



PROBLEMS OF REPATRIATION OF ASSETS ACQUIRED AS A RESULT OF CORRUPTION FROM ABROAD (USING THE EXAMPLE OF THE EXPERIENCE OF THE REPUBLIC OF UZBEKISTAN)

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ABSTRACT

The article discusses the issues of repatriation of assets acquired through corruption from abroad and the experience of the Republic of Uzbekistan. During the study, special attention was paid to further improving the fight against corruption on the ground, analyzing the work carried out in Uzbekistan to recover assets acquired through corruption from abroad, the positive results achieved, shortcomings and problems.

Enforcement of court decisions on confiscation in cases related to the legalization of proceeds from criminal activity, if illegally appropriated funds and securities are held in bank accounts in a foreign territory, property or real estate of various forms of ownership is located in a foreign territory, enforcement of this category of decisions in a foreign territory is very difficult and represents a number of

This is due to the fact that the introduction of advanced experiments, working methods and innovative technologies in activities related to the return of marginalized assets through the legalization of criminal proceeds requires an increase in the effectiveness of activities in this area and an increase in the effectiveness of the participation of law enforcement agencies of foreign countries. Member countries of the United Nations

According to the StAR initiative, the return of acquired state assets is considered a very serious problem for the countries of the world, and every year countries lack funds from 1 trillion to 1.6 trillion dollars. In developing countries, \$40 billion is misappropriated annually by transferring funds to foreign bank accounts, which is equivalent to the annual GDP of the 12 poorest countries in the world with a population of 240 million people, and it is not possible to determine their exact amount¹.

Paragraph 25 of the Addis Ababa Action Agenda, adopted by the UN General Assembly resolution of July 27, 2015, stipulates the need for the international community to develop best practices for asset recovery².

¹ UNODC and The World Bank, "Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan" (World Bank, Washington, DC, 2007), p. 10, citing Raymond Baker, *Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System* (Hoboken, NJ: John Wiley & Sons, Inc., 2005).

² Резолюция, принятая Генеральной Ассамблеей 27 июля 2015 года 69/313. Аддис-Абебская программа действий третьей Международной конференции по финансированию развития (Аддис-Абебская программа действий). https://unctad.org/system/files/official-document/ares69d313_ru.pdf



In recent years, anti-corruption policy has become one of the priorities of state policy in the Republic of Uzbekistan. In particular, Uzbekistan ratified the UN Convention against Corruption in 2008. In 2010, Istanbul joined the Anti-Corruption Action Plan. On January 4, 2017, the Law on Combating Corruption was adopted.

Also, on the issue of ensuring the inevitability of responsibility for crimes against corruption, preventing the creation of "security zones" for persons who have committed corruption crimes, and returning criminal assets to their rightful owners, the leading international organizations of the Government of Uzbekistan are: the World Bank, the United Nations Office on Drugs and Crime (UNODC), and currently have established cooperative relations with the Group (FATF) and other foreign countries in order to develop financial measures to recover assets and combat money laundering.

The Uzbek Government's strong political will to fight corruption can also be seen in the criminal case against G.Karimova. On March 18, 2019, the Tashkent City Criminal Court found Gulnora Karimova guilty of committing a number of crimes and sentenced her to 13 years and 4 months in prison. The strong political will of the Government of Uzbekistan in the fight against corruption. You can also see an example of a criminal case brought against Karimova. On March 18, 2019, the Tashkent City Criminal Court found Gulnora Karimova guilty of committing a number of crimes and sentenced her to 13 years and 4 months in prison. According to the materials of the criminal case, G.Karimova exerted pressure and intimidated citizens and owners of various companies in order to re-register their ownership of affiliated companies, and funds worth \$ 1.4 billion were legalized by an organized criminal group by exporting them abroad³.

As a result of the work of the authorized state bodies of Uzbekistan on the return of property seized by Gulnora Karimova through criminal means, 20 million US dollars were recently returned to Uzbekistan from France.

In addition, the amount of assets exported to Switzerland by an organized criminal group in the framework of this criminal case amounted to 686 million US dollars, of which the decision on assets in the amount of 336 million US dollars was made by the Swiss courts, and the litigation on the remaining assets continues.

Negotiations between the Government of Uzbekistan and Switzerland continued for 2 years, when an agreement was reached on the conditions for the return to Uzbekistan of funds illegally acquired by an organized criminal group and legalized in Switzerland, and the sum of \$131 million received from Karimova's accounts in Switzerland was to be returned to Uzbekistan, while negotiations on the remaining assets in the amount of US\$ 205 million are ongoing⁴.

³ Гулнора Каримовага Швейцария банкидаги музлатиб қўйилган \$70 млнлик активлари қайтариб берилди
<https://www.gazeta.uz/uz/2021/12/24/karimova/>

⁴ Жиноий йўл билан орттирилган активларни чет давлатлардан қайтариш соҳасида амалга оширилаётган ишлар
<https://www.youtube.com/watch?v=wIUdBDZa-as>



On February 11, 2022, an agreement was reached between Switzerland and Uzbekistan on the establishment of a Multi-public United Nations Trust fund for the return of property obtained as a result of criminal activities and illegally exported from the country by Gulnora Karimova and her accomplices. The Foundation is also engaged in recovering any additional assets that will be confiscated in the future as part of the ongoing criminal case in Switzerland.

