms - Provisions for criminal liability of legal persons and non-conviction based confiscation for ML crimes and TF - Ability to provide MLA in non-conviction based confiscation involving ML and TF - Private law actions may be brought
5	2.17	See table with AR-relevant FATF recommendations below
6	3	- Authority responsible for AR received training program approval for Asset Tracking and Recovery - Establishment of PROCELAC which deals among other things with AR, but not exclusively
7	4	- MLA website visible with detailed information and designated appropriate personnel to MLA requests relating to AR - StAR has identified personnel who help with MLA - Participates in 7 international networks
8	3	- Has been giving technical assistance - Has held regional meeting on AR
9	4	- Self-assessment report of compliance with UNCAC with a list of AR cases

		- Keeping record of economic crimes, incl. AR is one of PROCELAC's duties
		- FIU shares info with national congress about results, impact etc.
Overall score	**29.37**	N/A
Arithmetic average	**3.26**	N/A

Table 10: Argentina AR-relevant FATF recommendations

Recommendations principle 2	MER 2010	FATF 4th Round	Recommendations principle 5	MER 2010	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	1	-	International Instruments: R. 35 resp. R. 36	2	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	2	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	2	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	-	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	-	MLA on Confiscation and Freezing: R. 38	2	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	1	-	Extradition: R. 39	2	-
Arithmetic average	**1.2**	**-**	Other Forms of International Cooperation: R. 40	1	-
			Arithmetic average	**2.17**	**-**

Table 11: Australia country-specific rating

Principle (#)	Score (1-4)	Score justification
1	2	- No specific AR policy statement - Espouses strong commitment to AR, published on website of Australian Federal Police on Proceeds of Crime Act - Actively supports regional and international AR initiatives - Commitment expressed by police but not by politicians
2	1.8	See table with AR-relevant FATF recommendations below
3	2	- Request upon court order decision has to be sent to financial institutions in order to identify and locate bank accounts - Identity behind real estate can easily be hidden - No mechanisms to rapidly identify holders of life insurance and securities - Australia's AR unit has nevertheless efficient processes for finding holders of such accounts - Freezing of assets not mentioned
4	4	- NCB confiscation is provided for - Foreign non-conviction based proceeds of crime orders in any country - Any person can initiate civil proceedings in Australian courts
5	4	See table with AR-relevant FATF recommendations below
6	3	- Stated that there is no specialized AR team / kleptocracy unit - However, multi-agency criminal asset confiscation taskforce, which is similar to an AR team
7	4	- Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol - Part of 6 international networks
8	4	- Carried out capacity-building projects in Africa and Asia-Pacific - Supports Indonesia, Vietnam, Papa New Guinea, Pakistan and Sri Lanka - Technical assistance through support of StAR
9	4	- Collects and publishes data
Overall score	**28.8**	N/A
Arithmetic average	**3.2**	N/A

Table 12: Australia AR-relevant FATF recommendations

Recommendations principle 2	MER 2005	MER & FUR 2018	Recommendations principle 5	MER 2005	MER & FUR 2018
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	1	2	International Instruments: R. 35 resp. R. 36	3	4
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	3	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	4	4
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	1	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	3	2	MLA on Confiscation and Freezing: R. 38	4	4
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	2	1	Extradition: R. 39	4	4
Arithmetic average	**1.6**	**1.8**	Other Forms of International Cooperation: R. 40	4	4
			Arithmetic average	**3.83**	**4**

Table 13: Brazil country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- Has clear stance, publicly available
2	2	See table with AR-relevant FATF recommendations below
3	2	- Central register of bank accounts, usable without court order → fast locating - Real estate owner can easily be hidden - Companies registers exists at local level but not at national level - No mechanisms for identifying life insurance and securities - Freezing of assets not mentioned
4	2	- No types of non-conviction based or civil confiscation actions - Other civil remedies under Brazilian law - Illicit enrichment is a criminal offence
5	3	See table with AR-relevant FATF recommendations below
6	4	- Creation of Department of Asset Recovery and International Cooperation (DRCI) which deals with international AR
7	2	- Brazil's MLA process is not easily accessible - Has meetings for larger cases which involves MLA - Part of 6 networks - No appropriate authorities designated to MLA requests relating to AR and law enforcement cooperation with UNODC (UNCAC AR focal point) - Participates in Global Focal Point Initiative supported by StAR/Interpol
8	1	- Unable to locate whether technical assistance has been sought or provided, it was therefore assumed that Brazil did not seek or provide technical assistance
9	2	- Unable to find open source information whether Brazil collects data - Press releases on some cases
Overall score	**21**	N/A
Arithmetic average	**2.33**	N/A

Table 14: Brazil AR-relevant FATF recommendations

Recommendations principle 2	MER 2010	FATF 4th Round	Recommendations principle 5	MER 2010	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	-	International Instruments: R. 35 resp. R. 36	2	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	3	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	-	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	2	-	MLA on Confiscation and Freezing: R. 38	3	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	N/A	-	Extradition: R. 39	3	-
Arithmetic average	**2**	-	Other Forms of International Cooperation: R. 40	3	-
			Arithmetic average	**3**	**-**

Table 15: Canada country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Clear stance - Freezing Assets of Corrupt Foreign Officials Act (FACFOA) with statements to corruption and proceeds of crime - Has an AR guide: Canada's Asset Recovery Tools: A Practical Guide
2	1.6	See table with AR-relevant FATF recommendations below
3	4	- Locating bank accounts: send requests after court order decision - Local level registration for real estate - Companies registered in jurisdictions - Register of security holders - Implemented measures that let Canada authorities to identify and trace assets - Freezing Assets of Corrupt Foreign Officials Act (FACFOA) - Canada gives effects to written requests to freeze assets - Government may implement under its United Nations Act whatever measures necessary to implement decisions of the UN Security Council, incl. freezing of assets - Special Economic Measures Act, provides additional measures - Measures to control whether someone/financial institutions are in possession of property owned or controlled by or on behalf of a designated person
4	3	- Wide range of AR mechanisms, incl. NCB asset confiscation (but just 8 of 10 provincial jurisdictions) - Federally, conviction based forfeiture with some exceptions without conviction - Canadian government cannot respond to NCB asset forfeiture since they fall under provincial jurisdiction → has to be requested at provincial level - Criminal Code allows return of seized or confiscated property to legal owner - Seized Property Management Act makes assets available for return (if there is a bilateral agreement) - Private law action permitted
5	3.4	See table with AR-relevant FATF recommendations below
6	2	- Does not have a specific AR unit. However, it has a whole of government approach with different departments dealing with AR requests - Comprehensive law enforcement regime for AR. They do not see the need to create a specialized unit for it. Capacity is integrated into existing resources
7	4	- MLA not very visible

		- Liaison office in Brussels for requests from Europe
		- Part of 7 networks
		- Has appropriate authorities responsible for MLA requests related to AR
		- Participates in Global Focal Point initiative supported by StAR/Interpol
8	3	- Has provided technical assistance
		- Has led two projects in Central- and South America based on Camden Asset Recovery Inter-Agency Network (CARIN) model
9	4	- Extensive information published regarding FACFOA
		- Updated list of persons whose assets are subject to freezing under the Freezing Assets of Corrupt Foreign Officials Regulations
		- Some info on Canadian AR cases online
Overall score	**29**	N/A
Arithmetic average	**3.22**	N/A

