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Sommario/riassunto

Developing countries lose an estimated US\$20-40 billion each year through bribery, misappropriation of funds, and other corrupt practices. Often, the most visible manifestation of corruption is the enrichment of a corrupt public official. Despite such visibility, prosecuting corruption can be very problematic, particularly when it requires proving the offer or acceptance of a bribe. Even when the corruption is established in a court of law, linking the proceeds of the crime to the offense in order to recover assets is a complex endeavor. In response, some countries looking to strengthen their overall arsenal against corruption have criminalized illicit enrichment. In its Article 20, the United Nations Convention against Corruption (UNCAC) recommends, but does not mandate, States Parties to adopt illicit enrichment as a criminal offense, defining the same as an intentional and "significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income." The illicit enrichment offense has spurred significant debates involving due processes of law. Others question how jurisdictions are actually using the offense. Finally, many jurisdictions that serve as financial centers do not recognize illicit enrichment as an offense, so tracing and recovering assets through mutual legal assistance is further complicated in illicit enrichment prosecutions. Against this background, this study provides policy makers, prosecutors, and other practitioners with a better understanding of the features of illicit enrichment. It draws on the preparatory work of international conventions, reviews of existing domestic provisions, and the jurisprudence on illicit enrichment. It is the StAR Initiative's hope that the study will inform the work of decision makers considering adopting an illicit enrichment offense, and assist those implementing illicit enrichment to do so in a way that contributes to effective prosecution, confiscation, and asset recovery.
