Asset Recovery in the Face of Kleptocracy

Seven key Policy Recommendations for the EU on how to Best Return Confiscated Assets

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Abstract—**This paper analyses how to best return of the assets corrupt government officials. It complements current literature and frameworks, which mainly look at the return of the assets of professional criminals. Through the analysis of eight case studies, it concludes that confiscating authorities should employ an 'indirect' method of return through bilateral agreements or trust funds. To ensure the most successful outcome of the process of asset return, the paper concludes with seven key recommendations to the European Union. The appendix provides an overview of definition and the most used abbreviations.**

Keywords—asset recovery, confiscation, corruption, asset return

CONTENT

I. INTRODUCTION

In 2016, VimpelCom, a Russian-owned, Amsterdam-based telecoms company settled to pay $835 million to charges from the United States and the Netherlands that claimed that it had paid payoffs to enter the Uzbek telecommunications market. According to the United States justice department, VimpelCom, whose biggest shareholders are Norwegian company Telenor and the Russian-owned company LetterOne, was accused of paying over $114 million to a 'relative' of former Uzbek President Islam Karimov between 2006 and 2012 for frequencies and licenses in the Uzbek mobile phone market.

As part of the settlement, VimpelCom had to pay $397.5 million to the Dutch public prosecution service, $230.1 million to the US Department of Justice and $167.5 million to the US Securities and Exchange Commission. As one of the world's largest telecommunication companies, VimpelCom (now VEON) has a yearly revenue of roughly $8.8 billion and profits of $624 million (Forbes, 2021). Per Andrew Ceresney, a former government official who served as director of the US Securities and Exchange Commission's enforcement division, VimpelCom was able to make massive revenues in Uzbekistan. By paying the aforementioned bribes, the company was able to gain substantial influence over the leaders of the Uzbek government, enabling them to control the telecom market and increase their revenue.

The US claimed that their investigation was carried out by involving authorities in several countries, such as Latvia, the Netherlands and Switzerland, but also countries known for their position in international money laundering and banking secrecy such as the British Virgin Islands and the Cayman Islands. As such, the investigation should be seen as a milestone case for corporate bribery, with one of the largest-ever forfeitures from corrupt government officials. The fines could have been even higher, but VimpelCom was given a 'reduction rate' because it cooperated in the investigation and acknowledged criminal accountability.

Although US authorities were unwilling to disclose which relative of Karimov was involved in the VimpelCom case, Transparency International (TI) published a report accusing Gulnara Karimova, Islam Karimov's daughter, of receiving kickbacks from telecom companies in exchange for licenses to operate in Uzbekistan (Pearson, 2020). In its report, TI estimates that Karimova received roughly $1.3 billion in payments and shares. These dealings were, consequently, stashed away in offshore companies, banks and luxury properties around the world including at least nine European Union (EU) Member States (MS), such as Belgium, France, Ireland, Malta and – EU MS at the time – the United Kingdom.

As abovementioned, Dutch and US authorities received a settlement worth hundreds of millions of dollars, following the conviction of Karimova's criminal activities (extortion and embezzlement) in Uzbekistan. Several countries, including the US, Switzerland, France and the United States have, consequently, undertaken efforts to confiscate her corrupt wealth, a process called asset recovery or asset restitution. This process puts forward several questions, however: what is the goal underlying the confiscation of corrupt wealth? How is this process most often initiated? What happens to these assets once they are confiscated? What is the proper course of action when assets that are stolen from a country's state coffers by corrupt individuals have been recovered and could be returned – but the government of that country is the same corrupt elite?

This question raises a dilemma: what role do the confiscating countries take? What should they do with the confiscated assets? Morally- and ethically speaking, these assets should be returned to the population that is suffering from this specific case of corruption. In its report, TI estimated that Karimova's bribe-taking has contributed to Uzbeks paying one of the highest rates in the world for their mobile phone services. They have thus been significantly hurt by this

case of corruption. Ideally, the countries that confiscate the assets from the corrupt government official thus find a way to return the confiscated assets to the Uzbek people. However, in practice, this utopian scenario is made extremely difficult because of the closed authoritarian political climate of Uzbekistan – the country received a rating of 11/100 in the 2021 Freedom House report (Freedom House, 2021).

It is this question that this paper will aim to address: given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to properly re-allocate those funds? In the Uzbek case, the United Nations Convention against Corruption (UNCAC) Coalition concluded in a 2020 blog post that all of the countries that confiscated Uzbek assets returned them in a less-than-perfect manner (2020 – e.g., France returned the assets without any preconditions. Although there is no, as above-mentioned, set practice for what to do with confiscated assets, surely it should be doable to conceive of a way to return these assets in a fashion that benefits the Uzbek people?

The Uzbek example by no means stands alone. TI France published an article about asset restitution in Equatorial Guinea (Transparency International France, 2021); the International Research and Exchanges Board, in cooperation with Save the Children, published a report on Kazakh asset recovery (IREX & Save the Children, 2015); and the list goes on. This entire process – tracing, freezing, confiscating and returning the assets to their country of origin – is incredibly complicated and lengthy, usually involving multiple jurisdictions and often complicated by legal, political or technical barriers (United Nations Office on Drugs and Crime, n.d.).

Despite the presence of works such as the *Asset Recovery Handbook: A Guide for Practitioners* (Brun, Sotiropoulou, Gray & Scott, 2021) and *Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action* (Stephenson, Gray, Power, Brun, Dunker & Panjer, 2011), academic attention for how to best return the assets that are confiscated seems to already be lacking. The Financial Actions Task Force (FATF) did publish a 'best practices' paper, where it lists best practices relating to asset recovery – which, in their definition, means "the return or repatriation of the illicit proceeds, where those proceeds are located in foreign countries" (2012: 1). However, these recommendations solely discuss the things that the returning country should take into account (e.g., cultural issues that may impede asset tracing). As such, it does not concretely propose what should be done, nor does it take a moral stance on whether assets should be returned in the first place.

Thus, the end product that this paper will entail will aim to serve as a policy recommendation on how to return confiscated assets. The United Nations Convention Against Corruption obliges countries to return "assets obtained through corruption to the country from which they were stolen" (p. iii). In essence, this obligation thus recognises the injustice that is incurred on the population of the country by the corrupt official. Because of the corruption, these people are essentially deprived of something, whether that is fair competition in the telecommunications market leading to lower prices or safety because of less corruption-induced crime. By requiring the signatory states to return assets, the UNCAC thus appreciates the sentiment that the population of the disadvantaged country should be compensated for the corruption and aims to balance this injustice.

However, as abovementioned, it is sometimes impossible to simply return the assets to the country in question because of continuous corruption. This obligation, thus, poses a dilemma: the confiscating country is obliged to return the assets, but what to do if the country where the assets should be returned is still corrupt or ruled by the same corrupt elite? It is thus noteworthy that there is so little attention on how to best achieve this practice. This paper will aim to fill this gap. By collecting case studies of asset recovery and comparing how the confiscating countries have gotten involved in the confiscation process, what their motivations were and how they have, eventually, used the confiscated assets, this paper will form a detailed overview of what has been done in the past, to consequently conclude what should be done in the future. Not only will this paper thus scrutinise how the assets can be returned, it will also take into consideration the economic motivations and consequences of these methods of returning, as well as the legal basis that this returning has to be based on.

The paper will commence with a literature review. This literature review will explore readily-existent published work on the topic of asset recovery in a three-fold manner. First, by reviewing this literature, the paper will aim to produce a clear definition of what asset recovery entails. Second, it will consider the relevant legal frameworks and best practices to contextualise the practice of asset recovery. Third and last, it will contemplate the economic reasoning behind asset recovery, as well as the economic implications thereof. This review will, then, help to produce a methodology that is grounded in the theoretical findings, as the findings of the literature review will determine the categories of our analysis. Considering that the data that will be analysed will be textual, in the form of an analysis of eight case studies of asset recovery, the paper will seek to apply a qualitative content analysis (QCA). With QCA, a review of existing literature will allow the researcher to draw up 'codes/categories' (i.e., assumptions about how we expect the process to occur).

The research will, consequently, code the textual data according to the pre-determined codes, thereby counting the number of times that a category 'occurred'. This data will allow the research to draw general conclusions on these case studies' process of asset recovery, ranging from the manner in which the confiscating countries got involved to the way in which the assets were if at all, returned. After having listed the results of the coding process, the discussion will conclude what these findings show us. To answer the research question, the paper will conclude by providing seven key recommendations to the EU on how they should best return the confiscated assets of corrupt government officials when the country from which the assets are confiscated remains corrupt.

The paper finds that confiscating countries, most often, get involved through a bilateral request of some sort, or through media pressure. The motivation behind confiscation is split evenly between 'restoring justice' and 'corruption should not pay'. Positively, almost all confiscating countries in the case studies have at least attempted to return the assets, with only one case returning the confiscated assets to their state's coffers. In roughly half of the cases, the assets were returned

'directly' (i.e., returned to the state coffer of the origin country without any preconditions), often leading to sustained corruption. In the cases where assets were returned 'indirectly' (i.e., through a bilateral agreement on how the assets should be spent or through a trust fund), a minimal level of reporting was established, leading to more transparency and accountability. These findings allow the research to offer the following recommendations to the European Union: (1) apply pressure at the international level to update the definitions and relevant provisions in UNCAC regarding Asset Recovery; (2) guarantee rights and protections for independent civil society and media by sponsoring NGOs abroad; (3) following the fifth anti-money laundering directive, oblige MS to open up registries that could reveal corruption for the public; (4) insist that EU MS invest more in the authorities that oversee these processes; (5) push MS to adopt civil as well as criminal mechanisms to confiscate assets; (6) adopt a provision in the EU framework on Asset Recovery to return the assets through a trust arrangement that engages local civil society organisations as well as government officials; and (7) give countries time to learn from their asset recovery processes.

II. Literature Review

The literature review's focus will be threefold. Initially, it will consider existing literature that aims to define what asset recovery entails. For this purpose, this paper will rely on a variety of sources, as it considers definitions that are provided by different actors that practice asset recovery (e.g., the Financial Action Task Force), as well as legal definitions (e.g., the United Nations Convention against Corruption). Simultaneously, it is necessary to take into consideration not only the enforcers and practisers of asset recovery but also previous academic research. Consequently, this part of the literature review will seek to provide a definition that allows the reader to fully comprehend what the process entails in the context of this paper's research question.

This literature review will consider literature that describes the economic consequences of asset recovery. Essentially, it is necessary to distinguish why asset recovery should, in the first place, be considered desirable or economically necessary. As abovementioned, this paper will discuss asset recovery in the light of foreign-located illicitly appropriated funds. As this thus involves the confiscation of foreign-obtained assets, it is necessary to assess why the confiscating country would confiscate by scrutinising the economic rationale behind it. As such, it is necessary to understand the economic consequences of (a) the confiscating of the assets as well as the (b) returning of the confiscated assets. The confiscation of financial assets should not only be seen as an attempt to repair the violation of the social rights of people, but also the economic rights. As explained in the Uzbek example abovementioned, the fact that the Uzbek government official was bribed has as a consequence that the Uzbek people pay significantly more for their telecommunications. Hence, part of the literature review will also focus on what consequences should be taken into account when aiming to provide a policy recommendation on how to best return confiscated assets. Trinchera has provided us with a clear piece of literature for this purpose in the 2020 work on 'better tools to fight bribery and corruption crime'.