Table 16: Canada AR-relevant FATF recommendations

Recommendations principle 2	MER 2008	MER 2016	Recommendations principle 5	MER 2008	MER 2016
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	1	3	International Instruments: R. 35 resp. R. 36	3	4
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	1	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	1	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	2	MLA on Confiscation and Freezing: R. 38	3	3

Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	2	1	Extradition: R. 39	3	4
Arithmetic average	**1.2**	**1.6**	Other Forms of International Cooperation: R. 40	3	3
			Arithmetic average	**3.17**	**3.4**

Table 17: France country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- Has AR policy but not publicly available - Asset Recovery Guide for France
2	2.6	See table with AR-relevant FATF recommendations below
3	3	- Central register for bank accounts, immediately accessible by competent authorities if for tax, ML or TF - Real estate, companies and securities also subject to strong national registration regimes - Freezing of assets not mentioned
4	2	- No domestic NCB confiscation (only exceptions for some MLA requests) - Courts may order restraints or seizure of assets - Owning unjustified assets is a criminal offence - Private law actions permitted
5	3.17	See table with AR-relevant FATF recommendations below
6	4	- 2 agencies for AR - PIAC: Platform for identifying criminal assets - AGRASC: Agency for management and recovery of seized and confiscated assets
7	4	- Bureau of International Mutual Assistance in Criminal Matters - Different agencies that can work on AR - Liaisons that facilitate international cooperation and MLA - Participates in 5 networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	4	- Provides technical assistance to developing countries and allocated resources in placing liaisons in foreign jurisdictions to assist in MLA - French Central Service for Prevention of Corruption (SCPC) is the competent authority for technical assistance - SCPC organizes annually one-week sessions - Takes part in working group and conferences on AR
9	1	- Does not publicly publish information on AR cases
Overall score	**26.77**	N/A
Arithmetic average	**2.97**	N/A

Table 18: France AR-relevant FATF recommendations

Recommendations principle 2	MER 2011	FATF 4th Round	Recommendations principle 5	MER 2011	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	3	-	International Instruments: R. 35 resp. R. 36	3	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	2	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	2	-	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	3	-	MLA on Confiscation and Freezing: R. 38	3	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	3	-	Extradition: R. 39	3	-
Arithmetic average	**2.6**	**-**	Other Forms of International Cooperation: R. 40	3	-
			Arithmetic average	**3.17**	**-**

Table 19: Germany country-specific rating

Principle (#)	Score (1-4)	Score justification
1	2	- No specific AR policy or policy statement - However, AR is a key aspect in its Government Strategy "Anti-Corruption and Integrity in German Development Policy" - Germany is not part of United Nations Convention against Corruption
2	1.4	See table with AR-relevant FATF recommendations below
3	3	- Bank accounts directly accessible by the authorities to the data held by financial institutions on the accounts' holders, without court order - Real estate at state level but easily accessible - National registry for companies - No registry for life insurance and securities but deducing ownership of all securities can be done on the level of credit institutions - Freezing of assets not mentioned
4	3	- NCB forfeiture under certain circumstances - Extended confiscation: standard of proof is lowered, applies where circumstances justify confiscation of assets where circumstances justify the assumption that assets originated in illicitly even though connection between assets and crime cannot be established - Distinguish between EU member states and third parties - Civil law actions permitted
5	2.83	See table with AR-relevant FATF recommendations below
6	2	- Division in Federal Criminal Police - EU says nominate a max. of 2 AR offices, Germany gave it to Federal Criminal Police division - No real AR unit, but clear whose task it is
7	3	- Bundesamt für Justiz (Federal Office of Justice) is central authority for MLA - Informal assistance from some other agencies, contact info easily accessible - Participates in 6 networks - Founding member of Group of States against Corruption (GRECO) - Has not appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	4	- Support of partner countries with assistance in AR is part of Germany's anti-corruption strategy - Technical assistance to other countries and capacity building - German Foundation for International Legal Cooperation gives seminars to AR among other things - Workshop in Cairo to AR

9	3	- Germany's Federal Criminal Police Office collects data to frozen/seized assets - But how much was ultimately recovered is not completely collected since competence for judicial authorities lies within the federal states → not centrally collected, not available to the public
Overall score	**24.23**	N/A
Arithmetic average	**2.69**	N/A

Table 20: Germany AR-relevant FATF recommendations

Recommendations principle 2	MER 2010	FATF 4th Round	Recommendations principle 5	MER 2010	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	-	International Instruments: R. 35 resp. R. 36	2	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	2	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	-	Dual Criminality: R. 37 resp. N/A	3	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	-	MLA on Confiscation and Freezing: R. 38	3	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	1	-	Extradition: R. 39	3	-
Arithmetic average	**1.4**	-	Other Forms of International Cooperation: R. 40	3	-
			Arithmetic average	**2.83**	-

Table 21: Italy country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Asset Recovery guide with clear statement about their AR commitment - Policy statement about AR on the website of Italian Ministry of Foreign Affairs
2	3	See table with AR-relevant FATF recommendations below
3	3	- Bank accounts are accessible in national registry without court order - Real estate registration is mandatory at national level - Company registry and securities registry at national level - Freezing of assets not mentioned
4	4	- Comprehensive approach with different mechanisms - Provides NCB confiscation - Income and assets of public officials have to be disclosed - Private law actions are permitted
5	3.6	See table with AR-relevant FATF recommendations below
6	2	- International Police Cooperation Service (SCIP), which is an interagency service for international operational police cooperation, is responsible for AR - No AR unit but tasks are clearly allocated
7	3	- Ratified different conventions in 1990s - The Anticorruption Service (SAET) of the Department for Public Administration is member of 4 initiatives - Participates in five networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	1	- The Bank of Italia has given once a seminar about the fight against money laundering, terrorism financing and the misuse of payment systems, but not more than that
9	1	- No public information on AR cases
Overall score	**24.6**	N/A
Arithmetic average	**2.73**	N/A

Table 22: Italy AR-relevant FATF recommendations

Recommendations principle 2	MER 2006	MER & FUR 2019	Recommendations principle 5	MER 2006	MER & FUR 2019
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	3	International Instruments: R. 35 resp. R. 36	2	4
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	3	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	4	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	3	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	4	3	MLA on Confiscation and Freezing: R. 38	4	3
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	2	3	Extradition: R. 39	4	4
Arithmetic average	**2**	**3**	Other Forms of International Cooperation: R. 40	4	4
			Arithmetic average	**3.7**	**3.6**