The Fund's management mechanism consists of representatives from Switzerland, Uzbekistan and the United Nations. Thanks to this, Switzerland and Uzbekistan are fully involved in the asset recovery process. The Fund promotes the achievement of Sustainable Development Goals in Uzbekistan and provides financial resources for projects that comply with the United Nations Sustainable Development Cooperation Program (UNSDCF).

These projects are implemented by the UN system organizations involved in the fund's activities, in collaboration with other executive partners. All projects are monitored in accordance with the fund's monitoring and evaluation system, which is based on the UN regulations and regulations. Civil society institutions participate in the foundation's activities as consultants.

On August 16, 2022, in Bern (Switzerland), the Confederation of Uzbekistan and Switzerland signed an agreement on ways to return illegally acquired assets confiscated On August 16, 2022, in Bern (Switzerland), the Confederation of Uzbekistan and Switzerland signed an agreement on ways to return illegally acquired assets confiscated on the territory of the Swiss Confederation in the interests of the population of the Republic of Uzbekistan.

In accordance with the agreement, the following basic principles have been established for the return of illegally acquired assets:

- public disclosure of information on openness and transparency, restitution;
- The participation of civil society in this process;
- ultimately, the redirection of the returned funds to the social sphere, in particular, to the education and healthcare sectors;
- Continuation of the dialogue between Uzbekistan and Switzerland on restitution issues based on a permanent, effective and mutually respectful approach.

Special attention is paid to the mechanism of tripartite restitution with the participation of Uzbekistan, Switzerland and the United Nations.

The restitution is carried out through the multi-partner trust fund Vision of Uzbekistan 2030, which is part of the United Nations multi-partner trust fund system.

The Fund has the following administrative and organizational structure with appropriate functions and powers:

A high-level Strategic Committee (one high-ranking representative from Uzbekistan and Switzerland each) makes strategic decisions about the fund's activities.

The Steering Committee (one representative each from Uzbekistan, Switzerland and the United Nations) makes decisions based on full consensus regarding the operational activities of the fund, including the review and approval of projects.

In addition, the organizational structure also includes the Civil Society Advisory Council, consisting of representatives of civil society in Uzbekistan and Switzerland and international non-governmental organizations that exercise public control over the foundation's activities and carry out their activities on a voluntary basis and free of charge.



The projects approved by the steering committee are being implemented jointly with the Uzbek side by the relevant UN agencies in Uzbekistan.

All information about implemented projects is published publicly and becomes available to the general public.

Such a system minimizes corruption and other risks, as well as ensures transparency and accountability in spending funds.

In addition, in accordance with the decision of the Moscow City Court of November 2021, the judicial decisions of the Uzbek courts against Gulnora Karimova and her partners were recognized and the confiscation of the value of 6 real estate objects, which were in addition, in accordance with the decision of the Moscow City Court of November 2021, the judicial decisions of the Uzbek courts against Gulnora Karimova and her partners were recognized and the confiscation of the valuable objects, which were exchanged in equal shares in favor of Russia and Uzbekistan, was envisaged. Currently, the necessary work is being carried out with the Russian side to organize the sale of confiscated property for return to the Republic of Uzbekistan.

In addition, \$60 million has been seized in the United States, and negotiations are underway to return assets to Uzbekistan.

A request for legal assistance has been sent to Belgium, and cooperation on asset recovery in the amount of USD 240 million is ongoing, the investigation process has not yet been completed.

In the UK, the High Court in London is considering cases for the recovery of 10 million pounds and 3 cases for the return of assets in the real estate sector.

In Latvia, the decisions of the judicial authorities of the Republic of Uzbekistan have been recognized, and work is underway to recover 15 million US dollars. Among these assets are certificates worth 26 kg of gold in the cultural and entertainment complex and ABLVA Bank, located in Riga, Latvia⁵.

At the same time, the Government of Uzbekistan also faces a number of challenges related to the return of assets acquired as a result of corruption crimes. In particular:

It should be noted that it is very difficult to return exported assets abroad. On the one hand, there are serious difficulties associated with a limited range of legal, investigative and judicial capabilities, and a lack of financial resources. All this leads to a huge expenditure of time and resources in the processes of identifying and prosecuting persons who have committed corruption crimes, monitoring, detecting offenses and collecting proceeds from corruption. In some cases, problems arise when sending foreign requests to certain countries where criminal funds are transferred and executing them.

On the other hand, countries where criminally obtained funds are usually transferred (often countries with developed economies) do not always respond to requests for legal assistance. Most states can freeze assets, but not return them immediately. Sometimes the requirements (conditions) of these States in accordance with national administrative

⁵Жиноий йўл билан орттирилган активларни чет давлатлардан қайтариш соҳасида амалга ошириляётган ишлар // <https://www.youtube.com/watch?v=wUdBDZa-as>



procedures regarding testimony, evidence and criminal proceedings are so complex that in some cases it is impossible to fully ensure compliance with these requirements.

However, the effectiveness of the asset recovery process can only be achieved by further strengthening cooperation between States and simplifying administrative procedures.

Accordingly, further strengthening of international cooperation in the field of repatriation of assets acquired through corruption, in particular:

- Creation of an appropriate regulatory framework in the field of asset recovery in each national jurisdiction;
- Organization of specially authorized institutional structures in each national jurisdiction;
- further development of formal and informal communication channels between law enforcement agencies and organization of periodic network meetings;
- It would be advisable to create electronic information bases between law enforcement agencies and introduce an electronic evidence system into national legislation.

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