Third and lastly, asset recovery is viewed as a legal process, as a court (e.g.) licenses or orders a state to confiscate assets. However, the next steps are also following specific competencies given to specific authorities. These steps thus take place not only in the legal but also in the political realm. As such, this paper will analyse the legal framework that is underlying asset recovery. For this, it will mainly rely on Brun et al. (2021), as it provides an overview for practitioners, including a detailed explanation of what frameworks a confiscating authority has to take into account and on what legal basis the confiscation takes place. Moreover, as this paper specifically discusses assets that are located in foreign countries, it will be useful to review supranational recommendations and best practices on this topic. For example, legislation that is created by UN bodies will often apply to almost all involved countries and will thus be of significant impact and important to consider.

A. Definition

As abovementioned, to correctly analyse the question at hand, it is necessary for this paper to clearly define what is meant when it speaks of the concept 'asset recovery'. As stipulated by King (2018: 378), it should be noted that various actors involved in the process of asset recovery rely on different definitions of the practice. Policymakers, academics and practitioners widely speak of terms such as 'forfeiture', 'recovery' and 'confiscation', without reaching a consensus on what these concepts entail. As such, the terms are often used interchangeably. Although this does not necessarily pose a problem, it can be confusing at times, as the reader is left to wonder whether the concepts are, indeed, interchangeable.

This is most clearly demonstrated in the definition by the United Nations Office on Drugs and Crime (UNODC): "confiscation is also known as forfeiture in some jurisdictions. The two terms will be used interchangeably in this Module" (UNODC, 2018). King outlines how the Hodgson Committee (i.e., the committee in the UK occupied with confiscation law), does distinguish between these two terms, with forfeiture defined as "the power of the Court to take property that is immediately connected with an offence". In contrast, confiscation is defined as "the depriving of an offender of the proceeds or the profits of crime" (2018: 378).

It is thus evident that it is necessary for research to clearly define the concept, seeing the disagreement on what it exactly entails. In subjects where research is not limited to one academic discipline (e.g., political science), this lack of consensus can be particularly confusing and troubling, as these different experts of these different disciplines will understand the subject of the research differently (Menken et al., 2016: 45). The practice of asset recovery, as will be expanded on in a further stage of this literature review, is inherently interdisciplinary, as it involves a legal process and an economic rationale for a political practice. By defining one's concepts clearly, the communication between these involved academic fields will be eased, thereby facilitating interdisciplinary research (ibid: 70).

However, to be able to clearly define the concept 'asset recovery', it is necessary to dissect the concept. As described in the introduction, asset recovery entails several stages, ranging from the moment that the corruption is committed to the moment that the assets are confiscated and/or returned. One thus must distinguish these several stages by defining them, making them more recognisable, and hence analysable. However, first, it is necessary to understand what type of asset recovery this paper discusses.

1) Type of Asset Recovery

One necessary distinguishment is to identify the purpose behind the confiscation. Confiscation of assets, on the one hand, can be used by authorities for deterring criminal behaviour, combating acquisitive crime and tackling serious economic and organised crime (Boucht, 2019: 527). Confiscating criminal assets can even be seen to be firmly at the core of the efforts by the EU to tackle (organised) crime. As per its statement, the Commission sees confiscation of criminal assets as a strategic priority in the EU's fight against organised crime (European Commission, n.d.). Hence, when a researcher searches for asset recovery or confiscation within the context of the EU, one will find documents, regulations and rules mainly relating to the confiscation of criminal assets as a strategy to prevent organised crime.

This type of asset recovery is identified by Atkinson et al. (2017) as 'asset-focused intervention'. This definition demonstrates the intent behind this type of asset recovery, namely that this practice refers to a process which aims to intervene in organised crime and uses asset confiscation as a method to make life more difficult for these criminals and their networks. It aims to do so by limiting the gains that criminals can achieve with their activities (Operti, 2018: 324). Concept definitions of this sort are always a contribution to academic research, as they encompass the purpose of a practice in one instance.

Outside the realm of asset recovery to prevent criminality, King (2018) specifically contrasts Atkinson et al.'s definition with other scholars. King states that "others use the term 'asset recovery' in the specific context of targeting corruption-related assets of politically exposed persons (PEPs)" (2018: 378). Contrasted to the asset recovery of organised criminals, King's definition thus focuses specifically on targeting PEPs and their assets as a method of combating corruption-related offences.

Corruption is, of course, also a form of crime, the difference between these forms of asset recovery lies in the fact that King's focus on PEPs means that the process has a public impact. Although the objective behind the confiscation is the same, i.e., to 'make life more difficult' by limiting the gains that these individuals can achieve with their activities, the subjects of the confiscation are different. Targeting criminals with asset confiscation serves a role in the criminal prosecution methods of a country. Targeting PEPs with asset confiscation should rather be seen as regarding a form of foreign policy, as asset confiscation often occurs outside of one's own country (King, 2018).

As becomes clear from the example of Ms Karimova's corruption in Uzbekistan as outlined in the introductory chapter of this paper, it should be clear that it is this PEP-focussed asset recovery that this paper is referring to. Consequently, it is forthcoming that this paper will limit its understanding of what 'asset recovery' entails as a concept to this type specifically and will confine the concept specifically to adhere to King's definition relating to corruption-related recovery of assets of PEPs.

Per Transparency International, government officials systematically enriching themselves through the state's apparatus could amount to Grand Corruption. Grand Corruption should be seen as a "systematic or well-organised plan of action involving high-level public officials that causes serious harm, such as gross human rights violations"

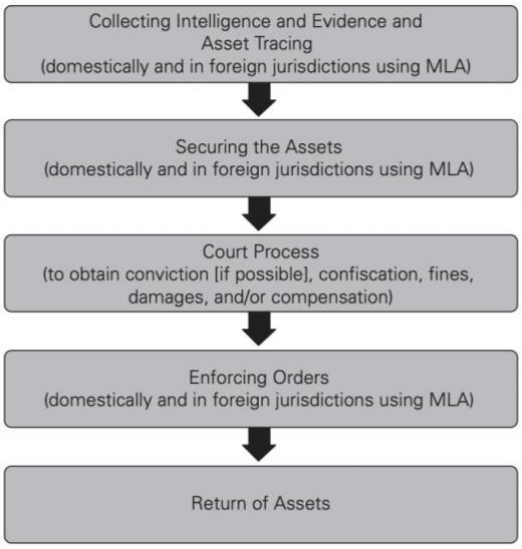

FIGURE 1 PROCESS OF ASSET RECOVERY

Source: Brun et al., 2021: 6.

(Transparency International, n.d.). As an example of Grand Corruption, TI explains that "when the health minister works with other public officials and unscrupulous companies to systematically divert resources from the country's entire hospital system into their own pockets – that is grand corruption" (ibid.).

As could be read in the introduction, the Uzbek corruption scandal should thus clearly be categorised as Grand Corruption, as Karimova adjusted state contracts to benefit herself and her companies, contributing to Uzbeks paying one of the highest rates in the world for their mobile phone services, significantly hurting the population. These scenarios of Grand Corruption often result in these companies inflating prices and channelling some of their illicit gains back to corrupt officials (ibid.). Grand Corruption thus causes enormous amounts of public money to systematically be siphoned off to a few powerful individuals, unfortunately at the expense of those who should benefit – the citizens.

On this topic, Brun et al. (2021), have written the *Asset Recovery Handbook* for the Stolen Asset Recovery Initiative, a joint initiative of UNODC and the World Bank. This handbook aims to encourage and facilitate a more systematic and timely return of stolen assets. Although the book is written as a 'how-to manual', the book only contains one (out of a total of 270) page on how to return the assets. Nevertheless, the first chapter of this handbook does specifically provide guidelines on what the process for the 'recovery of stolen assets' should look like. The authors summarise the process in Figure 1.

2) What is it Still?

Having defined the purpose, type and process underlying 'asset recovery' that this paper focuses on and limits itself to, it is still necessary to define what the practice itself exactly entails. As has been previously mentioned, the differences in countries' legal systems and their manner of operating make them difficult to compare. Thus, it will be more useful to take into consideration the international context. Moreover, because of this paper's purpose (i.e., to serve as a policy recommendation to the European Union on asset recovery), it is all the more useful to adopt an international perspective.

Considering this international scope, we can note that important actors in the realm of asset recovery such as the United Kingdom; the United States and the European Union are signatories to the United Nations Convention against Corruption (UNCAC). As such, it will be most useful to rely on international conventions, best practices and recommendations on this subject. Not only because all of the abovementioned parties are signatories to this convention, but also because all parties have signed and ratified the agreement voluntarily. Not only does this thus mean that they must, logically, adhere to the regulations of the treaty, but it also means that there is at least a minimum consensus on the definitions that are used and applied in the treaty, as they have been reached through a reiterative deliberative process.

Having taken all of this informative context into consideration, let us look at the Convention itself and what it stipulates. As its purpose, UNCAC Art. 1 states that it aims to:

a. promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
b. promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
c. promote integrity, accountability and proper management of public affairs and public property

Consequently, the convention states that it shall "apply … to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention" (Art. 3.1: 8). The Convention thus explicitly refers to the seizing and freezing of assets as lying within its intentions to prevent corruption by stating that it aims to 'return proceeds'. As such, it is relevant to consider the definitions that the UNCAC provides in this regard, as this might clarify what we should and should not consider as part of the framework surrounding asset recovery.

The UNCAC provides the following definitions that are of relevance to this paper in its chapter on asset recovery (Art. 51-59):

a. "Public official" shall mean:
    i. any person holding a legislative, executive, administrative or judicial office of a State Party …;
    ii. any other person who performs a public function, including for a public agency or public enterprise, or provides a public service …;
    iii. any other person defined as a "public official" in the domestic law of a State Party
b. "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;
c. "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority
d. "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority

It is thus important to note that, although, as abovementioned, academics often use the terms confiscation and seizure interchangeably, the two are significantly different from each other. Whereas seizure is referring to a temporary measure, e.g., applied during a momentary time of crisis, it should be clear that confiscation concerns a permanent deprivation of property. It is thus confiscation, rather than seizure, that this paper aims to analyse since we are discussing the possible return of these assets.

In addition, the Financial Actions Task Force (FATF) published a 'best practices' paper, which lists best practices relating to asset recovery. According to the FATF, then, asset recovery refers to "the return or repatriation of the illicit proceeds, where those proceeds are located in foreign countries" (2012: 1). We can already see that this definition seems to be more related to the subject of this paper than previously analysed definitions.