Table 23: Japan country-specific rating

Principle (#)	Score (1-4)	Score justification
1	2	- Has an AR guide - Does not have a specific AR policy, but domestic laws and regulations warrant it
2	1	See table with AR-relevant FATF recommendations below
3	1	- Request by prosecutor or police has to be sent to financial institutions to locate bank accounts - Real estate ownership can easily be hidden - Companies maintain their own registry and if Law Enforcement Agencies (LEAs) are refused access, they must return with a court order, which can, however, be given quickly - No mechanisms in place to rapidly locate and identify holders of life insurance - Police can exchange information via ICPO channel on targeted bank with other National Central Bureaus of member states - Freezing of assets not mentioned
4	2	- If a country has a final adjudication on a criminal case with proceeds of crime in Japan, they can send an MLA request to execute it - NCB forfeiture is not considered final and binding adjudication on a criminal case to confiscate assets under the Anti-Organized Crime Law - Concerned assets may be repatriated if actions are brought to the court as a civil case
5	2.3	See table with AR-relevant FATF recommendations below
6	1	- Has no specialized AR unit - But there are mechanisms to identify, freeze, confiscate and return assets
7	2	- Has been actively participating in conferences, international meetings, working groups - Participates in 4 networks - May be joining the ARIN-AP (Asset Recovery Inter-Agency Network in Asia and the Pacific) - No mentioning of having appropriate authorities for MLA requests related to AR - No mentioning of participation in Global Focal Point initiative supported by StAR/Interpol
8	2	- United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), which has been established by an agreement between the UN and Japan has hosted AR-specific events
9	2	- Does not make information of AR cases publicly available - Information has been shared through participation in UNCAC and Open-ended Intergovernmental Working Group on AR and OECD Working Group on Bribery

Overall score	**15.3**	N/A
Arithmetic average	**1.7**	N/A

Table 24: Japan AR-relevant FATF recommendations

Recommendations principle 2	MER 2008	FATF 4th Round	Recommendations principle 5	MER 2008	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	1	-	International Instruments: R. 35 resp. R. 36	2	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	2	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	-	Dual Criminality: R. 37 resp. N/A	2	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	-	MLA on Confiscation and Freezing: R. 38	3	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	1	-	Extradition: R. 39	2	-
Arithmetic average	**1**	**-**	Other Forms of International Cooperation: R. 40	3	-
			Arithmetic average	**2.3**	**-**

Table 25: Mexico country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- State that AR is important for Mexico which can be seen by their actions to reform and strengthen its legislative and institutional framework - Key participant in drafting UNCAC's chapter 5 on AR
2	2.2	See table with AR-relevant FATF recommendations below
3	1	- Identifying bank accounts: a request has to be sent to all financial institutions by an authority (no court order needed). However, must go through the relevant supervisory agency - The land registry to identify real estate is held by each of the federal States of Mexico, but it is not easily accessible - Registry for companies exists, but it is not clear how all states are linked into it - No mechanisms to rapidly locate life insurance holders and securities - Freezing of assets not mentioned
4	3	- Drafted legislation for NCB forfeiture - AR does not have a single law → AR is substantively regulated by the integration and interpretation of various legal rules - Has some mechanisms: Pre-trial seizure, abandonment, forfeiture - Illicit enrichment is a criminal offence - Private law actions are permitted
5	2.6	See table with AR-relevant FATF recommendations below
6	2	- Does not have a specialized unit - The different issues related to the subject are the responsibility of different units within the Attorney General's Office
7	3	- Much information about the cooperation process is published online, but the cooperation in AR cases in practice is unknown - Great deal of cooperation with the US - Part of 7 networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	1	- No information is available on whether Mexico has given or received technical assistance
9	1	- no information about principle 9
Overall score	**18.8**	N/A
Arithmetic average	**2.09**	N/A

Table 26: Mexico AR-relevant FATF recommendations

Recommendations principle 2	MER 2008	MER 2018	Recommendations principle 5	MER 2008	MER 2018
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	2	International Instruments: R. 35 resp. R. 36	3	3
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	3	2	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	2
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	2	Dual Criminality: R. 37 resp. N/A	3	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	2	MLA on Confiscation and Freezing: R. 38	2	2
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	3	3	Extradition: R. 39	3	3
Arithmetic average	**2**	**2.2**	Other Forms of International Cooperation: R. 40	4	3
			Arithmetic average	**3**	**2.6**

Table 27: South Africa country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Speech by Minister of Justice and Constitutional Development at meeting of the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) - Launch of Corruption Watch - Policy priority, established Asset Forfeiture Unit - Does not have formal asset forfeiture but significant resources have been devoted to taking assets away from criminals - Returned assets go back to victims or paid into Criminal Asset Recovery Account (CARA) which will be used for law enforcement agencies or institutions with the aim to help victims of crimes
2	1.4	See table with AR-relevant FATF recommendations below
3	3	- Authority has to send request to all financial institutions (without court order) - Real estate information can be accessed by authorities - Registry accessible through Companies and Intellectual Property Commission - Access for life insurance is not exactly regulated, but authorities can get access - Securities can be accessed - Financial Intelligence Center (FIC) can hold a bank account for 5 days and longer under certain conditions
4	4	- South Africa has both, conviction based and non-conviction based AR mechanisms - Preservation/forfeiture can occur independently or parallel to related criminal proceedings - Restraint/confiscation is reliant on parallel criminal proceedings - Both proceedings are governed by rules of civil procedures and not criminal procedural laws - Allows for foreign conviction-based and NCB orders - Makes provision for the forfeiture of unexplained wealth - More asset forfeiture provisions in legislation - Private law actions are permitted
5	3.3	See table with AR-relevant FATF recommendations below
6	4	- Asset Forfeiture Unit (AFU) acts as AR unit - Anti-Corruption Task Team (ACTT) is responsible for large amounts (over 5 Million) - Special Investigating Unit (SIU)
7	4	- Publishes a great deal of information about MLA - Participates in 4 networks

		- Has appropriate authorities responsible for MLA requests related to AR
		- Participates in Global Focal Point initiative supported by StAR/Interpol
8	4	- Offers training to neighboring countries
		- Plans to place financial investigators from other African jurisdictions in the AFU to transfer skills and knowledge
9	4	- Has to give information to CARA
		- Information is given to the public and the parliament annually in a report
Overall score	**31.7**	N/A
Arithmetic average	**3.52**	N/A

Table 28: South Africa AR-relevant FATF recommendations

Recommendations principle 2	MER 2009	FATF 4th Round	Recommendations principle 5	MER 2009	FATF 4th Round
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	-	International Instruments: R. 35 resp. R. 36	3	-
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	-	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	-
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	-	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	-	MLA on Confiscation and Freezing: R. 38	3	-
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	2	-	Extradition: R. 39	3	-

Arithmetic average	**1.4**	-	Other Forms of International Cooperation: R. 40	4	-
			Arithmetic average	**3.3**	-

Table 29: South Korea (Republic of Korea) country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Has a specific AR policy which is publicly available - Clear statement with regards to resources and priority to AR
2	2.4	See table with AR-relevant FATF recommendations below
3	1	- Identifying bank accounts upon request by court. In case of suspicious activities, no court order is necessary but a circulatory letter to all financial institutions - Real estate register for non-Koreans - Identifying companies: Commercial Registration Office holds information about registration details but more details are at the companies - No central registry system to identify holders of life insurance or securities but if court has issued a warrant, the agency can obtain the information - Freezing of assets not mentioned
4	3	- Conviction is not required for confiscation, but it has to be associated with the crime - Drafted an amendment to allow for NCB forfeiture - New act which states that confiscation of equivalent value as proceeds of crime is feasible - South Korea does not recognize civil forfeiture - Requires asset and conflict of interest disclosure by public officials - Private law actions are permitted
5	3.2	See table with AR-relevant FATF recommendations below
6	4	- Has a specialized team for AML Investigation and Recovery of Proceeds of Crime within the Supreme Public Prosecutor's Office and in five district public prosecutor's offices
7	3	- Offered to house the ARIN-AP secretariat, establish a website and organize a meeting - Participates in 4 networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	2	- Is funding Towards AsiaJust (TAJ), a sub-programme of UNODC Regional Centre in East Asia and the Pacific, to form an ARIN-AP to promote cross-border cooperation and MLA
9	1	- Information to AR cases not publicly available

