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**Statement submitted by Transparency International,
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The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

The present text is being circulated in English and in any other languages as received by the secretariat.



Transparency International Submission to the 8th UNCAC CoSP

Calling for Transparent and Accountable Asset Recovery TI Chapter Country Reports

In December 2017, the inaugural meeting of the Global Forum on Asset Recovery (GFAR) took place in Washington D.C. Representatives of 26 jurisdictions, as well as international organizations, civil society and media attended GFAR and recommitted to the global asset recovery agenda. The meeting focused on assistance to four priority countries: Nigeria, Sri Lanka, Tunisia and Ukraine.¹

The main countries participating in that meeting issued a final Communique indicating a commitment to improving asset recovery efforts; acknowledging the valuable contribution made by civil society organizations; and including an agreement on the GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases.²

The agreed GFAR principles include:

- Transparency and accountability
- Benefit to the people of the nations harmed
- Using confiscated proceeds, where possible, to combat corruption, repair the damage done and achieve development goals
- Inclusion of non-government stakeholders

The issue of transparency and accountability in the entire asset recovery process had been raised by the UNCAC Coalition ahead of the Forum.³ The Coalition also urged countries to take concrete steps to address the underlying causes of illegal asset appropriation, to close down secrecy loopholes and to prosecute and sanction perpetrators and facilitators of corruption. At the end of the Forum, the Coalition prepared a joint statement urging the four focus countries to take specific steps.⁴

Transparency International welcomes the steps governments have taken since the GFAR in 2017, but is concerned that progress has been modest and many commitments still need to be fulfilled.

This submission highlights TI chapter assessments of progress in six countries since the GFAR in 2017 and makes recommendations on cross-cutting issues arising out of those reports.

¹ Ahead of the December 2017 GFAR meeting, TI chapters and other CSOs prepared a set of baseline reports and recommendations on asset recovery processes in France, Nigeria Sri Lanka, Tunisia, the Ukraine, the United Kingdom and the United States. A baseline report has recently also been prepared for Germany. These reports identified a number of issues to be addressed in those countries and can be found on the asset recovery page on the UNCAC Coalition website : <https://uncaccoalition.org/learn-more/asset-recovery/>.

² <https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf>.

³ <https://uncaccoalition.org/civil-society-statement-for-the-global-forum-on-asset-recovery/>.

⁴ <https://uncaccoalition.org/civil-society-statement-for-the-global-forum-on-asset-recovery-closing-session/>.

Implementation of the GFAR principles

In connection with the assessment of the implementation of the GFAR principles, we draw particular attention to a monitoring carried out by TI Nigeria/CISLAC in their follow-up report. It uses a specially designed methodology to assess Nigeria's adherence to the GFAR Principles.⁵

Comments are invited on this methodology and we encourage interested parties, including States, international organizations, and other CSOs to actively contribute to its further development and to consider adopting and implementing it.

Assessments using this tool could help refine the understanding of global asset recovery mechanisms.

Lack of data, transparency and accountability and the StAR Questionnaire

One of the key issues at the 2017 GFAR was the lack of data from all countries, both requesting and requested. Since 2012, no comparative data regarding international returns of the proceeds of corruption are available at international level.

According to the TI chapter follow-up reports there continues to be a low level of transparency and accountability in relation to the return and disposition of recovered assets, as seen by the lack of public country data on the asset recovery process, both internationally and domestically.⁶ Little information is widely available about the amount of assets seized, frozen or confiscated prior to their return to the countries of origin. In countries where efforts are ongoing to collect such data, access to them is often limited to the courts and law enforcement partners and not in the public domain.

With a view to collecting data on global progress on international asset recovery and asset repatriation in corruption cases in a systematic and internationally comparable way, the World Bank/UNODC Stolen Asset Recovery Initiative (StAR) has developed a specific questionnaire, addressing the period from 2010-2019, that has recently been disseminated to State Parties.⁷

Better data can contribute to identifying and better understanding trends and obstacles in asset recovery practices. They may also allow to promote transparency and accountability, as discussed at the GFAR meeting 2017.

