

Global Forum for Assets Recovery

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**CC: US Department of State; US Department of Justice;
The Foreign and Commonwealth Office, United Kingdom**

From:

**Association for Human Rights in Central Asia, Le Mans, France;
Uzbek-German Forum for Human Rights, Berlin, Germany**

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OPEN LETTER

We, two Uzbek civil society organizations in exile, the Association for Human Rights in Central Asia and the Uzbek-German Forum for Human Rights, write to the organizers and participants of the 2017 Global Forum for Assets Recovery to express our support to “Civil Society Statement for Global Forum on Asset Recovery” and to call attention to the situation surrounding return of the proceeds of corruption to Uzbekistan, a country that continues to be run by a repressive, kleptocratic regime following the transfer of power following the death of long-time autocrat Islam Karimov.

Hundreds of millions have been stolen from the Uzbek people by the members of the ruling regime, whose constituent members remain the same despite the ascendancy of new President Shavkat Mirziyoyev. The widespread siphoning off of public funds through bribery and corruption in Uzbekistan has not been the fault of a single public official’s greed or poor leadership, but is rather the product of the systemic and entrenched nature of government corruption in the country, perpetuated by a network of public officials that remains largely unchanged, and indeed, unchallenged.

Return of the proceeds of corruption to the same government without safeguards to prevent their theft once again is against the word and spirit of the UN Convention against Corruption and is against the interests of people of Uzbekistan – the true victims of the corruption committed by country’s ruling elite.

Those countries currently holding assets that are the ill-gotten proceeds of corruption in Uzbekistan who are considering repatriation of such assets to Uzbekistan must first consider whether the conditions that allowed for high-level bribery and money laundering in Uzbekistan have fundamentally changed. To date, anti-corruption reforms that would prevent the repeated theft of such assets have not yet been implemented in Uzbekistan. As such, an unconditional return of ill-gotten assets to Uzbekistan (or any requesting state without such reforms) will make the requested countries complicit in continued corruption in the country of origin.

What happened in Uzbekistan?

Gulnara Karimova, the daughter of former Uzbek President Islam Karimov, extorted more than one billion USD in bribes from international telecom companies VimpelCom, TeliaSonera, Mobile

Telesystems and others in exchange for local licenses to operate. Karimova received this amount through offshore companies and bank accounts in a number of western European countries. In total, the bribery scandal amounted to approximately 7% of the annual state budget of Uzbekistan and, as such, has brought harm to Uzbek people, depriving them of public services such as education, pension funds, and healthcare they would otherwise have received.

What made this possible?

The absence of institutional integrity and policy mechanisms to prevent corruption and bribery is a primary reason. Uzbekistan still lacks any regulation on conflict of interests, does not make declarations of income by public officials obligatory, and does not have a transparent and accountable system of public procurement or allocation of state licences. Still today there are no independent anti-corruption bodies; no independent judiciary, and no other institutional safeguards against corruption.

Alongside Uzbekistan's institutional weakness, a culture of corruption prevailed. Under former president Islam Karimov, high level public officials were instrumental in facilitating the enrichment of the ruling Karimov family and, in exchange, were enabled to enrich themselves. The government of Uzbekistan, was operationalized to serve the interests of ruling elites, rather than the interests of its citizens.

Have any of these conditions changed and has anyone responsible been held to account?

No serious steps have been taken by the government of Uzbekistan under the leadership of new President Shavkat Mirziyoyev toward institutional reforms, with the only exception of a step taken towards liberalization of currency exchange policies. Since the start of Mirziyoyev's presidency, there have been no demonstrable reforms to tackle corruption, to establish rule of law, and to implement standards of transparency and accountability.

In fact, the same high-level public officials complicit in the theft of more than one billion USD by Gulnara Karimova's still occupy top government positions. Mr. Abdulla Aripov, who in his past capacity of Chairperson of the State Telecommunication Agency personally sanctioned the corrupt allocation of telecom licenses, has even been promoted to Prime Minister. At least one additional figure involved in the scheme, Rustam Inoyatov, Chairperson of the National Security Service, remains in his position. No legal proceedings have been initiated to hold these and other public officials to account.