Overall score	23.6	N/A
Arithmetic average	2.62	N/A

Table 30: South Korea (Republic of Korea) AR-relevant FATF recommendations

Recommendations principle 2	MER 2009	MER 2020	Recommendations principle 5	MER 2009	MER 2020
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	3	International Instruments: R. 35 resp. R. 36	2	3
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	2	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	2	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	2	MLA on Confiscation and Freezing: R. 38	3	4
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	1	3	Extradition: R. 39	3	3
Arithmetic average	**1.2**	**2.4**	Other Forms of International Cooperation: R. 40	3	3
			Arithmetic average	**3**	**3.2**

Table 31: Spain country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- Participates in events with regards to AR - Two offices for AR: Intelligence Center against Organized Crime (CICO) and the Anti-Drugs Special Prosecution Office
2	3.4	See table with AR-relevant FATF recommendations below
3	3	- Central register of bank accounts which will be immediately accessible by competent authorities without a court order - There is also a registry for real estate, companies, life insurance holders and securities which are immediately accessible by competent authorities - Reported data is available in in the Financial Ownership File which can be used when investigating crimes related to AML and TF - Freezing of assets not mentioned
4	2	- No NCB mechanism for AR but allows for recognition and direct enforcement of EU member states restraint or seizing orders - Rules on freezing and confiscation will be revised - Private law actions are permitted
5	4	See table with AR-relevant FATF recommendations below
6	2	- No specialized AR team - AR carried out by Intelligence Center against Organized Crime (CICO) and the Anti-Drugs Special Prosecution Office
7	3	- The Ministry of Justice is responsible for MLA, informal assistance may also be provided by SEPBLAC (Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias) - Participates in 5 networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	2	- Is promoting training/specialization (Spanish experience and best practice with regards to exchange of information)
9	1	- Unable to find out whether they publish AR cases
Overall score	**23.4**	N/A
Arithmetic average	**2.6**	N/A

Table 32: Spain AR-relevant FATF recommendations

Recommendations principle 2	MER 2006	MER & FUR & FUAR 2019	Recommendations principle 5	MER 2006	MER & FUR & FUAR 2019
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	3	International Instruments: R. 35 resp. R. 36	3	4
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	4	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	4	4
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	2	4	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	2	3	MLA on Confiscation and Freezing: R. 38	4	4
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	N/A	3	Extradition: R. 39	4	4
Arithmetic average	**1.4**	**3.4**	Other Forms of International Cooperation: R. 40	3	4
			Arithmetic average	**3.7**	**4**

Table 33: Switzerland country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Strong commitment, published on website - High-level politicians have talked about the importance of AR on several occasions - Returned a great deal of assets and state that they are ahead of other financial centers - Organized meetings with experts in Lausanne - Active member in many AR initiatives - The Federal Department of Foreign Affairs (FDFA) aligned resources and created the Task Force Asset Recovery to coordinate efforts in assisting requesting countries with AR proceedings - Special desk has been opened at the Swiss Federal Office of Justice (FOJ) specifically for MLA questions related to AR
2	2.6	See table with AR-relevant FATF recommendations below
3	4	- Is able to quickly freeze assets when it is appropriate - New law for freezing, forfeiture and restitution - New draft of AR act - Court order has to be sent to identify and locate bank accounts - There is a real estate registry where any person can obtain information - Companies and persons owning companies can be accessed through a platform - No centralized database for securities and insurance, however, they can be obtained from securities firms or insurance
4	4	- The same procedures apply for conviction based asset forfeiture and NCB asset forfeiture - Can provide criminal judiciary cooperation to the USA in an NCB asset forfeiture case, despite the absence of intention to pursue criminal proceedings - Extensive execution of MLA of both, foreign conviction based and NCB forfeiture - Foreign forfeiture orders against the proceeds of a crime or instrumentalities can be enforced in Switzerland as well as money forfeiture order - Private civil suits may be filled in Switzerland - Federal Act on the Restitution of Assets of Politically Exposed Persons obtained by Unlawful Means (Return of Illicit Assets Act or RIAA) contains legal provisions tailored for countries with weak legal institutions
5	2.6	See table with AR-relevant FATF recommendations below
6	4	- Two specialized AR units: Task Force Asset Recovery, Mutual Legal Assistance Unit
7	4	- Actively participates in international networks

		- Has appropriate authorities responsible for MLA requests related to AR
		- Participates in Global Focal Point initiative supported by StAR/Interpol
		- Part of 6 networks
8	4	- Provides direct as well as indirect assistance to requesting countries through its support of the International Centre of Asset Recovery, the StAR Initiative and through the sending of MLA and/or asset tracing experts
		- Is one of main donors of the IMF Topical Trust Fund for AML/TF technical assistance and finances a UNDOC mentor program as well
		- Swiss expert in MLA cooperation was advising Tunisia
		- CHF 8 million are annually attributed to the transition in North Africa, used for capacity building in the field of AR
9	4	- Collects and publishes data on main AR cases on website
Overall score	**33.2**	N/A
Arithmetic average	**3.69**	N/A

Table 34: Switzerland AR-relevant FATF recommendations

Recommendations principle 2	MER 2005	MER & FUR 2020	Recommendations principle 5	MER 2005	MER & FUR 2020
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	2	International Instruments: R. 35 resp. R. 36	3	3
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	3	3	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	4	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	2	2	Dual Criminality: R. 37 resp. N/A	3	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	3	MLA on Confiscation and Freezing: R. 38	4	3

Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	N/A	3	Extradition: R. 39	3	3
Arithmetic average	**2**	**2.6**	Other Forms of International Cooperation: R. 40	3	1
			Arithmetic average	**3.3**	**2.6**

Table 35: Turkey country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- Has a policy statement but not publicly available - Has allocated resources to AR - Specialized unit has been established within the Ministry of Justice
2	2	See table with AR-relevant FATF recommendations below
3	4	- Authorities must send request without the need of a court order to financial institutions to identify and locate bank accounts - Real estate and companies can be identified at the local level - There is a national registry for securities but not for life insurances - Seizing assets only by decision of judge - Prosecutor can decide whether or not to initiate an investigation - An administrative committee with officials from different units can decide to freeze assets. 7 officials decide whether assets were acquired through terrorism or were used for terrorist financing and can freeze them - When requested by MASAK (the Turkish FIU), diverse organizations and public institutions are obliged to render necessary convenience to MASAK - Turkey has taken significant steps to overcome their counter-terrorist financing (CTF) deficiencies
4	2	- NCB confiscation/forfeiture is not available, but apparently equivalent mechanisms - Unable to find information whether Turkey permits enforcement of foreign NCB orders - Private law actions are permitted - Law on "Unexplained Wealth/Illicit Enrichment" where burden of proof is on public officials - Can claim pecuniary or non-pecuniary damages of state if assets have wrongfully been taken away
5	3.6	See table with AR-relevant FATF recommendations below
6	3	- No kleptocracy unit exists - Inter-ministerial committee has been formed to set up an AR unit - Regional AR units are being set up - No unit has been chosen to function as AR unit but MoJ has created a specialized unit for AR MLA requests - The operational areas of the Asset Recovery Organizations (AROs) are divided into two levels: national and international level
7	3	- Participates in 4 networks - MASAK has signed Memorandum of Understanding with 36 countries and has been exchanging information - MASAK staff participate in FATF Plenary and working group meetings

		- Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	1	- Is not giving technical assistance to developing countries - state that judges and prosecutors lack time and awareness for AR
9	2	- Does not publish how much assets have been frozen, confiscated or returned - The national police (KOM) shares statistics on the encroachments in criminal investigations and shares it with authorities who publish it in their annual report
Overall score	**23.6**	N/A
Arithmetic average	**2.62**	N/A

Table 36: Turkey AR-relevant FATF recommendations

Recommendations principle 2	MER 2007	MER 2019	Recommendations principle 5	MER 2007	MER 2019
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	1	3	International Instruments: R. 35 resp. R. 36	2	3
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	1	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	4
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	2	Dual Criminality: R. 37 resp. N/A	3	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	2	2	MLA on Confiscation and Freezing: R. 38	2	4
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	N/A	2	Extradition: R. 39	3	4

Arithmetic average	**1.25**	**2**	Other Forms of International Cooperation: R. 40	3	3
			Arithmetic average	**2.7**	**3.6**

Table 37: United Kingdom country-specific rating

Principle (#)	Score (1-4)	Score justification
1	3	- Does not have a specific AR policy or statement - However, various UK agencies have affirmed AR as a policy priority - Department for International Development (DFID) has invested resources domestically for AR
2	3.4	See table with AR-relevant FATF recommendations below
3	2	- Authority has to send circulatory letter to financial institutions for bank details. Account details only for law enforcement agencies with a court order - Real estate is considered open source - Centralized data on companies - No centralized database for securities or insurances → not easily obtainable - Freezing of assets not mentioned
4	4	- NCB confiscation allowed in cases where criminal proceedings have resulted in an acquittal or have not been pursued - Assistance to other countries in NCB confiscation - Private law action permitted
5	3.6	See table with AR-relevant FATF recommendations below
6	4	- Has established a specialized AR team
7	4	- Serious Organised Crime Agency (SOCA) liaisons outside of UK - Participates in 5 networks - Has appropriate authorities responsible for MLA requests related to AR - Participates in Global Focal Point initiative supported by StAR/Interpol
8	4	- DFID provided support in foreign AR, incl. the creation of ARINSA - Provided support to Kenya and Uganda - Provided funding to the Nigerian Economic & Financial Crimes Commission (EFCC), the Nigeria Financial Intelligence Unit (NFIU), and the International Centre Asset Recovery based in Switzerland - The Asset Recovery Agency has provided training to financial investigators internationally
9	4	- AR figures have been published in a StAR/OECD publication and more recently in the DFID written evidence to the UK Parliament International Development Committee as well
Overall score	**32**	N/A

Arithmetic average	3.56	N/A

Table 38: United Kingdom AR-relevant FATF recommendations

Recommendations principle 2	MER 2007	MER 2018	Recommendations principle 5	MER 2007	MER 2018
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	3	International Instruments: R. 35 resp. R. 36	4	4
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	1	4	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	2	3	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	2	3	MLA on Confiscation and Freezing: R. 38	4	4
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	2	4	Extradition: R. 39	4	4
Arithmetic average	**1.8**	**3.4**	Other Forms of International Cooperation: R. 40	4	3
			Arithmetic average	**3.8**	**3.6**

Table 39: United States of America country-specific rating

Principle (#)	Score (1-4)	Score justification
1	4	- Clear stance on AR as a policy priority - Obama emphasized the importance of AR - US AR Guide includes a clear statement - Launched the Kleptocracy Asset Recovery Initiative - Stated repeatedly that AR is a policy priority and that they have allocated resources to it
2	1.8	See table with AR-relevant FATF recommendations below
3	2	- Request to all financial institutions from FIU to identify and locate bank accounts - Real estate information is available, mostly at county level - No centralized ownership registries for securities and life insurance - Heavily regulated nature of publicly traded companies → US government does not think it is possible that criminals possess them - Freezing of assets not mentioned
4	3	- NCB forfeiture rather against properties than criminals. Underlying conviction is not required - US confiscation can be extended to outside the US if a criminal's proceeds and instruments are traceable back to a criminal defendant prosecuted in the US - The United States can initiate NCB confiscation proceeding against proceeds and instrumentalities of certain designated foreign offense predicates for money laundering and some U.S. offenses with inherently foreign components - Private law actions are permitted
5	3.2	See table with AR-relevant FATF recommendations below
6	4	- Kleptocracy Asset Recovery Initiative, formed of experienced prosecutors - Rely on experienced financial investigators from other departments
7	4	- Provide resource personnel or liaisons to assist with international cooperation - Participate in 4 networks - Have appropriate authorities responsible for MLA requests related to AR - Participate in Global Focal Point initiative supported by StAR/Interpol
8	4	- Provide financial support to StAR Initiative and the global AR Focal Point initiative - Have organized three annual African sub-regional workshops on investigation and prosecution of corruption - Placed AR mentors abroad
9	4	- Annual data on number of forfeitures and seizures performed by the US government available on Department of Justice website

		- US authorities issue press statements on individual AR cases
		- Have provided expert participation in the development of the forthcoming UNCAC
		- Party of OECD convention against Foreign Bribery and publish summaries of enforcement actions in foreign bribery and related cases
Overall score	**30**	N/A
Arithmetic average	**3.33**	N/A

Table 40: United States of America AR-relevant FATF recommendations

Recommendations principle 2	MER 2006	MER & FUR 2020	Recommendations principle 5	MER 2006	MER & FUR 2020
Customer Due Diligence by Financial Institutions: R. 5 resp. R. 10	2	3	International Instruments: R. 35 resp. R. 36	3	3
Politically Exposed Persons (PEPs) - Enhanced Due Diligence: R. 6 resp. R. 12	3	2	Mutual Legal Assistance (MLA): R. 36 resp. R. 37	3	3
Designated Non-Financial Businesses and Professions – Customer Due Diligence: R. 12 resp. R. 22	1	1	Dual Criminality: R. 37 resp. N/A	4	-
Legal Persons – Beneficial Ownership: R. 33 resp. R. 24	1	1	MLA on Confiscation and Freezing: R. 38	3	3
Legal Arrangements – Beneficial Ownership: R. 34 resp. R. 25	1	2	Extradition: R. 39	3	3
Arithmetic average	**1.6**	**1.8**	Other Forms of International Cooperation: R. 40	4	4
			Arithmetic average	**3.3**	**3.2**

B Correlation diagrams

The following scatter plots were addressed in chapter six and depict the relationship between the different variables of interest. Since the scale of the ordinate is for most of the scatterplots very large, the notation using the power of 10 has been chosen. Thus, 2.000e+10 for example equals 20'000'000'000 or 20 billion.