Concluding, considering the purpose of asset recovery that we concluded on in an earlier part of this literature review (i.e., targeting corruption-related assets of PEPs), we can now complement this definition with the UNCAC-provided concepts, in combination with the UNCAC-provided purpose and the FATF-provided definition of asset recovery. The asset recovery that this paper focuses on is thus referring to 'the process of returning the confiscated illicit proceeds of, or property derived through, corruption offences committed by public, where those proceeds are located in foreign countries'.

B. Economic Contextualisation

Having defined what type of asset recovery this paper will focus on, this section will aim to distinguish why asset recovery is even desirable, or economically necessary, in the first place. For this, we must analyse why one would fight corruption, the activity causing asset recovery to be necessary. The explanation that is underlying for many criminal activities is that it is motivated by profit. Crimes of corruption are similarly motivated by profit. In the case of corruption specifically, the government official thus receives compensation for permitting one actor to (e.g.) receive an unfair advantage in the selection process of a public service. With this transaction, the 'buyer' secures the ability to access the market and, potentially, sell their product at a higher than market-generated price, while, the 'seller' receives a payment to allow this to happen. We should thus conclude that economic benefits should be seen as the main reason for receiving or giving a bribe and committing corruption (Trinchera, 2020: 52).

1) Why is Fighting Corruption Necessary?

Consequently, it is necessary to assess why this would be undesirable. Although one could mention the moral principle – crime and corruption should not pay – a devil's advocate might counterpose that corruption could be beneficial, as it certainly speeds up plenty of government processes. Lui (1996: 27) writes that bribes can even partially restore the price mechanism, thereby improving allocative efficiency. As such, corruption could be viewed as the "people's optimal response to market distortions" (ibid.). Nevertheless, corruption inevitably leads to a situation where competition is decreased or altogether removed. Because the 'buyer' can artificially enter the market and set a non-market-created

price, the outcome is inevitably sub-optimal. Whereas this 'buyer' would, under normal conditions, have to compete to attain the contract of providing a service (e.g., telecommunication), by bribing a government official, they can enter the market artificially.

Following free-market principles, this outcome will thus lead to a situation where the price will not be reflecting market dynamics. In addition, if the 'buyer' can monopolise the market, they are not incentivised to innovate or provide the highest quality of products and/or services. If they would have to compete for their position in a non-monopolistic, 'free' market, the 'buyer' would be forced to distinguish their product either through quality, quantity or price. To this point, Mauro (1995: 683) finds that corruption significantly lowers the levels of private investment. This, consequently, reduces economic growth, even in countries where "bureaucratic regulations are very cumbersome" (ibid.). In an attempt to explain why private investors stay away when corruption occurs, Lui (1996: 27) has noted that countries with highly distorted markets will tend to entertain high levels of corruption – i.e., distortions, being a possible consequence of corruption, will act as a deterrent to investment in physical capital.

In addition, corrupt officials who are thriving on the current structures will disallow and resist economic reforms, as this would see their profitmaking opportunities uprooted (ibid.). In essence, the corrupt individuals thrive under corrupt structures, thereby representing a self-enforcing process of corruption. An example that Lui names is the extreme difficulty in the attempt at liberalisation of "the interest rate to the competitive level in the process of reforming the banking system" (ibid.) in the 90s in China. What this shows is that corruption is detrimental to society, not only because of the moral aspect that crime should not pay but also because of the sheer economic effects in the form of a loss in the economic pie to be distributed. In a more bird's-eye view of the matter, it is important to note the detrimental impact that corruption has on the economy at large: there is evidence that a lack of bureaucratic efficiency (i.e., through continuous corruption) causes lower investment and lower growth rates (Mauro, 1995: 705). Mauro points to "evidence that bureaucratic efficiency may be at least as important a determinant of investment and growth as political stability" (ibid.).

The detrimental effects of corruption should thus be seen as being twofold: it causes the economic pie to shrink because of a loss in possible economic activity (e.g., it distorts the market towards monopolistic positions and lowers the private investment rate), as well as increases existing inequalities by allowing corrupt individuals and oligarchs to thrive by merely having the proper resources. The conclusion must thus be that corruption should be battled. Returning to the focus of this paper, it is necessary to outline the reasoning behind how confiscating is one of the tools to battle this corruption. The next section will discuss this further.

2) Confiscation to Battle Corruption

The reasoning behind confiscating the assets underlying the corrupt transactions, then, should be seen as being twofold: (1) restoring justice by not allowing individuals committing corruption to profit from their corruption; but also (2) to decrease the incentives to commit bribery by confiscating the economic benefits of corruption. If a person accepting a bribe would be able to retain the proceeds of bribery, this would mean that the illegal activity would pay off: the benefits would outweigh the potential negatives. However, if there is a prospect among public officials that the economic benefits of accepting a bribe would be confiscated, this should further deter individuals to not engage in these activities. Moreover, confiscating these benefits will send a message to the general taxpayer of simple justice: 'no one should benefit from crime' (ibid.: 52). This consideration touches upon the most general thesis of economic theory: if an activity's benefits outweigh the expected costs, an individual will commit to the activity. If there is a prospect of punishment for the activity, this balance might just be tipped in favour of opting out of the activity.

Trinchera (2020: 53) analyses the confiscation of illegally gained proceeds from corruption. The author explains that convicting a defendant while not confiscating the illegally-gained benefits reduces the deterrent effect of the punishment. This holds especially true for crimes without individual victims (i.e., victimless crimes), such as corruption and bribery. Because these types of crimes will cause the 'society at large' to feel the effects of (e.g.) corruption, it is usually more difficult to punish one individual. For other offences, wrongdoers are obliged to return the goods that they have stolen or pay compensation to the victims of the crime. That is, however, impossible in 'victimless crimes'. Instead, confiscation in these instances should serve to replace the compensation of victims by ensuring that the individuals committing corruption are unable to enjoy the profits that they made engaging in this illicit activity (ibid.: 53).

The author consequently argues that this should be seen as restoring justice: "since the crime is not a valid way to become owner, confiscation simply deprives the defendant of property he or she has no right to retain" (ibid.: 53-54). These confiscations should then go to the State's coffers, where the confiscated assets should "arguably be used for social purposes" (ibid.: 54). The confiscation of illegally received benefits should thus not be seen as a punishment per se but should be seen as an attempt to restore the *status quo ante*. Trinchera argues that, as such, confiscation of proceeds received through bribes or corruption does not put harsh treatment on the wrongdoers, instead, it leaves the wrongdoers where they were before the wrongdoing took place.

Bowles, Faure & Garoupa (2000: 542) make a similar argument in their 'economic analysis of the removal of illegal gains'. Although they specifically research the impact of confiscation in light of proceeds received through criminal activities (i.e., drug trafficking), their argumentation, in part, holds for the confiscation of assets illegally obtained by public officials similarly. Akin to Trinchera, the authors argue that removing the illegal gains through confiscation will increase the effectiveness of the system. Whereas Trinchera thus concluded that this is the case because of the deterring effect, Bowles et al. argue that confiscation allows the state to save on detection and punishment expenditure (ibid.: 539).

In addition, the authors argue that asset confiscation is the morally right thing to do. Similar to Trinchera's argument that confiscation restores the *status quo ante*, Bowles et al. argue that confiscation, unlike other 'punitive systems' such as fines, reflects the amount of social damage that corruption brings about. If an individual would be fined or imprisoned, this would mean that the victims would not be compensated,

apart from a return of their stolen assets. In these victimless crimes, however, a fine or imprisonment for the government official that committed the corruption or accepted a bribe will not lead to any compensation for the 'victims' (i.e., the citizens of a country). Bowles et al.'s argument follows that confiscation allows the State to re-invest the money confiscated into 'social purposes', thereby providing a good proxy for the amount of social damage (ibid.: 544).

C. Frameworks Surrounding Asset Recovery

Lastly, the practice of asset recovery is inherently interdisciplinary. One of those aspects is the legal part of the process, as authorities have to follow the required legislative steps to be able to confiscate corrupt assets. E.g., to confiscate, authorities often have to wait for a court to license or order their capture. Similarly, the confiscating country will often choose to return assets to the country of origin in an indirect manner, requiring a legal structure to facilitate this, such as a trust fund or a bilateral agreement.

Seeing that the paper aims to provide policy recommendations on the best course of action, in terms of returning the assets, once authorities confiscate corrupt government officials' assets, it is thus useful to highlight current frameworks underlying asset confiscation and asset return. Understanding the frameworks in place that are necessary for the process of asset recovery to occur will enable the research to take the current system's way of working and its flaws into account.

Highlighting the key frameworks will, in addition, allow the research to contextualise the paper's contribution, as its product (i.e., policy recommendations to the EU) will have to be situated within these international frameworks. This section will thus review the frameworks surrounding asset recovery.

1) European Union

As mentioned in the chapter on definition, the EU's policy on confiscation and asset recovery pertains to the EU's aim to 'fight organised crime' and 'ensure that crime does not pay' (European Commission, n.d.). To this point, the Commission has presented a proposal in May 2022 for a "new Directive on Asset Recovery and Confiscation, building upon previous legislation, particularly the Directive on the freezing and confiscation of proceeds and the instrumentalities of crimes, Council Decision on Asset Recovery Offices, and Framework Decision on Confiscation of Crime-Related Proceeds" (ibid.).

The process of Asset Recovery as stipulated by the EU is remarkably similar to the one described in Fig. 1: step "(1) tracing and identification of the illegally acquired assets; (2) freezing of the assets with a view to their possible subsequent confiscation; (3) management of frozen assets to preserve their value; (4) confiscation of the illegally acquired assets; and (5) disposal of the confiscated assets which could include their reuse for public or social purposes" (European Commission, n.d.).

However, a superficial analysis of the abovementioned EU documents reveals that, as abovementioned, they all pertain to Asset Recovery of "cross-border organised crime, including mafia-type criminal organisation" (Directive 2014/42/EU). This focus thus overlooks the specificities of corruption, particularly Grand Corruption, which poses additional demands for the return of the assets – as stipulated in the definition section. Considering the EU's lack of framework in this regard, this is where this research will aim to contribute.

2) Difference in National Approaches

As has been explained in the section on the definition of asset recovery, one of the issues that seems to be contentious is the difference in legal conceptualisations of essential concepts in this context (e.g., what are 'proceeds of crime') between jurisdictions. While the (e.g.) authorities from the US will have formed their specific strategy on how to confiscate assets (U.S. Department of State and U.S. Department of Justice, n.d.), the (e.g.) UK authorities will not follow this same strategy, as they have created their plan (UK Government, n.d.). The strategies are, however largely similar: e.g., both countries aim to 'identify the underlying crime and admissible evidence establishing criminal conduct' and both countries claim to be committed to 'ensure the return of corruptly recovery assets to victim states'. Nevertheless, the differences in the countries' legal systems will mean that the assets will inevitably be tracked down, confiscated and, consequently, returned differently.

Because of the endless small differences in countries' legal systems and their manner of operating, it is thus more useful to take into consideration the international context. Moreover, because of this paper's purpose as a policy recommendation to the European Union, it is all the more useful to apply this international scope. As such, considering that the United Kingdom; the United States and the European Union are signatories to the United Nations Convention against Corruption (UNCAC), the definition-section concluded that it is most useful to rely on the definitions that UNCAC provides on this subject. Similarly, this section will consider the international framework surrounding this subject, as it would be too cumbersome to analyse all relevant national jurisdictions.