We welcome StAR's initiative, and encourage States Parties to participate in this effort by submitting their responses.⁸

⁵ See, Global Forum for Asset Recovery PROGRESS REPORT: NIGERIA, Development since December 2017 to June 2019 (CISLAC 2019) <http://cislacnigeria.net/global-forum-for-asset-recovery-progress-report-for-nigeria/>

⁶ [States may also draw inspiration from a recent report prepared by TI](#) on how to enhance EU asset recovery efforts. TI EU, « *Into the void; the EU's struggle to recover the proceeds of grand corruption* », 2019, available under : http://transparency.eu/wp-content/uploads/2019/09/Asset_recovery_report.pdf.

⁷ StAR Data Collection: International Asset Recovery Efforts in Corruption Cases, 2010-2019.

⁸ In particular in point 3 of the UNCAC Coalition Statement available at <https://uncaccoalition.org/civil-society-statement-for-the-global-forum-on-asset-recovery/>.

Other cross-cutting issues emerging from TI follow-up reports

In the second half of 2019, TI chapters prepared GFAR follow-up reports on France, Nigeria, Sri Lanka, Tunisia, the Ukraine and the United Kingdom. These reports will be made available on the UNCAC Coalition website. Baseline reports on these countries were prepared for the GFAR in 2017 and can be found on the UNCAC Coalition website.⁹

Acknowledging the improvements that have been made following the commitments of countries at the GFAR 2017, the follow-up reports point to the following horizontal issues.

- **Beneficial ownership transparency:** The lack of public, freely available, and verified Beneficial Ownership registers for property, companies, trusts etc. remains.
- **Quality of SARs:** Concerns were raised in relation to the quality of Suspicious Activities Reports, which impacts the timely detection of suspicions of corruption.
- **Lack of legal accountability of facilitators:** The number of cases in which professional facilitators of laundering of corrupt wealth are prosecuted and sanctioned continues to be low.
- **Lack of adequate resources:** There is a lack of specialized services and adequate resources to detect and investigate cases of corruption and related assets, despite extensive training efforts that have been undertaken in the last years.
- **Lack of coordination:** In several countries, the multitude of agencies involved in investigating corruption cases remains uncoordinated. Legal and practical restrictions on their cooperation hampers their effectivity.
- **Lack of information about follow-up on complaints:** In some countries, agencies receive annually thousands of complaints about (domestic) bribery and corruption. The vast majority of them does not advance to trial. This lack of follow-up is of particular concern where there is almost no publicly available information about the assets involved and their confiscation. Even less information is available in relation to whether confiscation orders are successfully executed and how the assets are used subsequently.
- **Loopholes in legal framework:** Loopholes continue to exist in the legal framework especially concerning asset recovery. Not all cases require a complete overhaul of the existing laws. Gaps could also be closed by integrating additional provisions in existing laws or, where appropriate, by enacting specific laws such as e.g. a Proceeds of Crime Act. Where drafting efforts have been undertaken, the fate of the resulting draft Bills is uncertain at present and their enactment could take further years.
- **Lack of policies on management of returned assets:** Some reports identified a lack of specific asset recovery policies including the management of seized, frozen and recovered assets.
- **Lack of prompt MLA:** The reports also identified country failure to provide prompt mutual legal assistance.

⁹ <https://uncaccoalition.org/learn-more/asset-recovery/>

Conclusion and recommendations

The asset recovery process remains slow and its global success rate is seriously impacted by a continued lack of capacity and experience to detect and investigate the source of assets, obstacles in domestic and international cooperation, the duration of the investigations, inadequate or insufficient mutual legal assistance, as well as unreliable or insufficient evidence provided in court.

We call upon governments to step up their efforts to implement their anti-corruption and asset recovery commitments in practice.

With respect to asset recovery processes, we strongly encourage countries to

1. Ensure that their legal and procedural provisions are fully compliant with the requirements under UNCAC
2. Streamline the number and structure of agencies responsible for the detection, investigation and prosecution of cases of bribery and corruption as well as asset recovery and remove legal obstacles impacting their effective cooperation
3. Ensure adequate financial and staff resourcing for those agencies
4. Address other deficiencies in detection and asset recovery arrangements identified in the CSO reports and other assessments

With respect to the principles to be applied in the asset recovery process we urge countries to

1. Improve the level of transparency through communication about illicit assets identified, seized, confiscated and repatriated, including through responding to the StAR questionnaire
2. Make publicly available all decisions concerning asset recovery, including the amounts involved.
3. Adopt principles for the return of assets along the lines of the GFAR principles, notably concerning transparency, accountability, integrity, solidarity and effectiveness in the requesting as well as the requested countries.