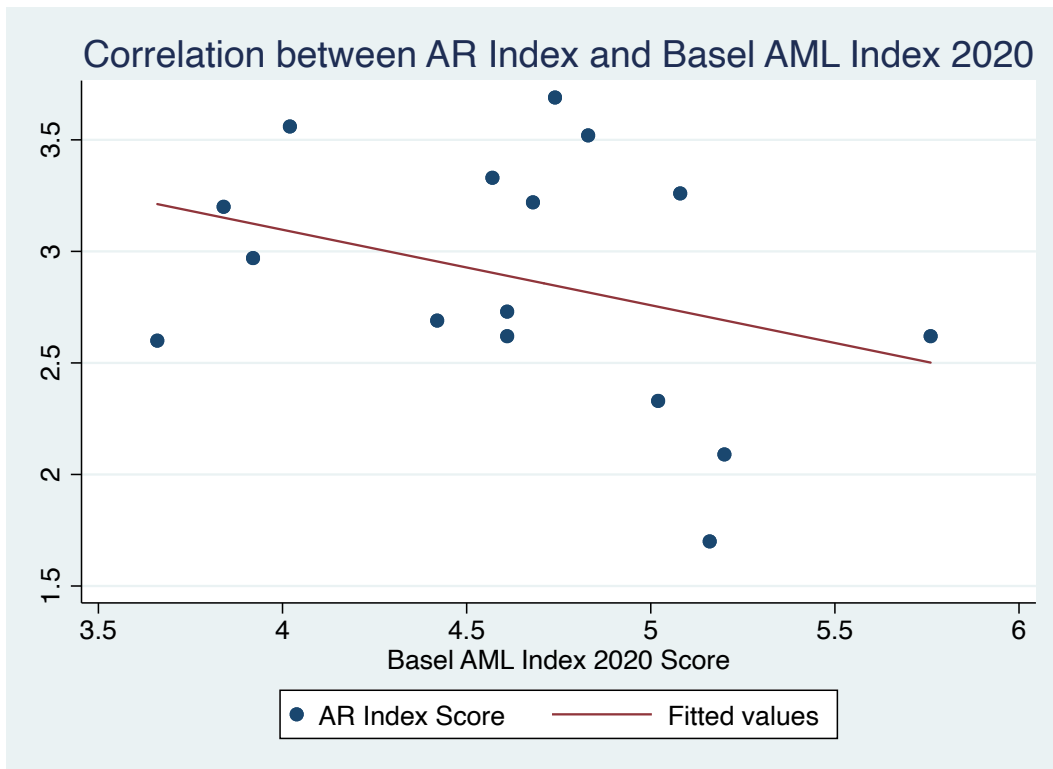*Figure 5: Correlation between AR Index and Basel AML Index 2020*
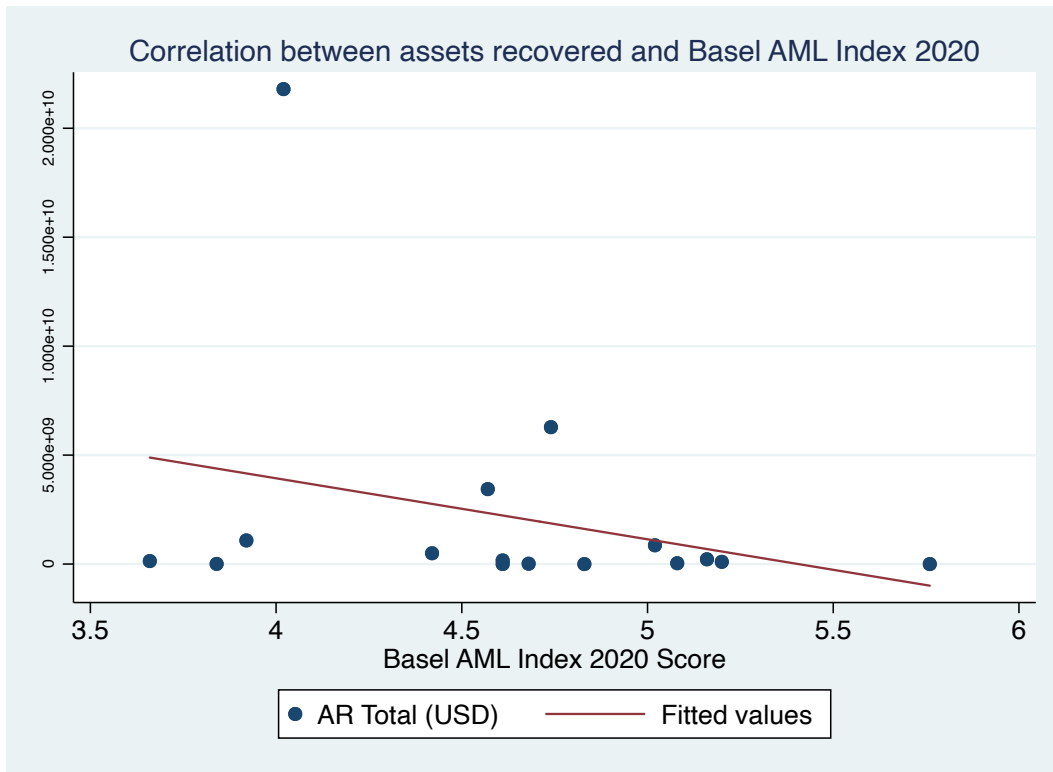
Figure 6: Correlation between assets recovered and Basel AML Index 2020

