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CAN THE GOVERNMENT OF UZBEKISTAN RESPONSIBLY MANAGE SEIZED ASSETS?

A Capacity Assessment



UZBEK
ASSET RETURN
NETWORK

Can the Government of Uzbekistan Responsibly Manage Seized Assets? A Capacity Assessment

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With a strong body of international principles informing responsible asset return, this paper applies these benchmarks in order to evaluate how effectively the Government of Uzbekistan has managed domestic assets seized from Gulnara Karimova and her close associates. The full report on which this paper is based can be obtained from uzinvestigations.org

Introduction

International asset return is a critical tool in the global fight against corruption. It aims to deter kleptocrats and criminals from using foreign jurisdictions as safe havens to warehouse the proceeds of crime, whilst also offering restitution to victim populations. Yet the international repatriation of stolen assets can itself be a challenging task when the victim nation's government remains affected by high levels of corruption.

To manage the associated risks, and to ensure repatriated assets benefit the public harmed by corruption, a growing body of international benchmarks have been developed to facilitate responsible asset return. They have been encapsulated in the *Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases* ("GFAR principles") developed by the multilateral Global Forum on Asset Recovery.

The GFAR principles require that parties involved in asset return adhere to high standards with regards to transparency and accountability (Principle 4); as well as civic inclusion (Principle 10). They also recommended that returned assets be applied in ways

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which help repair the harm caused by corruption, whilst also guarding against reoccurrence (Principle 6).

Put simply, the processes involved in the return of repatriated assets ought to be totally transparent. Those state and non-state organisations managing the returned assets must be fully accountable to the public. Where possible, returned assets ought to repair harm and support anti-corruption initiatives. And finally, it is critical that the public's voice in victim nations is front and centre when it comes to deciding how repatriated assets are to be used.

Uzbekistan and the Return Challenge

There is no one-size fits all approach when it comes to achieving these international benchmarks. It is a deeply contextual process that must align with the amount being returned, and the demonstrated capacity of recipient states to enact processes that can assure transparency, accountability, due diligence, inclusion and justice. Where there is significant concern that a recipient state may lack the capacity to faithfully manage the repatriated stolen assets, third party options exist - such as an independent trust - to help ensure the money is returned in a timely manner, in accordance with best-practice benchmarks.

When designing asset return protocols and instruments, it is important that state parties, third-parties involved in managing assets, as well as independent civil society have access to accurate information on the capacity of recipient states, which can then be used to develop an evidence-based approach. This is a more challenging task in jurisdictions where the state is relatively closed, and there are minimal independent checks on power.

At present approximately US\$1 billion in assets are slated to be returned to Uzbekistan, as a result of international forfeiture proceedings against assets tied to Gulnara Karimova, the incarcerated daughter of Uzbekistan's first President, Islam Karimov. These efforts are led by the Governments of Switzerland and the United States. Both have demonstrated strong commitment to the GFAR principles.

A significant challenge for those organisations party to this return process is taking an accurate read on the current governance situation in Uzbekistan, using robust, reliable

and transparent data sources. This is an especially challenging task in a context marked by regime transition.

Since the death of Islam Karimov in 2016, his successor Shavkat Mirziyoyev has initiated a raft of reforms focused on market liberalisation and professionalisation of the public service. These efforts have been augmented by an ambitious nation branding campaign that aims to improve the government's international image. In this situation of organisational flux and public relations campaigning, it is more difficult to sift fiction from fact.

Arguably the most direct and accurate method for assessing the current government's capacity to meet GFAR benchmarks, is to examine the closest domestic analogue to the international return process presently underway. The closest analogue would be the Government of Uzbekistan's recent management of domestic assets seized from Gulnara Karimova, or those senior managers in the syndicate she headed.

Assessment: The Government of Uzbekistan's Asset Management Capabilities

To assist develop such an evidence base, criminologists from Ulster University experienced in asset tracing, documented the network of domestic companies in Uzbekistan owned and managed by the Karimova syndicate.² Using this corporate network data searches were then conducted in order to identify those companies which had been seized by the Government of Uzbekistan.

