

Civil Society Principles for Accountable Asset Return

These principles have been developed through a consultative, year-long process involving civil society organizations from across the globe. They are minimum, framework standards and are designed to be supplemented by country and case specific detail by civil society. These principles should be applied to both international and domestic asset recovery.

Transparency and participation	
1	<p>Asset recovery cases should be conducted transparently from start to end, to the extent compatible with rules on confidentiality of investigation.</p> <p>As far as possible, relevant authorities - both domestic and international - should publicly provide, from the earliest legally possible opportunity, the following information in an accessible manner to the public, including any identified victims of corruption:</p> <ul style="list-style-type: none">• timely and accessible case information on the progress and status of asset recovery cases, including case names where possible;• the nature/type of the assets under investigation and estimated amounts involved;• the legal framework through which the asset recovery process is being undertaken;• the amounts seized and timeline for return;• the negotiating framework, modalities for asset return and disbursement, and the involvement of civil society;• the disposition, administration and monitoring of returned assets. This can include independent tendering processes for third-party stakeholders involved in the disbursement of funds; due diligence on third-party/intermediary actors involved in the disbursement and monitoring of assets as well as independently audited reports on the disbursement of funds and progress of programs.
2	<p>All recovered assets must be traceable by the general public at all stages of the process of asset recovery from confiscation to disbursement. This could include, amongst other methods, that recovered funds be separated from the general state budget and placed in a special account or another agreed independent mechanism until assets have been fully disbursed.</p>

3	<p>Civil society organizations, including victims' groups/representatives, should be able and enabled to participate in the asset recovery process. This includes:</p> <ul style="list-style-type: none"> • identifying the mechanisms and processes that allowed for initial harm to occur; • identifying how harm can be remedied including proposals for preventing recurrence; • contributing to decisions on the return and disposition of assets including social programs dedicated to victims of corruption issues; • fostering transparency and accountability in the transfer, administration, disposition and monitoring of recovered assets; and, • as far as allowed by confidentiality rules, fostering transparency and accountability in the investigation (see Principle 1).
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4	<p>Multilateral, bilateral and case-specific agreements or arrangements should be made public in a timely fashion, including when recovery is part of reconciliation arrangements, and should involve civil society representatives.</p> <p>These agreements should be concluded to ensure the transparent and effective use, administration and monitoring of the returned proceeds of corruption in line with the principles set out here.</p>
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Integrity

5	<p>In no cases should the disposition of the recovered assets benefit directly or indirectly natural or legal persons involved in the commission of the original or on-going offence(s).</p>
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6	<p>A process should be in place to monitor the disbursement of funds as well as a complaints mechanism.</p> <p>Any suspicion of irregularities concerning the management of recovered assets should lead to the opening of an investigation by independent authorities. Where the return is international, investigations should be opened by both the origin and returning jurisdictions and transfers should be suspended pending the outcome of the investigation.</p> <p>When countries are not compliant with UNCAC Articles 9, 10 and 13 (transparency and accountability in public financial management; public reporting and participation of society), monitoring for irregularities in international returns should be particularly stringent.</p>
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Accountability

7	<p>Anti-corruption, rule of law and accountability mechanisms should be in place to provide oversight of recovered assets. As a minimum, this should include:</p> <ul style="list-style-type: none">• Transparent and accountable public procurement and tendering processes that meet international standards;• Transparent and publicly available registers of companies, with information on their beneficial owners;• Establishment of regulations on conflict of interest;• Independence of the judiciary and access to a fair trial;• Freedom of association and freedom of the press (without which any meaningful monitoring by the civil society would be impossible). <p>When these are not in place, alternative arrangements should be considered in consultation with a broad base of civil society organizations that are truly representative of citizens, including where possible victims' groups/representatives, to ensure accountability of the recovered assets.</p> <p>This does not affect the principle that the recovered assets remain the property of the people of the country from which they were stolen.</p>
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Victim restitution and other beneficiaries

8	<p>Where victims of the abuse of power by public officials can be identified individually or as a group, they should receive restitution for the damage caused. This principle should not apply to those involved in the commission (directly or indirectly) or facilitation of the offence(s).</p>
9	<p>Without prejudice to the restitution of identified victims, recovered assets should be used to benefit the people of the country from which the assets were stolen.</p> <p>'Benefit the people' in this context means improving the living standards of populations and/or strengthening the rule of law and prevention of corruption in line with international human rights obligations in the country or countries where the underlying offences occurred, and thus contributing to the achievement of the Sustainable Development Goals.</p>
10	<p>A wide range of stakeholders, including a broad base of representative civil society organizations should be involved in determining how recovered assets should be used to best repair the harm caused and to benefit the</p>

people. Where possible and where victims' groups do not exist, civil society should also be empowered to help identify, and potentially represent, victims.

