



## COHORT ON INTERNATIONAL COOPERATION FOR ANTI-CORRUPTION

### RECOMMENDATIONS

Tackling corruption is integral to efforts to strengthen democracy worldwide. International cooperation in the investigation of high-level corruption and asset recovery cases is crucial to overcome the impunity associated with serious corruption cases.

Existing international frameworks, such as the UN Convention against Corruption, the UN Convention against Transnational Organized Crime provide the basis for international cooperation and asset recovery. The commitments made by countries in the Political Declaration of the UN General Assembly Special Session against Corruption adopted in June 2021 strengthens and supplements the obligations in those frameworks. Many other frameworks and recommendations relevant to the cohort's work were also mentioned in the cohort's discussions, including the Common African Position on Asset Recovery, the FACTI Panel report, the Oslo Statement on Corruption Involving Vast Quantities of Assets, the Lausanne guidelines for asset recovery as well as discussions in UN international expert meetings on asset return and the 2017 Global Forum on Asset Recovery Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases – which a group of NGOs have elaborated on.

Some progress has been made in the last 10-15 years and should be recognized; this pertains in particular to some examples of much improved international cooperation. Key challenges remain, including:

- Non-cooperative territories
- Slowness and bureaucracy of MLA
- Lack of political will
- Corruption fights back (disinformation campaigns, law suits against prosecutors)

The cohort met in two workshops and heard presentations and recommendations from experts on a range of relevant issues.

**We the members of the cohort on Anti-Corruption have identified the following priority areas for action and reforms** in relation to international cooperation in investigations and in asset recovery, to overcome the impunity that weakens democracies and strengthens authoritarian governments world-wide:

➤ **Strengthening international standards and structures**

- Take full opportunity of the numerous commitments and recommendations on international cooperation and asset recovery that already exist (UNCAC, UN Convention against Transnational Organized Crime, FATF, Political Declaration of the UNGASS against corruption, 2019 Oslo Statement on

Corruption involving Vast Quantities of Assets, 2017 Global Forum on Asset Recovery Principles...), as well as of the regional anti-corruption conventions (that include the Council of Europe Criminal and Civil Law Conventions on Corruption) and **establish or strengthen the formal reviews of these instruments.**

- In line with Transparency international advocacy, increase **recognition of grand corruption offences as serious, aggravated and organized crimes** and make relevant improvements to national and international frameworks, relating to jurisdiction, immunities, statutes of limitation and more. Call for a review of international mechanisms for the **tracing, freezing and confiscation** of assets in criminal cases and introducing **new international standards** to be followed, especially in high level high value corruption cases. Call for States to adopt **extended, value-based and non-conviction based confiscation** mechanisms.
- Consider the possibility of a **UN complaints and mediation mechanism** for States where assistance not provided, and systematic **annual reporting on country performance in MLA requests**. Call for **collective action** to bring pressure to bear on non-cooperative jurisdictions, especially in serious corruption cases.
- Call for States to engage in greater regulation and scrutiny of **professional enablers** (corporate service providers, legal professionals, financial advisors, accountants...) who work with corrupt actors to move and conceal illicit assets, and to allow for the confiscation of the profits of their trade
- Call for the adoption by States of **Magnitsky style sanctions regimes** against highly corrupt leaders, to undermine their ability to enjoy the proceeds of their corrupt activity, and encourage the adoption of such legislation on a regional level. Full-fledged criminal procedure under extended jurisdiction is preferred, and targeted sanctions should be used as last resort.
- Call to requested States, for a harmonization of the practices regarding the **return of the proceeds to victim countries**, in line with the UNCAC, and to requesting states, for a coherent policy that includes the transparent and accountable use of returned funds for the benefit of the people of the nations harmed, without prejudice to victims. Also call to develop **guidelines on frameworks for remedies for victims in corruption cases**, including for widespread harm in grand corruption cases.
- Advocate for the extension of the signatories of the “**International Treaty on Exchange of Data for the Verification of Asset Declaration**” to enhance cooperation and exchange of data on asset disclosure among the integrity agencies.
- Strengthen **international coordination mechanisms** like the IACCC and Interpol and **information exchange platforms** like the GloBE Network and consider creating an **international rapid action task force** to assist countries that have low capacity, to provide technical assistance such as that provided by the IACCC and ICAR.
- Call on States to ensure coordinated **technical and financial assistance** to strengthen law enforcement agencies, and to support **training and capacity building** by UNODC, StAR, ICAR etc.
- Promote a **coordinated approach of the offences of corruption and money laundering**, to ensure that laundering the proceeds of corruption offence can be effectively prosecuted and sanctioned.