The following sample of companies seized from Karimova, her associates, or associated entities, were selected for further scrutiny:

- Central Asia Megastar LLC (duty free shopping and marketing)
- Neftgazmontaj LLC (construction in oil and gas sector)
- MDS-Servis LLC (private health clinic and ambulance service)
- Rubicon Wireless Communication LLC (telecoms)
- Terra Group LLC (media holdings)

² The full report findings, including detailed references to evidence sources, is available here: <https://uzinvestigations.org/reports/responsibly-managing-seized-assets-in-uzbekistan-a-capacity-assessment>

Some of these corporate assets, such as Central Asia Megastar LLC, and Neftgazmontaj LLC, remain under state ownership. In the case of MDS-Servis LLC, it was auctioned off during 2018 on the basis of a court order. Telecoms firm Rubicon Wireless Communication LLC is currently under state ownership, but a recent Presidential decree has slated it for public auction. Real-estate belonging to Rubicon Wireless Communication LLC was previously auctioned in 2019 by the government of Uzbekistan. Despite being at the centre of domestic criminal investigations into the Karimova syndicate, there is little public information on Terra Group LLC or its assets.

Inquiries were made by the research team into this sample of five companies, in order to confirm whether they had been managed by the government in a way that would broadly conform with GFAR principles.

Arguably, the most concerning findings advanced from this study relate to the private hospital and ambulance service, MDS-Servis LLC. While the public auction lot is no longer online, news reporting identified the successful bidder as Invest Finance Bank, commonly referred to as InFinBank. It appears that the acquisition actually took place through a subsidiary company Master Leasing LLC (this is confirmed by company extracts available on the government unified register of legal entities). Stock exchange filings suggest InFinBank sold its shares in Master Leasing LLC shortly before the auction ended. Further examination of company and stock exchange filings nonetheless indicate Master Leasing remained part of the family group standing behind the bank, whilst also retaining close direct ties to the bank itself.

For example, when the current company extract for Master Leasing was checked, its shares were 100% owned by Rustam Abdumalikovich Valijonov. Valijonov is reported by an expert source to be the cousin of Farkhod Mamatdjanov, whose family is the primary owner of InFinBank. Farkhod is cited by multiple sources as the principal business figure in the Mamatdjanov family (sometimes spelt Mamadjanov). Furthermore, Master Leasing executives retain two out of the five positions on InFinBank's Supervisory Board.

Inquiries also revealed that Master Leasing shares a registered phone/office address with InFinLeasing and they jointly own In Rent LLC. When InFinLeasing's shareholdings were checked on the government portal, Nargiza Mamatdjanova was cited as the sole owner. She is reported to be the wife of Farkhod Mamatdjanov.

This raises multiple concerns from a responsible asset management perspective.

First, InFinBank was one of the principal domestic banks used by the Karimova syndicate, although the bank denies wrongdoing. Second, the company Avesta Financial Holding was a co-founder of Invest Finance Bank. It previously held a 26% stake in the institution. According to the Uzbek criminal indictment against Karimova, her group controlled Avesta Financial Holding. Court decisions deliberating on the veracity of this claim have been restricted from the public. InFinBank declined to comment on this statement made in the indictment.³

Third, Invest Finance Bank is part of a conglomerate owned by the Mamatdjanov family. As noted above, evidence suggests the family is led by Farkhod Mamatdjanov, son of Fakhritdin Mamatdjanov who is another co-founder of Invest Finance Bank. Leaked records obtained by the authors indicate Farkhod Mamatdjanov controls Swiss holding vehicle Swiss Capital International Group - which was recently absorbed by Swiss Invest Holding AG - the key shareholder in InFinBank alongside Mamatdjanov's father, Fakhritdin Mamatdjanov.

This relationship between Farkhod Mamatdjanov, Swiss Capital International Group and InFinBank was put to the bank for comment. InFinBank's press office stated Farkhod Mamatdjanov is not a direct shareholder. They, however, declined to comment on whether he has held a significant indirect stake in InFinBank through the offshore holding vehicle, Swiss Capital International Group. Previous requests for comment sent directly to Farkhod Mamatdjanov have not been answered.