Annex: Sources of the Civil Society Principles for Accountable Asset Return

No.	Principle	Source
Transparency and participation		
1	<p>Asset recovery cases should be conducted transparently from start to end, to the extent compatible with rules on confidentiality of investigation.</p> <p>As far as possible, relevant authorities - both domestic and international - should publicly provide, from the earliest legally possible opportunity, the following information in an accessible manner to the public, including any identified victims of corruption:</p> <ul style="list-style-type: none"> • timely and accessible case information on the progress and status of asset recovery cases, including case names where possible; • the nature/type of the assets under investigation and estimated amounts involved; • the legal framework through which the asset recovery process is being undertaken; • the amounts seized and timeline for return; • the negotiating framework, modalities for asset return and disbursement, and the involvement of civil society; <p>the disposition, administration and monitoring of returned assets. This can include independent tendering processes for third-party stakeholders involved in the disbursement of funds; due diligence on third-party/intermediary actors involved in the disbursement and monitoring of assets as well as independently audited reports on the disbursement of funds and progress of programs.</p>	
Source 1.a	<p>The whole allocation process should be conducted in a transparent manner (initial consultation phase, selection of beneficiary organisation(s) of the funds, choice of projects and programmes, method of transfer of funds and their administration by the beneficiaries...), chiefly by publication of reliable and exhaustive information on a dedicated website and the issue of timely press releases.</p> <p>Funds derived from grand corruption should be separated from the general state budget and placed in a special account pending their</p>	TI France

	<p>allocation: as well as facilitating the traceability of the funds, this principle of special budget treatment has huge symbolic significance in that it reflects France’s desire not to “appropriate to itself” the proceeds of grand corruption.</p>	
Source 1.b	<p>Principle 4: Transparency and accountability. Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country. The use of unspecified or contingent fee arrangements should be discouraged</p>	<p>GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases</p>
2	<p>All recovered assets must be traceable by the general public at all stages of the process of asset recovery from confiscation to disbursement. This could include, amongst other methods, that recovered funds be separated from the general state budget and placed in a special account or another agreed independent mechanism until assets have been fully disbursed.</p>	
Source 2	<p>The whole allocation process should be conducted in a transparent manner (initial consultation phase, selection of beneficiary organisation(s) of the funds, choice of projects and programmes, method of transfer of funds and their administration by the beneficiaries), chiefly by publication of reliable and exhaustive information on a dedicated website and the issue of timely press releases.</p> <p>Funds derived from grand corruption should be separated from the general state budget and placed in a special account pending their allocation: as well as facilitating the traceability of the funds, this principle of special budget treatment has huge symbolic significance in that it reflects France’s desire not to “appropriate to itself” the proceeds of grand corruption.</p>	<p>TI France</p>

3	<p>Civil society organizations, including victims’ groups/representatives, should be able and enabled to participate in the asset recovery process. This includes:</p> <ul style="list-style-type: none"> ● identifying the mechanisms and processes that allowed for initial harm to occur; ● identifying how harm can be remedied including proposals for preventing recurrence; ● contributing to decisions on the return and disposition of assets including social programs dedicated to victims of corruption issues; ● fostering transparency and accountability in the transfer, administration, disposition and monitoring of recovered assets; and, ● as far as allowed by confidentiality rules, fostering transparency and accountability in the investigation (see Principle 1). 	
Source 3.a	<p>Principle 10: Inclusion of non-government stakeholders. To the extent appropriate and permitted by law, individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied, contributing to decisions on return and disposition, and fostering transparency and accountability in the transfer, disposition and administration of recovered assets.</p>	<p>GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases</p>
Source 3.b	<p>Ensuring that there is sufficient monitoring of and public accountability for how returned assets are managed and used, including through national level institutions and engagement of CSOs;</p>	<p>UNCAC Coalition Civil Society Statement for the Global Forum on Asset Recovery</p>
4	<p>Multilateral, bilateral and case-specific agreements or arrangements should be made public in a timely fashion, including when recovery is part of reconciliation arrangements, and should involve civil society representatives.</p> <p>These agreements should be concluded to ensure the transparent and effective use, administration and monitoring of the returned proceeds of corruption in line with the principles set out here.</p>	
Source 4.a	<p>The funds must be administered in such a way as to ensure optimal traceability and to that end they should be subject to separate accounting treatment.</p>	<p>TI France</p>