3) United Nations Convention Against Corruption

The contents of the UNCAC that are of importance for this paper have readily been discussed in the section regarding the definition. As such, this section will not reiterate the points that were made in that part, as it already encompasses the relevant contextual obligations and expectations under UNCAC. One important caveat that is necessary to mention in the context of asset recovery, however, is that, although almost all countries in the world are signatories to the UNCAC and thereby promise "assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption" following Art. 44 and 50 of this Convention (Art. 43, UNCAC), the question must be raised how strict the signatory states adhere to this principle. For example, the case study of Ms Karimova exemplifies how a country can be a signatory to the UNCAC – Uzbekistan acceded to the UNCAC in 2008 (UNODC Central Asia, n.d.) – but can still fail to uphold the spirit of the Convention.

Nevertheless, authors have concluded that, in general, Conventions by the UN should be seen as legitimate and genuinely encouraging states to comply with international norms. As Barnett (1997: 541) mentions, the UN's legitimacy has varied across time and constituencies. However, the fact that no other supranational or international organisation has ever emerged to rival its legitimacy should be seen as an indicator of its relative success as a legitimate actor and

standard-setter. Similarly, Ernst Haas argued that the legitimacy of the UN is reflected in the degree to which its member states invoke its principles and purposes to justify national policy (ibid.: 541-542). Barnett concludes that even at the UN's 'lowest ebb', this remained the case. The author thus concludes that the UN's universality generates its legitimacy, thereby enabling its ability to encourage states to comply with international norms. As such, the UNCAC, despite its shortcomings, remains the most relevant guidance framework on this subject.

4) Stolen Asset Recovery Initiative

The 'Stolen Asset Recovery Initiative' (StAR), a partnership between the World Bank Group and the United Nations Office on Drugs and Crime, aims to work with developing countries and financial hubs to prevent money laundering and corruption, attempting to facilitate a more timely and systematic return of stolen assets (United Nations Office on Drugs and Crime, n.d.). Their info page reads that the initiative supports international efforts to end safe havens for corrupt funds by working with financial centres and developing countries to prevent the laundering of corruption's proceeds (ibid.).

StAR's work should be seen as built around four key pillars:

a. Empowerment: StAR helps countries to establish the legal tools and institutions necessary to recover corruption's proceeds by developing specific asset tracing skills, sharing knowledge and providing hands-on training in international cooperation on legal matters. In essence, StAR helps countries apply these tools by facilitating the contact between jurisdictions in support of asset recovery cases.
b. Partnership: StAR brings together regulatory authorities, financial institutions, governments, civil society organisations and donor agencies from both developing countries and financial centres to foster collective responsibility for the detection, deterrence and recovery of stolen assets.
c. Innovation: StAR produces knowledge on the tools used to recover corruption's proceeds, promoting the sharing of best practices.
d. International standards: StAR argues in favour of strengthening the implementation of Chapter 5 of the UNCAC and other international standards that aim to detect, deter and recover corruption's proceeds. StAR thus works together with global forums such as the UNCAC-signatory states and the FATF to foster public action.

The UN Office on Drugs and Crime, the initiator of the Stolen Asset Recovery Initiative, complements the definition of confiscation of the UNCAC by stating that the deprived property happens by "order of a court or administrative procedures, which transfers the ownership of assets derived from criminal activity to the State. The persons or entities that owned those funds or assets at the time of the confiscation or forfeiture lose all rights to the confiscated assets" (UNODC, n.d.). Although this definition is thus relating to criminal activity, the same principle applies to assets that are confiscated from corrupt government officials.

5) Financial Actions Task Force

The Financial Actions Task Force (FATF), the global money laundering and terrorist financing watchdog, did publish a 'best practices' paper. As the international standard-setter on these topics, the FATF works as a policy-making body aiming to generate the political will to bring about regulatory reforms in national jurisdictions. Their FATF Recommendations, or FATF Standards, help authorities to go after corrupt individuals. FATF claims to ensure that signatory countries fully and effectively implement these standards, 'holding them accountable, if they do not comply' (FATF, n.d.).

Their recommendations include "(a) to strengthen legal frameworks and ensure that asset tracing and financial investigations can be conducted effectively; (b) to minimise structural impediments to effective asset tracing and financial investigation; (c) to streamline the processes and procedures for conducting asset tracing and financial investigations; (d) to address cultural issues that may impede asset tracing and financial investigations; and (e) to facilitate the development of effective arrangements for co-ordinating freezing, seizure and confiscation proceedings" (FATF, 2012: 2).

D. Conclusions From the Literature

The introduction posed the following questions about the process of asset recovery: what is the goal underlying the confiscation of corrupt wealth? How is this process most often initiated? What happens to these assets once they are confiscated? What is the proper course of action when assets that are stolen from a country's state coffers by corrupt individuals have been recovered and could be returned – but the government of that country is the same corrupt elite? What role do the confiscating countries take? What should they do with the confiscated assets?

The literature review was readily able to answer some of these questions. For example, in defining the concept of asset recovery, it determined that the goal was to target corruption-related assets of PEPs, essentially representing foreign policy by countering Grand Corruption abroad. This assumption is readily reflected in the final research question that the research tasked itself with answering: given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to properly re-allocate those funds?

The literature review has also made clear, however, that, to be able to contextualise the final conclusions to this research question (i.e., the policy recommendations that this paper aims to put forth), it is necessary for the analysis to answer several other questions. These additional questions will be addressed in the part of the methodology that will explain the coding scheme that will be used in the analysis.

III. METHODS

The previous sections have assessed current literature, motivations, definition and framework that pertain to asset recovery. For this paper's purpose – i.e., to provide an answer to the question of, given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to

properly re-allocate those funds – it will need to form a methodology on how to tackle this question. The following section will serve this purpose by proposing a methodology.

This paper will rely on a twofold methodology for its analysis. Firstly, it will analyse case studies of asset recoveries that have already taken place (e.g., Uzbekistan, Nigeria, etc.). For this, it will rely on both existing literature that readily scrutinized these cases (e.g., Jimu, 2009), as well as analysing the information provided by the confiscating countries about the asset confiscation (e.g., reports issued by the United States Department of Justice and the US Securities and Exchange Commission). From this, the paper will generate a descriptive report of the case, including a description of the corruption, its consequences, the method of confiscation and the method of asset return. Consequently, it is necessary to draw analytical conclusions from the information that is present in these cases. For this, this paper will rely on qualitative content analysis (QCA). The following section will thus explain what QCA entails.

A. Qualitative Content Analysis

QCA, in its essence, is a generic form of data analysis that is used in an inquiry where the content of the data is relevant and the object of study (Forman & Damschroder, 2007: 40). It hence analyses textual data, thereby standing in stark contrast with other qualitative methods which aim to produce theoretical perspectives. Instead, QCA should be seen as focusing on the informational content of the data itself. It should, however, still very much be seen as part of qualitative inquiry, aiming to understand, rather than to make generalisations from the sample based on statistical inference (Mayring, 2000). QCA, then, adds to research by adding depth and detail to the understanding of textual data by evaluating the patterns within the data.

How this works is that as soon as the researcher has determined that a qualitative approach is appropriate, they need to explore what is already known about the topic to determine how structured and how deductive the data collection and analysis will be. In this paper's case, the literature review provides enough empirical and theoretical background to provide a conceptual framework that consists out of models and concepts that will direct the data collection and analysis (Forman & Damschroder, 2007: 43).

Next, the researcher needs to determine which units of data they want to analyse. Per Forman & Damschroder (2007: 43), sampling in QCA aims to be 'purposeful', to understand a phenomenon, instead of enabling generalisations from the study samples to populations. Qualitative studies inherently involve an intense look at a relatively small sample, rather than a bird-eye's view of a large sample. As such, the researcher should opt for cases or data units rich in information for the in-depth study to provide the information that is needed to answer the research question at stake. It is thus important to select the cases, not based on quantity, but based on the quality of the data: i.e., the data units that are of must use analytically (ibid.).

Subsequently, the researcher must decide between deductive or inductive code creation. Deductive codes, in essence, *ex ante* the application and are constructed following a theoretical framework, previous empirical work, data collection and research questions. Inductive coding, on the other hand, is created following the initial analysis of the data itself. Essentially, inductive codes are created an initial immersion in the data during what is called 'preliminary coding' (ibid.: 48). Forman and Damschroder explain that most often, studies employ a combination of both approaches: researchers use initial deductive coding to 'get into' the data, to consequently inductively refine the coding where necessary and identify new or eliminate existing codes (ibid.).

This goes hand in hand with the writers' advice to always let data collection and analysis occur concurrently when using QCA, as they write that one danger can be that large amounts of data are collected without a clear way to manage it (ibid.: 46). By allowing the code formation to be a reiterative process, this risk is minimised: by engaging with the data early on and developing a coding scheme, the researcher will become familiarised with the informational content of the data and is enabled to identify new topics to be explored and develop analytic hunches and connections that can be tested as the analysis progresses (ibid.). These insights, then, inform the data collection in the subsequent data unit and will hence refine the process.

Mayring (2004), has emphasised four main points to take into account when conducting QCA. The author has drawn up these points with the same goal that this paper maintains, i.e., to "preserve the advantages of quantitative content analysis for a more qualitative text interpretation", as frequencies of the coded categories can be analysed quantitatively.

a. The material should be fitted into a model of communication: it should be determined which part of the textual data or communication the analysis shall rely on making inferences that will produce the categories. Examples of this include but are not limited to the situation of text production, the sociocultural background, the text itself or the effect of the message.
b. The material should be analysed step-by-step: the rules of the game, i.e., the QCA procedure, should be followed strictly, thereby devising the material into content analytical units. This is necessary to maintain the goal of the analysis in mind and not get distracted.
c. The codes or categories that result from point one need to remain at the centre of the analysis. The aspects of the text interpretation, following the research question at hand, are put into categories, which should be carefully founded and revised within the process of analysis (i.e., through feedback loops). Within these loops, the categories should be revisited time and again, eventually reducing them to main categories and checked for their reliability.
d. Although QCA is a qualitative method, it needs to be as intersubjectively comprehensible as possible. In essence, it is necessary to stipulate the formation of the categories as crystal-clear as possible, to make the study as reproducible as possible. This is, in turn, necessary, for future studies to carry out checks for reliability and triangulation.

An example of one of the most straightforward applications of QCA is (e.g.) identifying the frequency with which a specific idea or rationale is mentioned or spoken about in a policy letter. Similarly, one could identify patterns of underlying assumptions or interpretations by marking specific terminology that is used in conjunction with a specific factor (e.g., policy letters that mention integrity as being part of the rule of law). Consequently, this analysis will group sizeable amounts of text and produce pre-determined text-

based codes. These codes will, then, be grouped into value-based categories, which allow the researcher to conclude on the meaning of the textual data (Forman & Damschroder, 2007). In this sense, this qualitative research method still has some quantitative element to it. Because of its ability to serve such a variety of goals, it is extremely important to enter the analysis with a crystal-clear research question and an extensively-formulated goal, or risk getting lost.