Figure 7: Correlation between assets recovered and preventive measures against corruption
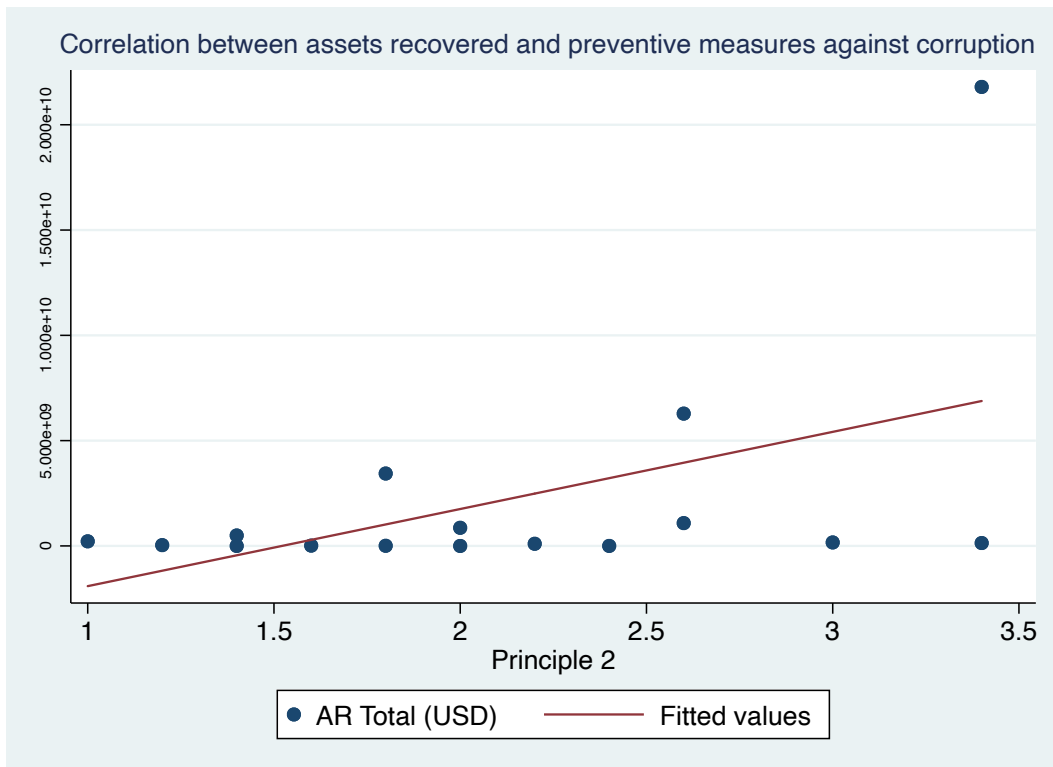
Figure 8: Correlation between assets recovered and laws for international cooperation
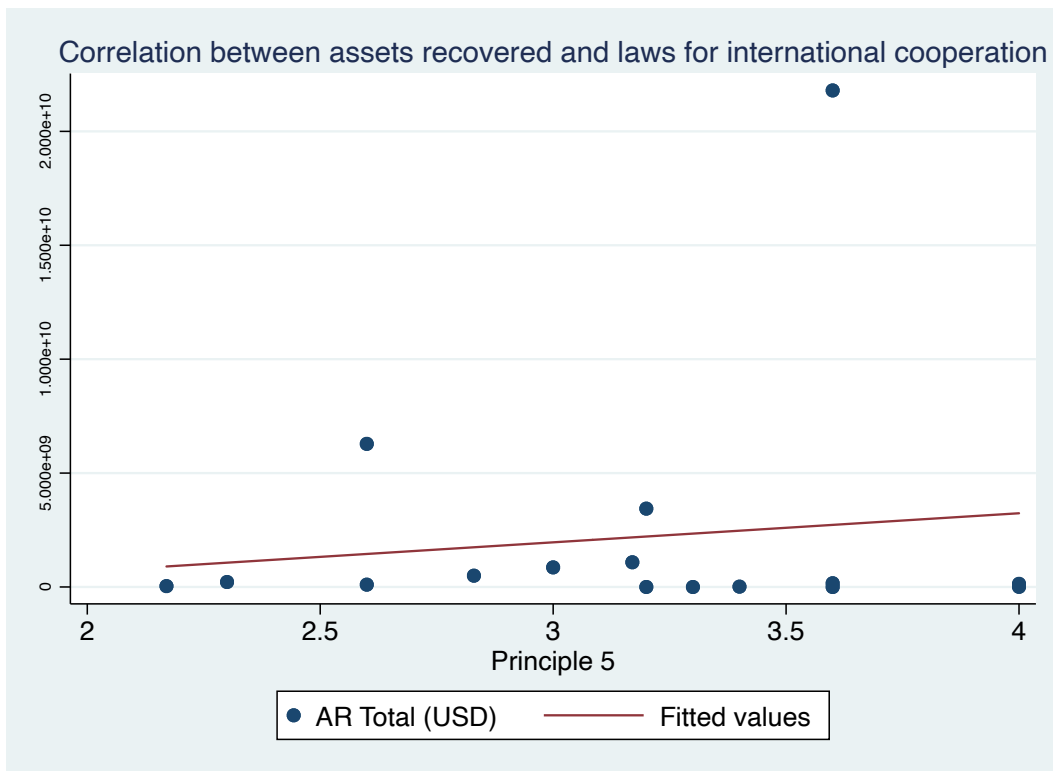
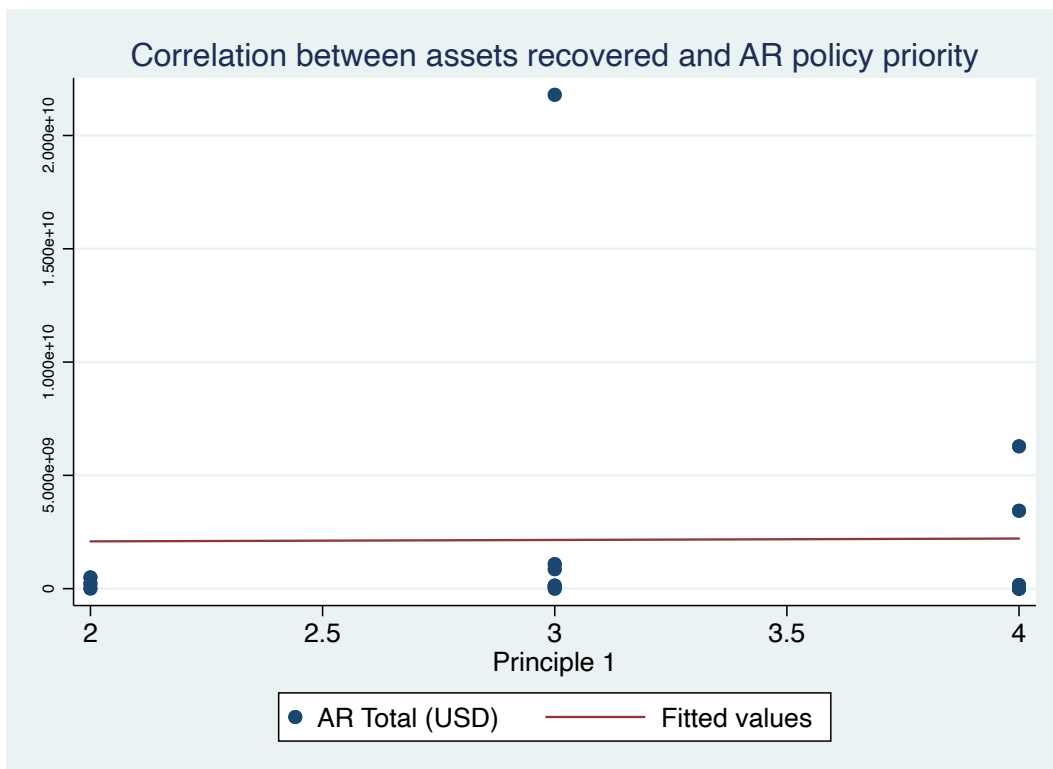*Figure 9: Correlation between assets recovered and AR policy priority*