The only individuals who have been charged and sentenced, under an extremely non-transparent process, is Gulnara Karimova herself and a few of her close associates who played exclusively technical roles (as nominal owners of shell companies) in the schemes. The trial and sentencing of Karimova and her associates transpired in violation of internationally acceptable norms of due process. While Karimova and her associates should without doubt be tried for this case, there is ample reason to believe the case against her has been used to substantiate the government of Uzbekistan's claim for the ill-gotten proceeds of the scheme, and to ensure that the current ruling elite is able to recapture these proceeds.

As a result, there have so far not been any changes in Uzbekistan that would allow the safe return of the assets in question.

If asset holding countries decide to return the proceeds of this corruption back to Uzbekistan unconditionally, the leading members of its administration will recapture more than one billion USD will

be taken under control by the same people who helped to steal these assets. That would only perpetuate the cycle of grand corruption in this country.

Why are we writing to the Global Forum on Asset Recovery?

GFAR, in practical terms, is not an official decision-making forum for governments on repatriation of assets, but is the most significant global event for policymakers to come together to discuss such issues. As such, we have chosen to write this open letter to GFAR in the hopes that policymakers will take the abovementioned issues into account.

Here are **our recommendations**, which are based on the example of Uzbekistan, to the sponsors, facilitators and participants of GFAR:

First: Stolen assets cannot to be returned to countries like Uzbekistan unconditionally.

Conditionality is not necessarily against principles of state sovereignty. In the case of Uzbekistan, the government is in violation of both international law and in violation of its own laws, which exist on paper rather than in practice. International law, which prevails in other such cases where, for instance, governments are accused of war crimes or crimes against humanity, should prevail in cases of grand corruption where the government is the primary sponsor and perpetrator of the crime. There should be similar legal and policy provisions for crimes of grand corruption and money laundering stipulated by international law, and adopting conditionality in returning stolen assets to kleptocratic regimes would be a step in this direction.

Second: Asset restitution is an opportunity to challenge the impunity of corrupt ruling elites in countries notorious for grand corruption and systemic human rights violations.

The UN Convention against Corruption provides for asset-holding states (countries of transit or destination) to return assets to the countries where they were stolen (country of origin). This provision should not be applied unconditionally. The process of asset return must be conditioned on a legal judgement of a requesting state (the country of origin) for their repatriation. This legal judgement must meet the standards of due process to be accepted by a requested states, a standard impossible to ensure if the requesting state fails to establish and enforce the rule of law.

Third: Requested states should take into account the institutional conditions that enabled the original theft of assets from the country of origin, and whether these conditions have changed. Requested states should also consider whether effective anti-corruption mechanisms have been established, and whether these mechanisms are implemented in practice.

Fourth: The decision to return the assets should also be assessed from the point of view of the norms of international law on human rights. A ruling regime that systematically abuses the human rights of its own population and where torture in custody and prisons is a routine practice cannot be credited to receive and manage stolen assets that are the proceeds of corruption.

We hope to be heard by the sponsors, facilitators and participants of GFAR, and we ask that the example of our country be taken into account.

A few words about ourselves:

The Association for Human Rights in Central Asia (AHRCA), based in Le Mans, France, was established in 2006 by Uzbek political refugee Nadejda Atayeva and colleagues. Since then, the organization has

provided assistance to 1,250 political refugees and victims of human rights abuses from Central Asia. AHRCA promotes their cases pro bono within international mechanisms for human rights. Over the last several years, AHRCA has submitted 40 reports to the EU and 11 reports to UN human rights mechanisms on the human rights situation in Central Asia. E-mail: ahrca.org@gmail.com; : <http://ahrca.org/>; address: Centre MBE 140, 16, rue du Docteur Leroy, 72000 Le Mans, France.

The Uzbek-German Forum for Human Rights (UGFHR), based in Berlin, Germany, was established in 2010 by Uzbek political refugee Umida Niyazova and colleagues. UGFHR specializes in monitoring and advocating for the abolishment of state-orchestrated systems of forced labor in Uzbekistan's cotton industry, an issue that is fundamentally related to both human rights and corruption. UGFHR also runs the news-website [Eltuz.com](http://eltuz.com); Email: umida.niyazova@gmail.com; <http://uzbekgermanforum.org/>.

Sincerely Yours,

Nadejda Atayeva, Association for Human Rights in Central Asia

Umida Niyazova, Uzbek-German Forum for Human Rights