B. Operationalisation

An example of one of the most straightforward applications of QCA is (e.g.) identifying the frequency with which a specific idea or rationale is mentioned or spoken about in a policy letter. Similarly, one could identify patterns of underlying assumptions or interpretations by marking specific terminology that is used in conjunction with a specific factor (e.g., policy letters that mention integrity as being part of the rule of law). Consequently, this analysis will group sizeable amounts of text and produce pre-determined text-based codes. These codes will, then, be grouped into value-based categories, which allow the researcher to conclude on the meaning of the textual data (Forman & Damschroder, 2007). In this sense, this qualitative research method still has some quantitative elements to it. Because of its ability to serve such a variety of goals, it is extremely important to enter the analysis with a crystal-clear research question and an extensively-formulated goal, or risk getting lost.

As abovementioned, it is necessary to enter the analysis with a crystal-clear research question and an extensively-formulated research goal. In addition to these points, it is necessary to follow points one and three: determine which part of the data the analysis shall rely on when making inferences and consequently produce the categories. This section will detail how this paper will approach this and explain its operationalisation.

The research, as stipulated in the introduction of this paper, seeks to tackle the question: given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to properly re-allocate those funds? It is this question that will thus 'steer' our analysis. Consequently, as similarly stated in the introduction, the main contribution of this paper will be, in essence, policy recommendations on how to return confiscated assets. However, this is not elaborated enough to ensure that the analysis remains laser-focused. For this purpose, it is necessary to further dissect this goal into several smaller individual goals.

To be able to conclude what these smaller, individual goals should, then, entail, it is useful to rely on the literature that is readily present in the field on this subject (Mayring, 2000). In this paper's literature review, the section that detailed the final definition of 'asset recovery', concluded that the asset recovery that this paper focuses on is the 'return of the illicit proceeds of offences by, or property of public officials through confiscation, where those proceeds are located in foreign countries'. Furthermore, as stated in the literature review in the section detailing the economic rationale behind confiscating the assets underlying the corrupt transactions should be seen as twofold: (1) restoring justice by not allowing individuals committing corruption to profit from their corruption; but also (2) to decrease the incentives to commit bribery by confiscating the economic benefits of corruption. The aim of the analysis should, in light of the research question above-mentioned and with the end product being a policy recommendation, thus be seen as delivering a 'solution', in the form of a recommendation, that takes both of the abovementioned objectives into account. The goal of the research, then, is to deliver a final product in the form of a plan entailing a concrete course of action for returning the illicit proceeds of offences by, or property of public officials through confiscation, where those proceeds are located in foreign countries.

The following section will thus detail the operationalisation of our QCA. As above-stipulated, to be able to analyse the textual content, one needs to establish pre-determined text-based codes. These codes will, consequently, be grouped into value-based categories, allowing the researcher to conclude on the meaning of the textual data. Hence, following the above-stipulated reasoning, for the operationalisation of QCA, this paper will thus rely on a combination of inductive and deductive category development (Mayring, 2000).

This paper's approach to QCA will follow the writing of Forman and Damschroder (2007: 46), stipulating that it is useful to divide QCA into three phases: immersion, reduction and interpretation. With each phase, the goal remains to create new knowledge from raw, unordered data. During immersion, the researcher should engage with the data by obtaining a sense of the whole before rearranging it into discrete units for analysis (ibid.: 47). In the reduction phase, the goal is to (1) reduce the amount of raw data to the information most relevant to answering the research question at hand; (2) to break the data into more manageable themes and segments; and (3) to reorganise the data into categories that address the research question. Lastly, during interpretation, the researcher uses the developed codes to help re-assemble the data in a way that promotes a revised understanding or explanation of the data. This allows the researcher to identify patterns, test conclusions, attach significance to particular results, to place them within an analytic framework. Forman and Damschroder state that there is no clear distinction between data analysis and interpretation, as it is a reiterative process by nature. The only clear demarcation is that when reaching the interpretation phase, the groundwork should have been laid to produce a product that is finished enough to communicate what the data means (ibid.: 56).

C. Coding

In establishing the coding categories, it is also essential to devote a colour to each code. With this colour, the bit of text where this category is found will be highlighted and will be added to the appendix. The colour scheme can, similarly, be found in the appendix.

1. Explanation of why
    a. Yes
    b. No – this does not get a colour, as, if it is not explained, it is automatically unclear.

As mentioned in the conclusions from the literature review and considering the purpose of this paper (i.e., delivering a final product in the form of a plan entailing a concrete course of action for returning the illicit proceeds of offences by, or property of public officials through confiscation, where those proceeds are located in foreign countries), it is relevant to

assess whether the confiscating countries have mentioned why they are, in the first place, confiscating assets. Although this paper has aimed to clearly defined what type of asset recovery it will focus on, this coding category seeks to indirectly assess whether the case studies follow the same definition. By coding whether the confiscating country indicated they confiscated proceeds the reader and, hence, the public, is provided with the legal basis upon which the confiscation is taking place, but it also provides necessary background information behind the workings of the confiscating agency.

2. How did the country get involved?
    a. Bilateral request
    b. Gatekeeper disclosures
    c. 'Media pressure'
    d. Other – this does not get a colour, as, if it is none of the above, it is automatically 'other'.

Following, it is useful to distinguish how the confiscating country got involved. This will be especially useful for the policy recommendations, as it might give us some pointers on how to engage countries' responsible authorities more clearly. If, for example, the analysis of the case studies shows convincing evidence that the confiscating countries got involved through one specific method (e.g., bilateral requests), it is most useful to provide policy recommendations that take this finding into account. By focusing on this one specific method through improving the surrounding legislative framework or the bodies responsible for enacting this method, we would be better able to spur confiscating countries to uphold their responsibilities and confiscate corrupt proceeds.

One of the most obvious methods of involvement, following the UNCAC, would be for countries to submit some form of a bilateral request. This can occur through filing a civil lawsuit, requesting assistance with the financial intelligence unit or a Mutual Legal Assistance (MLA). These forms of requesting assistance are actively encouraged by international frameworks, thus being a likely form for confiscating countries to get involved.

Another form that one would expect to encounter is through notifications to the financial intelligence units (FIUs) of countries by 'gatekeepers', such as lawyers, accountants, banks, consultants, trust agencies, etc. These organisations and individuals are, under most countries' laws, obliged to report suspicious financial transactions (SFTs) that occur within their company to their respective FIUs (e.g., a bank should report, when there is no clear, legal indication why this individual should have these amounts of cash, an individual who deposits large sums of cash to their country's FIU). After receiving this flag, these FIUs are responsible for further investigation, and determine whether these SFTs are, in fact, cases of corruption through auditing the respective company and/or researching their books. One would expect these individuals and organisations to thus generate at least some of the reports that are, eventually, responsible for getting their country's authorities involved in confiscating corrupt government officials' assets.

Lastly, we would expect the media to generate attention for corruption that has occurred, either through whistle-blowers seeking out the media or investigative journalism. By displaying the corruption through integer reporting and storytelling, it would exert pressure on relevant countries' authorities to (e.g.) audit customer-PEPs that are known to visit, operate or have bank accounts in their jurisdiction. This will, presumably, hold especially true for secrecy jurisdictions, as, e.g., Switzerland, attracts individuals from all over the world to their banks.

If none of the above options is how the confiscating country got involved, we will code for 'other', with an asterisk, explaining what the method of involvement was.

3. Desire to restore justice
    a. For the victims: to 'ensure the return of corrupt recovered assets to victim states'
    b. For the state where the corruption's proceeds are located: "since the crime is not a valid way to become owner, confiscation simply deprives the defendant of property he or she has no right to obtain" (Trinchera, 2020: 53-54)
    c. Unclear – this does not get a colour, as, if it is neither of the above, it is automatically unclear

From the literature review, we can conclude that there are essentially two different reasons to battle corruption. Although these two viewpoints are not necessarily mutually exclusive, it is worth noting which type of motivation the confiscating country ascribes to, as this too is relevant for the eventual policy recommendations. If, for example, all countries report that they confiscate the corruption's proceeds because of their motivation to (e.g.) 'not let crime pay', the recommendations should reflect this by (e.g.) branding asset confiscation as the best way to deter criminal behaviour.

On the one hand, we have the desire to battle corruption from a moral standpoint: it should not occur, as it is unjust. This viewpoint is held by, e.g., the UNCAC, as it aims to achieve a "balancing of this injustice" (United Nations Convention Against Corruption: p. iii), as corruption deprives people of equal opportunity. Similarly, as noted, national strategies often aim to 'ensure the return of corruptly recovery assets to victim states'. In this notion, there hence lies an underlying understanding of the reason behind the confiscation: restoring justice by compensating the victims.

On the other hand, Bowles et al. (2000: 544) argues that, unlike other 'punitive systems' such as fines, confiscation reflects the amount of social damage that corruption brings about. This should be seen as another way in which confiscation balances the injustice done. Trinchera (2020: 53-54) holds a similar view. The author noted that the confiscation aims to deprive the defendant of property he or she has no right to retain. In essence, this sees the wrongdoer being set back to the *status quo ante*.

Although these two positions thus have the same underlying premise (i.e., achieving justice), they perceive justice in different ways. Whereas the US & UK strategists aim to achieve justice by essentially restoring the position of the victim through compensation, Trinchera aims to achieve justice by restoring the position of the wrongdoer to the one before the corruption took place. Admittedly, Trinchera reaches this position after ascertaining that crimes of this nature (i.e., corruption) are typically 'victimless', as they affect the 'society at large', instead of one individual. Consequently, it is most logical to ensure that the corrupt individuals are unable to enjoy the profits of their illicit activity. Nevertheless, it is not unlikely that this reasoning will appear in the case studies, which thus makes it a relevant factor to analyse.

4. Increase effectiveness of the system
    a. Through incentives
    b. By saving on expenditure
    c. No mention – this does not get a colour, as, if it is neither of the above, it is automatically not mentioned.

In essence, the literature pointed to two conflicting arguments as to how confiscation of illegally-obtained assets can make the justice system more effective. One can take the more 'economic-based' reasoning as to why corruption should be battled. Trinchera (2020), for example, argues that confiscation of corrupt officials' assets will increase the effectiveness of the justice system, by disincentivising corruption. In essence, this approach sees the economic rationale like this: the prospect of their bribe being confiscated should deter individuals to not engage in corrupt activities. This follows the reasoning that corruption's 'expected costs should outweigh the expected benefits', hence disincentivising individuals from committing corruption.

Bowles et al., however, argue that confiscation will increase the system's effectiveness by decreasing the justice department's expenditure on other tools of enforcement, such as detection and punishment, as the confiscation should be seen as the end-station of the juridical process (2000: 539). Their rationale is thus that by increasing confiscation, the 'end-stage' of the process is reached sooner and without having to continuously spend resources on the tool (such as with punishment through incarceration, etc.). It thus does not become clear from the authors' writing whether they suggest allocating the confiscated resources into the confiscating state's coffers – which could be another way to increase effectiveness. What we can see here are two different explanations as to how confiscation could increase the effectiveness of the justice system. This is hence relevant to research, as it is interesting which reasoning is used more by confiscating countries.