➤ **Adapting national legal frameworks and practices**

- Consider introducing a **presumption of money-laundering** in specified and serious cases, where the manner in which the asset is held appears to have no other justification than to conceal the origin of the property or its beneficial ownership.
- Introduce a range of measures to improve asset recovery. Encourage the use of **multidisciplinary asset recovery and asset management agencies**, gathering people from the judiciary, police, tax administration and asset managers, so that each agent can use his professional network and professional

tools in the interest of asset recovery. Provide law enforcement agencies with powers to **trace assets following conviction**. Prioritize the **early sale of assets**, where these may depreciate in value and/or incur high management costs. Set up an **online auction platform** to ease the sale of confiscated assets, including cryptocurrencies.

- Allow for the **social re-use of confiscated assets/recovered funds** by transferring them, free of charge, in a transparent and equitable manner, to public institutions, local units or NGOs, for social purposes or public re-use. Further allow for the use of confiscated funds for crime prevention purposes including through community education programs. Ensure that requesting states have a coherent policy that includes the **transparent management of these funds**, including the possibility of management of the funds by CSOs in the victim countries.
- Focus on repairing damage caused by corruption: **improve compensation of civil claimants in criminal proceedings**, by giving priority ranking to their claims over assets which have been definitively confiscated.
- Mitigate the **risks of retaliatory activities** of corrupt actors (disinformation campaigns, law suits against prosecutors, Strategic Lawsuits Against Public Participation (SLAPP), lawsuits against NGOs, other attacks) and legally ensure **whistleblower protection**.

➤ **Strengthening operational cooperation**

- Use informal cooperation channels for the purpose of sharing information and building trust and confidence, as well as regional and international platforms to establish direct **people-to-people contacts (police-to-police, prosecution-to-prosecution)** to advance investigations more efficiently and reduce the bureaucracy of mutual legal assistance.
- Capitalize on existing **networks and specialist organisations**, such as those of the: IACCC, EUROJUST, EUROPOL (CARIN-SIENA), INTERPOL, the Basel Institute's International Centre for Asset Recovery (ICAR) or the World Bank UNODC Stolen Asset Recovery Initiative (StAR).
- **INTERPOL to improve treatment of requests related to PEPs** so they are not rejected as "politically motivated", possibly through the creation of an independent Commission to review these requests.
- Develop comprehensive **national registries of seized, managed, and confiscated criminal assets**.
- Call for **early consultation** between the competent authorities of the requesting/requested States, to avoid difficulties caused by the differences in national approaches. Use informal police to police co-operation.
- Liaise with the competent authorities of the requested State at early stage, prior sending an official request for freezing or confiscation, to facilitate the recognition and enforcement of the seizure and confiscation orders.
- When domestic institutions are unable to pursue cases, they should consider **externalising cases**, e.g. by engaging the requested country to initiate their own proceedings for money laundering or by using Joint Investigation Teams, and by granting **relevant civil society organizations legal standing to initiate and pursue corruption cases**
- Increase **access to information**, by developing a **constructive cooperation between law enforcement agencies and CSOs, including investigative journalists**, to ensure that all useful information collected are used optimally during the investigation, and that investigations can move forward thanks to civil society in case law enforcement agencies cannot advance in a timely and efficient manner.