Source 4.b	Principle 8: Consider using an Agreement under UNCAC Article 57(5). Case-specific agreements or arrangements should, where agreed by both the transferring and receiving state, be concluded to help ensure the transparent and effective use, administration and monitoring of returned proceeds. The transferring mechanism(s) should, where possible, use existing political and institutional frameworks and be in line with the country development strategy in order to ensure coherence, avoid duplication and optimize efficiency.	GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases
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Integrity

5	In no cases should the disposition of the recovered assets benefit directly or indirectly natural or legal persons involved in the commission of the original or on-going offence(s).	
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Source 5.a	Principle 9: Preclusion of Benefit to Offenders. All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).	GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases
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Source5 .b	The Departments will work collaboratively with the Department for International Development (DFID), Foreign and Commonwealth Office (FCO), Home Office (HO) and HM Treasury (HMT) in relevant cases to: identify a suitable means by which compensation can be paid to avoid the risk of further corruption.	United Kingdom: General Principles to compensate overseas victims (including affected States) in bribery, corruption and economic crime cases
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6	<p>A process should be in place to monitor the disbursement of funds as well as a complaints mechanism.</p> <p>Any suspicion of irregularities concerning the management of recovered assets should lead to the opening of an investigation by independent authorities. Where the return is international, investigations should be opened by both the origin and returning jurisdictions and transfers should be suspended pending the outcome of the investigation.</p> <p>When countries are not compliant with UNCAC Articles 9, 10 and 13 (transparency and accountability in public financial management; public reporting and participation of society), monitoring for irregularities in international returns should be particularly stringent.</p>	
Source 6.a	The funds must be administered rigorously to prevent them being channelled back into corrupt circles or associated with any other illegal or illicit activity. Any suspicion of irregularities concerning the management of the funds would lead to the opening of an investigation and suspension of the transfer.	TI France
Source 6.b	Principle 9: Preclusion of Benefit to Offenders. All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).	GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases
Source 6.c	Ensuring that where a receiving country is non-compliant with UNCAC Articles 9, 10 and 13 (transparency and accountability in public financial management; public reporting and participation of society), resulting in a lack of effective oversight of returned funds, returning and receiving countries should in consultation with a broad spectrum of relevant experts and non-state actors and ways of repatriating stolen assets that ensures they cannot be re-looted.	UNCAC Coalition Civil Society Statement for the Global Forum on Asset Recovery