This coding category, again, deals with the research question directly, as it aims to map what reason is underlying the confiscation. Similar to the previous coding category, mapping how the confiscating authorities can contribute to more astute recommendations. If it is noted that the confiscating authorities argue that their confiscation will make the justice system of the origin country (e.g.) more efficient, the recommendation could be that non-governmental organisations (NGOs) in the origin country seek to work together with these authorities in their advocacy to the origin country's justice system.

5. Strategy on how the confiscated money would be 'returned'
    a. Returned to confiscating state's coffers
    b. Aim to return to victims
    c. Returned to victims
        - Directly
        - Indirectly
    d. No strategy – this does not get a colour, as, if it is none of the above, it is automatically not mentioned.

Next and last, the most important coding category for this paper will chart the strategies of how the confiscated assets will be returned, if at all. This coding category will thus directly evaluate whether the confiscating countries have upheld their pledge to the UNCAC by returning the assets. It might as well, however, very well be that the confiscating country has no plan whatsoever on what to do with the assets, as they have simply confiscated them because 'no one should benefit from crime' (Trinchera, 2020: 52). As such, the country will perhaps not have formed a plan on what to do if they indeed do confiscate foreign assets, as this confiscation is seen in the general context of fighting corruption. Similarly, however, it might be possible for a country to confiscate based on the principle that crime should not pay, to consequently appropriate the illicit funds into their own state's coffers.

Lastly, as has been mentioned throughout this paper, multiple countries opt to, following UNCAC provisions, return the confiscated assets to the 'victims' (i.e., return the assets in a way that benefits the citizens of the country in which the corruption occurred). However, even within this general strategy, one has to make the distinction between returning the assets 'directly' (e.g., as mentioned in the introduction, France returned the Uzbek assets to the Uzbek state treasury without any preconditions), or 'indirectly', by including third parties that overlook the process or establishing clear rules on how the assets should be spent, once returned.

By codifying this information, this paper will distinguish to what extent confiscating countries take recent developments and returning conditions into account when attempting to return the confiscated assets. It could also be the case that the confiscating country has the aim to return the assets, but could not yet do so. We thus also have to create a code for this.

IV. Analysis

To ensure an as equal comparison as possible between the selected case studies, this paper needs to establish a uniform approach on how to display them. As such, the review process will occur as described in the stages that were explained in the literature review in Fig. 1, based on Brun et al. (2021). Stage one will see the analysis aim to establish what type of corruption took place. In essence, this will see the paper provide a descriptive overview of the corruption taking place. Stage two, consequently, will assess how confiscating countries were involved and got involved. Stage three, then, will describe the legislative (i.e., action-taking) process that the confiscating country initiated. This stage will thus aim to provide a description of which relevant political bodies have been involved in the confiscating process and based on which powers they were allowed to act. The fourth and last stage will map how the confiscating countries have sought to return the assets (if they have tried so). With these stages having been set, the following sections will discuss individual case studies.

A. Case Study 1: Uzbekistan

1) Stage one: how did the Corruption Occur?

As already has been described in some detail in the introduction, the Uzbek corruption case saw the Russian-owned, Amsterdam-based telecoms company VimpelCom pay over $114 million in bribes to a relative of former Uzbek President Islam Karimov between 2006 and 2012 for frequencies and licences in the Uzbek mobile phone market. Telecommunication was only set up in Uzbekistan in the 90s through a joint operation between the Uzbek mobile phone carrier Uzdunrobita (owned by the International Communications Group) and the Uzbek government. Karimova, daughter of former Uzbek President Islam Karimov, ensured that she would get a benefit in this market

(Patrucic, 2015b), by demanding a 20% stake in exchange for "lobbying and consulting services … made it clear that, without her support, Uzdunrobita would be destroyed" (Case 1:07-cv-01252-RJL: 7).

In the decade following the initial creation of the network, the Uzbek telecom market was a potential goldmine – with a population of 29 million inhabitants of which only a small portion (~5%) used mobile telecommunication. Whereas the telecom market in Europe and Russia had already seen significant growth, the Uzbek market was seen as 'untapped potential'. Karimova directed the Uzbek State Property Committee to transfer 31% of state ownership in Uzdunrobita to her, landing her a total of 51% of the ownership, while putting up no money for this ownership (Patrucic, 2015b). Once in full control, Karimova used the company to funnel large amounts of funds to her private accounts through her Uzbek companies' accounts – without ever providing any services or spending a penny (Case 1:07-cv-01252-RJL: 7).

Karimova, consequently, cashed out in 2004 by selling 74% of Uzdunrobita to Russian-owned MTS for US$ 126,4 million, retaining a 26%. MTS negotiated a "put and call agreement" with this Gibraltar-based company, that allowed it to acquire the stake for minimally US$ 37.7 million. A put option permits a buyer to sell shares at a specific price, in a specific period – with the shares hence being protected against a loss in value. Financially speaking, this deal thus seemed to make little sense for MTS, as it would allow the company to possible sell the shares at a significant markup – unless its minority owner was Karimova (Laslett et al., 2017). Per Patrucic (2015b), this methodology became Karimova's signature *modus operandi*, repeating it time and again.

This methodology also seems to have been repeated in the VimpelCom affair. Per Laslett, Kanji & McGill (2017: 48), Alfa – one of the two telecommunication giants (Norway's Telenor and Russia's Alfa Group) that later joined in the venture VimpelCom – entered the Uzbek telecommunications market by purchasing Buztel, a small, primitive Uzbek telecommunication provider with 2.700 subscribers for US$ 4 million (Patrucic, 2015b). Consequently, Alfa obtained a GSM license by purchasing 74% of Uzmacom for US$ 13 million, with the state telecom owning the rest of the shares. Although Uzmacom was a minor operator with 9.000 subscribers, it still had a valuable GSM license that covered the entirety of Uzbekistan and also held more valuable 900 MHz frequencies in Tashkent than all other carriers.

Uzmacom, consequently, refused to pay its license fee or saw the state refuse to accept it, carrying the consequence that the GSM license was suspended by state authorities. That same GSM license, then, was awarded to Buztel (now owned by Alfa), seeing the state lose its share in the lucrative license (Patrucic, 2015b). Alfa then made a gigantic profit when it sold Buztel at the start of 2006 to its joint venture VimpelCom for US$ 60 million. Although this decision was questioned by the Finance Committee of VimpelCom – as this money could have been spent on improving VimpelCom's network as well as the purchase risking violation of the US Foreign Corrupt Practices Act, the purchase continued because VimpelCom's management made it clear that entry into the Uzbek telecommunication market depended on the backing of a beneficial owner behind Buztel. In a complaint to the US Department of Justice (Case No. 1:16-cr-00137-ER, 2016: 6), it is stated that "due to certain political reasons …, Buztel should be considered as an entry ticket into the Uzbekistan market".

Laslett et al, (2017: 48) conclude that Karimova had thus seemingly successfully established a racketeering operation in the telecommunications sector in Uzbekistan, enabling her syndicate to extract rents from foreign companies and investors. The Organized Crime and Corruption Reporting Project reported that Alfa made a US$ 19 million payment to a Gibraltar-registered company named Takilant via Alfa's British Virgin Islands subsidiary Aqute Holdings & Investments (Organized Crime and Corruption Reporting Project, n.d.; Patrucic, 2015b). This Takilant would later be revealed to be owned and run by Karimova's aide, Gayane Avakyan, with Karimova being the beneficial owner. Although it was never revealed why Alfa's subsidiary wired this payment to Karimova, its company Buztel benefitted significantly from favourable decisions by the regulators in Uzbekistan throughout 2005.

In the same complaint to the US Department of Justice (Case No. 1:16-cr-00137-ER, 2016: 6), it is stated that "the buyer of Buztel would be considered a preferred buyer of Unitel". This thus obviously reeks of a racketeering operation, which is confirmed by the now-joint VimpelCom purchasing Unitel from the Dutch company Silkway Holdings BV for approximately US$ 200 million. Around the time of purchasing the company, Unitel had roughly 300.000 subscribers, making it the second-largest service provider of Uzbekistan (Laslett et al., 2017). To facilitate its operations, VimpelCom merged Buztel into Unitel. Even more obvious, VimpelCom management explained that it was "more important to follow the political requirements suggested for entry into the market versus the questionable risk of acquisition of Unitel as a standalone [and VimpelCom would be] in opposition to a very powerful opponent and bring the threat of revocation of licenses after the acquisition of Unitel as a stand-alone" (p. 6).

The 'last step' in this racketeering process saw Karimova enter into an agreement with VimpelCom, buying a 33.3% ownership interest in Freevale Enterprises, Inc. for US$ 20 million. Freevale Enterprises, in turn, owned 21% of Unitel's shares. The sale thus, effectively, represented a purchase of a 7% share of Unitel for US$ 20 million through a subsidiary (United States Securities and Exchange Commission, File 1-14522: 110). As per the abovementioned 'Karimova methodology', a put option allowed the sale of the 7% stake back to VimpelCom two years later for an amount between US$ 57,5 million and US$ 60 million. In 2009, Karimova exercised that option, earning a dividend of approximately US$ 37,5 million (Patrucic, 2015b). As with previous dealings, the deal carried little financial logic for VimpelCom, as the deal was particularly beneficial to Karimova. These financial constructions saw Karimova earn at least US$ 100 million from VimpelCom. Although VimpelCom stated that at least US$ 43 million was paid for a telecom license (United States Securities and Exchange Commission, File 114522: 41), this seems counterintuitive as the actual costs of Uzbek licenses are significantly smaller (Patrucic, 2015b).

2) Stage two: how did the Confiscating Countries get Involved?

As abovementioned, the purchase of Buztel was already a risk in terms of potentially violating the US Foreign Corrupt Practices Act and had stirred up some controversy in the US.

Per Laslett et al. (2017: 69), already in 2004 "evidence relating to Karimova's racketeering activity had been presented in high profile news publication, after her financial adviser had fled to the US with documentary and experiential evidence on her business dealings" – the abovementioned and referenced testimony. Pressure through the media increased when Karimova's companies had illegally obtained frequencies from the Uzbek government without upfront payment of the fees (ibid.). Nevertheless, Karimova did not see her position being in danger, as she was able to assume multiple high-profile political positions in Uzbekistan, being appointed Deputy Foreign Minister in 2008, the Uzbek permanent representative to the UN and the Uzbek Ambassador to Spain.

The lack of prosecution and enforcement taken against Karimova should be seen as a direct consequence of the deficient rule of law in Uzbekistan and the lack of independent prosecution and judiciary (Transparency International, 2022). High-profile criminal cases in Uzbekistan are usually directed and handled by the National Security Service (SNB), where corruption is widespread (Laslett et al., 2017: 70). Senior officials are known to employ the agency to pursue their interests and those of their supporters, rendering it effectively unable to conduct an independent investigation. The SNB is also incredibly powerful, as other governmental agencies are unable to act outside of SNB orders and lawyers and judges risk removal by a commission controlled by the SNB.