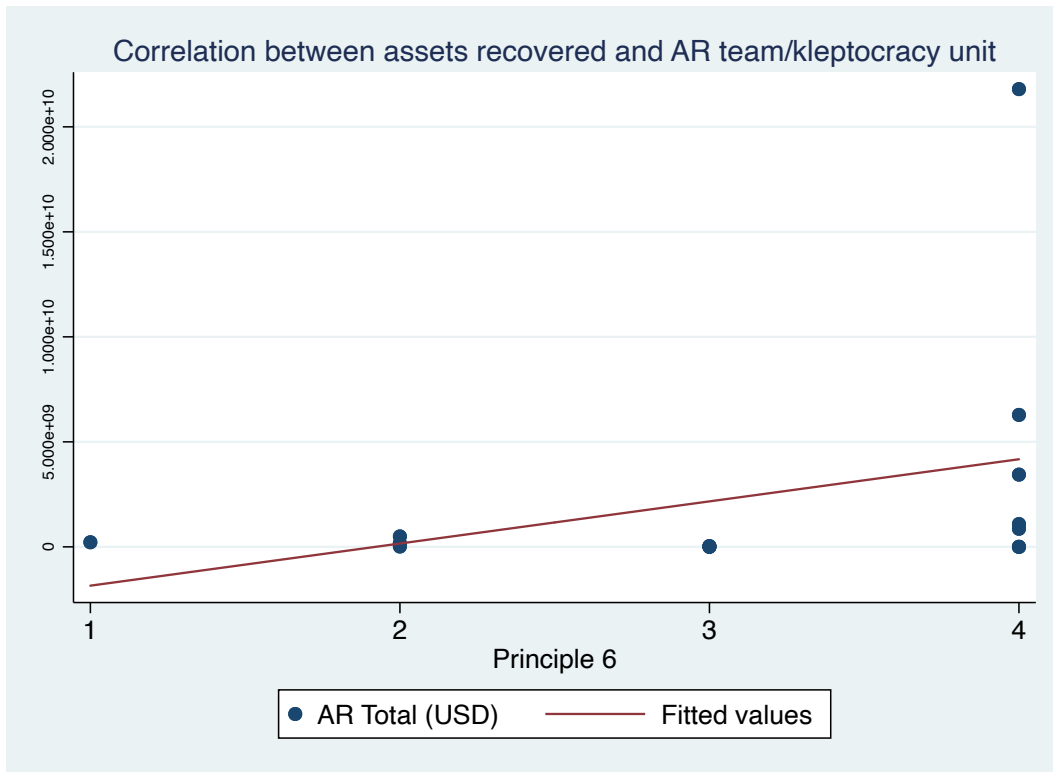*Figure 10: Correlation between assets recovered and AR team/kleptocracy unit*

Figure 11: Correlation between assets recovered and participation in international networks
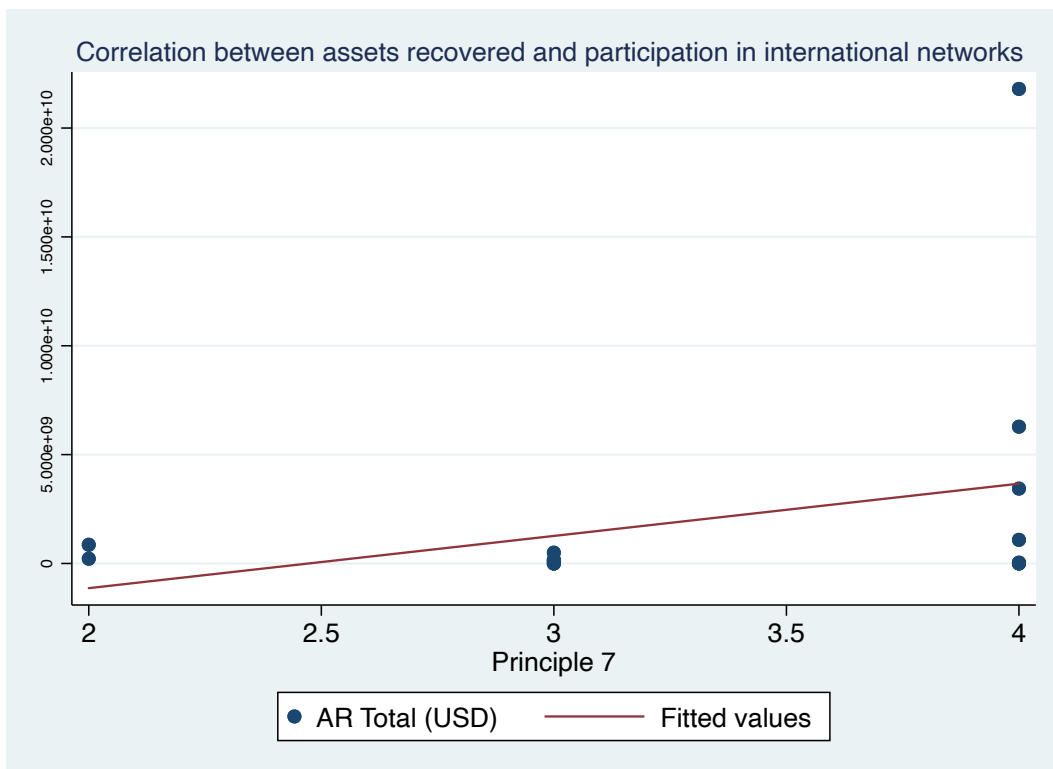
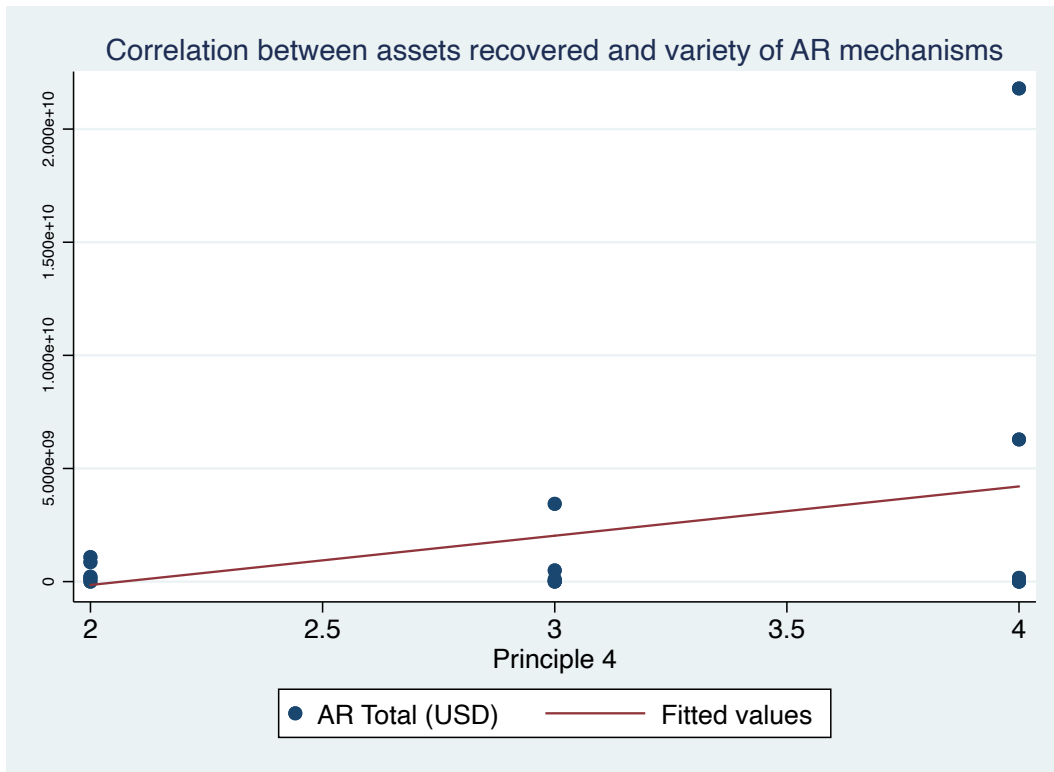*Figure 12: Correlation between assets recovered and variety of AR mechanisms*

Figure 13: Correlation between assets recovered and AR Index