This relationship is relevant for a number of reasons. Serious evidence has been presented in Russian courts tying Mamatdjanov and Swiss Capital International Group to crime and corruption both in Russia and Uzbekistan. A recent Russian court ruling confirmed the freezing of Mamatdjanov's Russian property as part of a criminal case launched by local authorities.

An investigation conducted by one of the authors of this report has also tied the textile arm of the Mamatdjanov family, Uztex, to a set of highly irregular transactions centering on Swiss manufacturer, Rieter, and the offshore limited liability partnership, Wayrex LLP,

³ Email communication, Press Office, Invest Finance Bank, 7 December 2020.

a relationship that received significant coverage in the Swiss broadsheet Tages-Anzeiger.⁴

In summary, it appears that a family group acquired the seized asset, MDS-Servis. This family group are the primary owners of InFinBank which previously serviced the Karimova syndicate, while Uzbek prosecutors also claim the syndicate co-founded the bank through Avesta Finansial Holding, an allegation InFinBank declined to comment on. In addition to Avesta Finansial Holding, bank records indicate the other key co-founder was Fakhritdin Mamatdjanov, a Mamatdjanov family elder. Finally, a key business figure in the Mamatdjanov family, Farkhod Mamatdjanov (son of Fakhritdin), has been tied to serious improper activity by multiple sources.

A second area of concern identified during the study on domestic Karimova syndicate assets was the lack of transparency surrounding asset seizure and seized asset management. Court decisions were not publicly available, while links to auction lots no longer worked (i.e. there was no archiving of auction outcomes). Nor has the government published substantive documentation relating to these seized corporate assets, their management, or sale.

As a result of these shortcomings, freedom of information requests were submitted in the required legal format as specified in the law *On the Openness of the Activities of Public Authorities and Administration*. Requests were made for court judgements, and any auction records relating to Terra Group LLC; court judgements and auction records relating to Rubicon Wireless Communication LLC; and legally required corporate filings related to Central Asia Megastar LLC and Neftgazmontaj LLC, while both were under public management. In breach of the aforementioned law, the government failed to respond to these requests. This repeated failure illustrates significant, ongoing gaps, where laudable laws in substance fail to translate into meaningful accountability in practice.

⁴ See, Brönnimann, C. (2020) 'Rieter's Delicate "Boomerang Contracts" in Uzbekistan', Tages-Anzeiger, 30 June 2020, available online: <https://www.tagesanzeiger.ch/rieters-heikle-bumerang-vertraege-in-usbekistan-674616747460> (accessed 7 December 2020); Lasslett, K. and Uzbek Forum for Human Rights (2020) *Out of the Cauldron into the Fire: Risk and the Privatisation of Uzbekistan's Cotton Sector*, Power Briefs | Central Asia, Issue 2, available online: <https://d1fz6q6taiufku.cloudfront.net/uploads/2020/06/PB-issue2-v4.2.pdf> (accessed 27 November 2020)

Based on these findings, it would appear reasonable to conclude that the Government of Uzbekistan has fundamentally failed to meet basic transparency, accountability and inclusivity benchmarks when managing domestic assets seized from the Karimova syndicate. Given that this is the most accurate analogue for assessing the government's capacity to meet international asset return benchmarks, and in light of how egregious the domestic breaches have been, our study strongly recommends that an independent third party mechanism is employed to help safeguard the return process.

This, for instance, might involve the transfer of seized stolen assets to an independent not-for-profit company or trust, incorporated outside Uzbekistan in a jurisdiction governed by rigorous corporate transparency and governance laws, where there is access to independent courts. Such a mechanism could facilitate both government and independent civil society representation through a board arrangement. Following a period of domestic consultation with the Uzbek public, this offshore third-party body would be able to incrementally return the stolen assets through a series of agreed initiatives, implemented with robust transparency, accountability, oversight and inclusivity protocols.

Because third party mechanisms incur overhead costs, it is recognised they are not, in many instances, the preferred return method. However, in this exceptional instance where there has been manifest failures to meet basic governance standards in the management of domestic assets seized from the Karimova syndicate, this exceptional option would appear essential in order to safeguard the return process.