The arrest of Karimova and her accomplices by Uzbek authorities should be seen in this context, as it was led by officials from the SNB – thus appearing to be politically motivated. Laslett et al. (2017) describe the arrest and the consequent break-up of Karimova's syndicate and asset-base should be seen as an attack by rival power-fractions that have used the corrupt criminal justice system as a front to "disguise the political nature of these maneuvers" (p. 8). Consequently, the Uzbek prosecutors stated that Karimova operated an organised crime group that stole US$ 53 million from the state coffers and businesses through "forgery, blackmail and extortion" (Patrucic, 2015b). The international interventions, consequently, were readily triggered when Karimova's associate fled to Uzbekistan and became a witness in the US.

This, in turn, triggered subsequent investigations. Takilant's proxy owner Gayane Avakyan travelled to Geneva in 2012, in an attempt to withdraw millions of Swiss francs held at Swiss bank Lombard Odier (Patrucic, 2015a). Avakyan was refused as she was not authorised to access the funds. Her visit did, however, alert Lombard Odier to an outstanding Interpol warrant filed against Bekhzod Akhmedov (i.e., Karimova's main accomplice and the only individual with authority to access the Swiss account) by Uzbekistan. Per Pilet (2012), the day after Avakyan's visit to Lombard Odier, the Swiss bank sent a suspicious activity report of money laundering to the federal authorities.

The Karimova syndicate then attempted to access the account a second time through Aliyer Ergashev and Shahruh Sabirov, two executives of Coca-Cola Bottlers of Uzbekistan, well-known to be under the control of Karimova (ibid.) – e.g., companies managed by the two listed Karimova as the beneficial owner. Both men were, consequently, arrested by Swiss authorities (Lillis, 2013). Following these arrests, a Swedish investigative news programme broadcasted an exposure that displayed the corruption of Karimova, shortly after which the Swedish anti-corruption authorities launched an investigation into TeliaSonera, a Swedish telecommunication company. These exposés initiated a further turmoil of investigations and scandals, leading to further civil forfeiture actions and prosecutions (Laslett et al., 2017: 73). Finally, in 2014, VimpelCom was informed that it would be criminally investigated in the Netherlands and the US. Uzbek authorities filed a civil suit to the French court.

3) Stage Three: the Legislative Process of the Confiscating Countries.

The legislative process leading up to the confiscation of the assets was, in this case, not extremely difficult or lengthy. With the criminal investigation having been initiated in 2014, the US Department of Justice (DoJ) announced in 2016 that a deferred prosecution agreement had been reached with VimpelCom (Department of Justice, 2016). VimpelCom and its wholly-owned Uzbek subsidiary Unitel LLC agreed with the DoJ where the company admitted to a conspiracy to make more than US$ 114 million in bribery payments to a corrupt government official in Uzbekistan. This enabled the company to enter the telecommunication market under false conditions and allowed its operation to thrive. As part of the settlement, the telecommunication company agreed to pay a criminal penalty worth US$ 230 million to the DoJ. The company also settled with the US Securities and Exchange Commission and the Dutch Public Prosecution office, being fined US$ 375 million and US$ 230 million respectively.

Simultaneously, the US DoJ initiated two asset forfeiture actions directed at Karimova's illicit proceeds, seizing US$ 550 million held in Swiss bank accounts and a further US$ 330 million held in various offshore investment portfolios (Laslett et al., 2017). This US$ 550 million constitutes bribe payments made by VimpelCom and two separate telecommunication providers, or funds that were involved in the laundering of those payments to the Uzbek government official. The US Assistant Attorney General stated that these VimpelCom cases combine a landmark Foreign Corrupt Practices Act (FCPA) with one of the "largest forfeiture actions we have ever brought to recover bribe proceeds from a corrupt government official" (Department of Justice, 2016).

With VimpelCom being Amsterdam-based, the Dutch public prosecution (henceforth OM, for *Openbaar Ministerie*) initiated its criminal prosecution in 2013 through the Fiscal Information and Investigation Service, under the direction of the *Functioneel Parket*, a specialised part of the OM that deals with complex cases of fraud and corruption (Ministerie van Justitie en Veiligheid, 2016). Similar to the investigation conducted in the US, the Dutch concluded that VimpelCom paid bribes to Uzbek government officials to access the Uzbek telecom market. As in the US, VimpelCom admitted to the bribes and hence entered an agreement with the OM. The case was, consequently, led before the Amsterdam Criminal Court and in its decision ECLI:NL:RBAMS:2016:4520, it decided that Takilant was found guilty of passive bribery, as the money used for briberies should have been paid to the Uzbek government as fees for frequencies and licenses. The verdict from the Criminal Court, then, determined the following: a punishment (monetary penalty), a confiscation of the criminal proceeds and mandatory future compliance (ECLI:NL:RBAMS:2016:4520). By combining these several forms of punishment, the OM aims to address the root cause of the corruption, by tackling both the past (in the form of a

penalty and confiscation of proceeds) and the future (through mandatory compliance and the deterring effect for other companies).

In 2012, the Attorney General of Switzerland ordered the freezing of CHF800 million worth of assets within the framework of the criminal proceedings that were initiated in connection with Karimova. Of this total sum, US$131 million was definitively confiscated in 2019, with the Attorney General stating that conditions for the return of the assets would be negotiated with the Uzbek government (Swiss Federal Department of Foreign Affairs, 2020). In France, the court approved the confiscation of property in July 2019 after the Uzbek Republic had filed a civil suit in the French court. Per Sherpa (2020), "A trial in open court was replaced by a closed-door negotiation between the French judicial authorities, the legal representative of the three civil real estate companies that had acquired real estate properties on behalf of G. Karimova, and the Uzbek state. The acceleration of the restitution of Gulnara Karimova's assets was thus achieved at the expense of transparency and accountability. The NGO Sherpa, a civil party in the Karimova case since 2014, was unable to be present at the CRPC's approval hearing, as the NGO was temporarily refused the renewal of its legal accreditation, a prerequisite for anti-corruption associations to bring a civil action in cases of corruption".

4) Stage Four: Asset Return.

As abovementioned, the money that Takilant used for paying corrupt government officials should have been paid to the Uzbek government to the ultimate benefit of the Uzbek public. The beneficial owner of Takilant, as above-outlined, is Karimova, currently incarcerated and on the Global Magnitsky sanctions list. As a consequence of ECLI:NL:RBAMS:2016:4520, the Dutch government seized the 6% share that Takilant held in the Uzbek telecom company Coscom LLC – with the other 94% being owned by the abovementioned telecom company TeliaSonera. As appears from a Presidential Decree, the Uzbek government acquired the 6% interest in Coscom LLC that was previously held by the Dutch government (Uzbekistani Presidential Decree 4986).

Although Transparency International Nederland has inquired with the Dutch Ministry of Justice about what happened with the 6% share, the Ministry has informed us that, because the asset return process is ongoing, they cannot disclose information about it. Similarly, the US DoJ has stated that it wishes to return the assets to the victims of the corruption but has trouble doing this with the ongoing corruption within the Government of Uzbekistan (Laslett et al., 2017). The main issue in returning the assets to Uzbekistan seems to be the US insistence on transparency from the Uzbek officials on how the money would be disbursed. The Uzbek government, consequently, is claiming that this would be a breach of sovereignty, as the US should not be able to dictate how they spend resources that the Uzbeks see as rightfully theirs. This thus means that we cannot conclude how the assets are returned in this case study, as the process is, quite simply, still very much ongoing.

As abovementioned, Swiss authorities negotiated with the Uzbek authorities about the return of the assets. In 2020, the Swiss government consequently announced the reaching of an agreement for the return of US$ 131 million. In the Memorandum of Understanding, the Swiss authorities ensured that the return would follow the principles stipulated by the Global Forum on Asset Recovery, such as transparency and accountability, the use of the assets to improve the living conditions of the people of Uzbekistan, the potential involvement of non-state actors, etc. (Swiss Federal Department of Foreign Affairs, 2020; Pearson, 2020). As such, the asset return should be seen as quite heavily regulated. Although no report has been published on how the assets have been spent, the Swiss approach seems promising.

For France, Transparency International France mentioned that the process of asset return "was settled in haste to the detriment of transparency and accountability. In place of a trial in open court, the French authorities have preferred to expedite the matter in closed-door negotiations with the Uzbek state and the three civil real estate companies that pleaded guilty to having laundered money on behalf of Gulnara Karimova" (Pearson, 2020).

B. Case Study 2: Kazakhstan

In the case of Kazakhstan, the corruption pertains to oil concessions in Western Kazakhstan. James Giffen, an American businessman, was accused of paying bribes to former President of Kazakhstan Nursultan Nazarbaev and former Prime Minister Nurlan Balgimbaev in an attempt to secure concessions in oil contracts – a scandal later dubbed "Khazakgate" (Pacheco & Balasubramanian, 2015: 3). The deal saw Giffen channelling more than US$ 78 million to the two Kazakh officials. In return, Giffen's company Mercator (an investment bank) would receive the energy contracts (Lillis, 2010). Giffen was able to secure this corrupt deal because of his position as adviser to the President.

1) Stage one: how did the Corruption Occur?

With oil production being opened up for international trade only in the early 1990s, the Kazakh oil fields, one of the largest in the world, were in high demand. As the country's first President, Nazarbaev oversaw this exponential growth in trade opportunities. However, similar to the booming Uzbek telecom market, a combination of a lack of regulation and exponential growth appears to be a breeding ground for corruption. In an attempt to attain personal wealth, Nazarbaev and Balgimbaev had thus established a friendly rapport with several foreign companies that aimed to attain oil contracts. Giffen's investment bank Mercator was able to secure oil contracts that would ensure that both Nazarbaev and Balgimbaev would receive kickbacks held in private Swiss bank accounts (Human Rights Watch, 2004).

Media outlets that were supported by the opposition of Nazarbaev – most notably the former Minister of Energy, Mukhtar Abliazov – reported that the two government officials secretly controlled one of these Swiss bank accounts, holding over $US 1,4 billion (ibid.; Franke, Gawrich & Alakbarov, 2009: 126). This corruption was, unlike the Uzbek example outlined above, not extremely complicated and organised through numerous shell companies and/or holdings. Kazakhstan had been plagued with financial scandals in the 90s and 00s, as the executives of national companies including KazakhGold, KazMunayGas and Kazakhoil have all been accused of illegally making millions of dollars during the liberalisation of the Kazakh economy – as part of a general phenomenon of Kazakhstan being a 'rentier state' (Franke et al., 2009: 126).

In fact, according to the authors, because of the lack of an efficient judicial system and honest public prosecution, none of the executives were punished in Kazakhstan. Only the

foreign companies that paid the bribes to these executives have ever been penalised and have faced trials, mostly in the US (ibid.). Davé (2007) similarly concludes that one should speak of a neo-patrimonial structure in Kazakhstan – i.e., a hierarchy where the patrons use the resources of the state to secure the loyalty of clients. This structure is apparent in all ministries and all parts of the national economy, resulting in corrupt and selfish elite decisions and the consolidation of their status.