Accountability

<p>7</p>	<p>Anti-corruption, rule of law and accountability mechanisms should be in place to provide oversight of recovered assets. As a minimum, this should include:</p> <ul style="list-style-type: none"> • Transparent and accountable public procurement and tendering processes that meet international standards; • Transparent and publicly available registers of companies, with information on their beneficial owners; • Establishment of regulations on conflict of interest; • Independence of the judiciary and access to a fair trial; • Freedom of association and freedom of the press (without which any meaningful monitoring by the civil society would be impossible). <p>When these are not in place, alternative arrangements should be considered in consultation with a broad base of civil society organizations that are truly representative of citizens, including where possible victims' groups/representatives, to ensure accountability of the recovered assets.</p> <p>This does not affect the principle that the recovered assets remain the property of the people of the country from which they were stolen.</p>	
<p>Source 7.a</p>	<p>Five institutional sectors to be reformed as prerequisite for asset return</p> <ol style="list-style-type: none"> 1) Establish a transparent and competitive tendering process, including in the spheres of allocation of frequencies and licenses, the public procurement of goods, public works, and contracted services. Publish all material related to public procurement and concession contracts in the public domain. 2) Reform the public administration to make sure civil servants carry out the duties of their role, abide by the law, and work in the public interest instead of acting out of personal loyalty to high-ranking officials. With this in mind, implement a conflict of interest regulation for all civil servants and government officials in Uzbekistan and provide full transparency of their income. 3) Establish independence of judiciary and legal profession; enforce the rights for fair trial and due process; 4) Ensure transparency of public and corporate finance, including: obligatory auditing of state and its major corporate contractors by reputable international auditors and the full publication of such audit reports in the public domain; disclose government books to the public, with an emphasis on export revenues; and administer a transparent system of corporate disclosure, with a requirement that all corporate entities operating in Uzbekistan participate in a public register of beneficial owners. 5) Provide oversight including through the establishment of an independent public anti-corruption agency; and allow civil society 	<p>Principles of responsible asset repatriation to Uzbekistan, Uzbek civil society activists</p>

	and media outlets to freely operate and conduct journalist investigations without fear of harassment and repressions.	
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Victim restitution and beneficiaries

8 Where victims of the abuse of power by public officials can be identified individually or as a group, they should receive restitution for the damage caused. This principle should not apply to those involved in the commission (directly or indirectly) or facilitation of the offence(s).

Source 8.a	Principle 5: Beneficiaries. Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct.	GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases
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Source 8.b	The Departments will work collaboratively with the Department for International Development (DFID), Foreign and Commonwealth Office (FCO), Home Office (HO) and HM Treasury (HMT) in relevant cases to: Identify who should be regarded as potential victims overseas. This may be in the form of an affected state.	United Kingdom: General Principles to compensate overseas victims (including affected States) in bribery, corruption and economic crime cases
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<p>Source 8.c</p>	<p>11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.</p> <p>18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights. 3</p> <p>19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.</p>	<p>UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Resolution 40/34 of 29 November 1985), paras 11, 18,19</p>
<p>9</p>	<p>Without prejudice to the restitution of identified victims, recovered assets should be used to benefit the people of the country from which the assets were stolen.</p> <p>‘Benefit the people’ in this context means improving the living standards of populations and/or strengthening the rule of law and prevention of corruption in line with international human rights obligations in the country or countries where the underlying offences occurred, and thus contributing to the achievement of the Sustainable Development Goals.</p>	
<p>Source 9.a</p>	<p>The funds derived from grand corruption must be allocated exclusively to improving the living standards of populations and/or strengthening the rule of law and prevention of corruption in the country or countries where the underlying offences occurred, and thus contribute significantly to the achievement of the Sustainable Development Goals. The Sustainable Development Goals (SDG) are a collection of 17 goals set by the United Nations with the aim of international development. They replace the Millennium Development Goals which ended in 2015.</p> <p>The consultation process which seeks to determine the specific ways of allocating the funds should be conducted in an inclusive manner, ensuring especially the participation of civil society so as to</p>	<p>TI France</p>

	better respond to the needs and expectations of the victim populations.	
Source 9.b	Principle 6: Strengthening anti-corruption and development. Where possible, in the end use of confiscated proceeds, consideration should also be given to encouraging actions which fulfill UNCAC principles of combating corruption, repairing the damage done by corruption, and achieving development goals.	GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases
Source 9.c	12. Encourages countries and relevant multilateral and international organizations to continue their efforts to provide, upon request, technical assistance and capacity-building assistance to developing countries in order to improve their capacity to prevent, detect and combat illicit financial flows and strengthen good practices on assets return to foster sustainable development;	UN GA Resolution A/RES/73/222
10	A wide range of stakeholders, including a broad base of representative civil society organizations should be involved in determining how recovered assets should be used to best repair the harm caused and to benefit the people. Where possible and where victims' groups do not exist, civil society should also be empowered to help identify, and potentially represent, victims.	
Source 10.a	Engaging a wide range of stakeholders, including CSOs, in determining how returned assets should be used to best repair the harm caused and to meet the SDGs;	UNCAC Coalition Civil Society Statement for the Global Forum on Asset Recovery