2) Stage two: how did the Confiscating Countries get Involved?

As abovementioned, foreign companies that paid the bribes were penalised and have faced trials in the US. They were alerted, in part, by the abovementioned opposition-supported media to initiate criminal prosecution. The US Securities and Exchange Commission (SEC), consequently, after having researched the case, filed a complaint against (e.g.) Baker Hughes Incorporated, a Houston-based company that provides oil field products and services (US Securities and Exchange Commission, 2007). The complaint read that the company had paid roughly US$ 5,2 million to two agents, while knowing that part of, if not all of, the money was intended to bribe Kazakh government officials or officials of state-owned companies. The agents, per the complaint, were hired in the early 2000s on the consensus that Kazakhoil, the national oil company of Kazakhstan at the time, had required the agent to be hired to sway senior employees of Kazakhoil (ibid.). Roy Fearnley, former manager of business development for Baker Hughes, told the board of directors of Baker Hughes that the Kazakhoil agent demanded to be retained unless Baker Hughes wanted to see all of its business in Kazakhstan dissolve.

It should be concluded, then, that the US SEC has applied additional pressure to prosecute American companies and persons, as they saw the Kazakh prosecution as inadequate and lacking in their rule of law (Franke et al., 2009). Per the FCPA, then, these American companies were still required, under US law, to uphold their obligations to not commit or contribute to corruption. Through the abovementioned news media information that was published in Kazakhstan, the US SEC launched a criminal investigation into the US-based companies that were operating in Kazakhstan (US Securities and Exchange Commission, 2007).

3) Stage Three: the Legislative Process of the Confiscating Countries.

In the case of Baker Hughes, then the company consented to the entry of a "final judgement permanently enjoining it from future violations" while [agreeing] to disgorge approximately US$ 20 million and to pay prejudgement interest thereon in the amount of roughly US$ 3 million and to pay US$ 10 million as a civil penalty for its violation of the prior SEC cease-and-desist order. Lastly, the company promised to hire an independent consultant to review whether the company was FCPA-compliant. Similar to the treatment of the Dutch prosecution in the Uzbek case study, this final judgement thus aimed to address the past, present as well as future dealings of the company.

Similar to the case of Baker Hughes, Kazakhgate saw a US Federal court indict two US businessmen on corruption charges in their oil deals with Kazakhstan – i.e., James Giffen and Bryan Williams, a former Mobil Oil executive. While the details for Giffen have already been discussed above, Williams was convicted and sentenced to almost four years in prison on tax evasion charges. The court concluded that Williams had received a kickback while working for Mobil Oil Corporation and failed to report this – thus constituting tax evasion (Human Rights Watch, 2004). In 2007, consequently, the Criminal Division's Asset Forfeiture and Money Laundering Section (AFMLS), working together with the US Attorney's Office of the Southern District of New York, filed a forfeiture action against roughly US$ 84 million that had been stalled in Switzerland by Giffen and his company, Mercator (Department of Justice, 2015). In an attempt to, presumably, evade criminal investigation, the two senior Kazakh government officials who had been bribed had transferred the funds into a Swiss bank account in the name of the Kazakh government.

Giffen, consequently, asserted during the Kazakhgate trial that he not only acted with the approval of the Central Intelligence Agency, who refused to release classified papers that were related to these activities, but was in fact following direct instructions from the government of Kazakhstan while serving US interests (LeVine, 2010). Although the CIA has denied the charge and has not granted Giffen access to the relevant documents, the responsible judge was granted access to classified documents. Upon reviewing them, the judge explained that Giffen was "a significant source of information to the US government and a conduit of secret information from the Soviet Union during the Cold War" (ibid.).

The judge, then, decided that the lack of provision of classified information relevant to the case meant that the charges would not have been filed if the classified information would have been available. This reasoning saw the bribery charges being taken from the stage, with Giffen pleading guilty to a tax misdemeanour under the legislative framework of anti-corruption (Lillis, 2010). Giffen's company, the Mercator investment bank, did plead guilty to the making of an 'unlawful payment' in violation of the FCPA, receiving a penalty in the form of a US$ 32.000 fine for "bribing Kazakh officials with snowmobiles" (ibid.).

4) Stage Four: Asset Return.

The US$ 84 million that was stalled in Swiss bank accounts by the two Kazakh government officials had, by 2007, following the forfeiture action by the AFMLS and the US Attorney of the Southern District of New York, reached a value of just over US$ 115 million because of interest (Department of Justice, 2015). The fund was, consequently, the subject of conflicting claims by the governments of Kazakhstan, Switzerland and the United States (i.e., respectively the original owner of the assets, the country where the assets were currently located and the country that aimed to confiscate the assets). In a 2007 settlement, the three countries' governments reached a compromise, agreeing that the funds should be placed in a trust that benefitted poor children in Kazakhstan (Department of Justice, 2015 & Messick, 2016). A separate agreement was drafted with the World Bank to provide the technical assistance that was required for the three governments to set up this fund and its disbursement (Messick, 2016). The two agreements together foresaw the three governments establish the BOTA Foundation, a Kazakh non-profit corporation that would, in turn, employ an international non-governmental organisation to administer the funds.

The BOTA Foundation disbursed just over US$ 115 million through three separate programs: (1) grants intended

to support innovative provisions of social services, including crisis hotlines for at-risk youth and an innovated foster care model; (2) conditional cash transfers encouraging and enabling poor households to access early childhood education and potential prenatal health services; (3) and scholarships to poor Kazakh children to attend higher education in Kazakhstan (Lord, Miller & Deelan, 2022 & IREX and Save the Children, 2015). An independent evaluation by the Oxford Policy research group conducted at the programme's end in 2014 concluded that the foundation should receive high praise for seeing all monies reaching the intended recipients (Merttens, MacAuslan & Marzi, 2014). Amongst others, the research concludes that the cash appears to have "helped households mainly to eat more nutritious food, ensure payment for medical services and for transport to receive antenatal health services and in some cases to pay for early childhood education services where payment is required" (ibid.).

Similarly, the DoJ concluded that "in just five years of operations, the BOTA Foundation helped more than 208,000 people in need in Kazakhstan, turning more than $115 million in alleged bribe money into assistance to parents, families with disabled children and youth seeking higher education. Through our Kleptocracy Asset Recovery Initiative, the Department of Justice is committed to fighting back against impunity and seeking creative ways to reduce the harms caused by corruption" (Department of Justice, 2015).

Whereas the information surrounding asset recovery and return for the 'Kazakhgate' case is widely available and publicly accessible, this paper has not been able to find any information regarding whether there has been any attempt to return assets to the benefit of Kazakhs in the case of Baker Hughes. This means that we have not been able to track down what happened to the US$ 10 million fine paid by Baker Hughes, nor the disgorged ~US$ 20 million.

C. Case Study 3: Nigeria #1

1) Stage one: how did the Corruption Occur?

From 1993 to 1998, General Sani Abacha was the Nigerian president, seizing power through a coup d'etat. Typical for a dictator that has risen to power through a coup, Abacha's rule was marked by diverse feats. The regime achieved significant economic growth, but also recorded severe human rights abuse and maintained an unsafe political climate (Kaufman, 1998). Reviewers have concluded that the economic results show that Abacha's rule oversaw Nigeria increasing the country's exchange reserves while reducing the country's external debt. Simultaneously, Abacha's government significantly reduced inflation rates and managed to exponentially increase the country's GDP through their primary commodity, oil (Usman, 2014 & Bureau of Democracy, Human Rights, and Labor, 1997).

Although the national economy thus seemed to thrive, investigations that were carried out after Abacha's sudden death in June 1998 "revealed that he looted between US$ 3 billion and US$ 5 billion of public money. His methods included theft from the public treasury through the central bank, inflation of the value of public contracts, extortion of bribes from contractors, and fraudulent transactions" (Jimu, 2009: 7; World Bank, 2007: 18). Abacha's dealings were researched by his successors Abdusalami Abubakar and then by President Olusegun Obasanjo, revealing that the proceeds were "laundered through a complex web of banks and front companies in several countries" (Jimu, 2009: 7). Eventually, the research culminated in efforts "to recover the assets stolen by [Abacha] and his associates and hidden both within and especially outside the country" (World Bank, 2007: 18).

2) Stage two: how did the Confiscating Countries get Involved?

In this case, unlike in the cases of Uzbekistan and Kazakhstan, the country where the corruption took place (i.e., Nigeria) requested legal assistance from a Swiss legal firm, *Monfrini and Partners* to assist in their efforts of tracing and recovering monies held abroad. In that sense, the Nigerian authorities thus directly requested the assistance of external forces, albeit not the Swiss authorities themselves. This happened only when Nigeria requested the Swiss authorities for an MLA, leading to the issuance of a general freezing order (World Bank, 2007: 19).

3) Stage Three: the Legislative Process of the Confiscating Countries.

Consequently, because of the obligations that are attached to the request for an MLA in 1999, the Nigerian authorities were obliged to, following Swiss law, present the Swiss authorities with a final forfeiture judgement reached in the Nigerian courts (ibid.). This, then, proved to be quite problematic. Although the MLA request was consulted in 1999, this hurdle was only jumped in 2004, when *Monfrini and Partners*, the Swiss legal firm, successfully argued that this requirement of final forfeiture should be waived because of the adequate proof of the criminal origin of the funds that were swindled away by Abacha (ibid.).

Subsequently, it took the Nigerian authorities approximately five years (from the moment that the MLA was requested) to get the Swiss authorities to decide on the repatriation of the assets. Jimu (2009) concludes that Abacha's lawyers made the process incredibly more difficult by submitting an endless range of appeals and requests to the Swiss judges in an attempt to hold on to the assets and wealth (p. 7). Daniel & Maton (2008) describe, consequently, that, as soon as the Swiss authorities decided on repatriating the assets, there was some discussion on how to return the assets.

Okonjo-Iweala & Osafo-Kwaako describe that "Nigerian civil society played an important role in supporting the return of looted funds and also monitoring the utilization of repatriated funds. Local civil society groups were genuinely concerned about the slow repatriation of the looted funds to Nigeria due to perceived delays from the Swiss Government. Nigerian CSOs therefore partnered with their Swiss counterparts to pursue two objectives: first, to campaign for a speedy repatriation of looted funds, and second, to monitor the utilization of funds when repatriated to Nigeria" (2008: 8).

The US$ 505,5 million that was hidden in Swiss banks were decided to be returned to Nigeria in September and November of 2005 and early 2006. After negotiations between Nigerian and Swiss authorities, it was agreed that the money should be returned by investing it into pro-poor projects. However, with the risk of corruption leering, the Swiss authorities negotiated that there should be a 'watchful eye of a third eye party entity' (Jimu, 2009; Daniel & Maton, 2008). Post-negotiations, it was established that the World Bank should be involved in the process as a reviewer, being

seen as a neutral party (Jimu, 2009: 7). With this, we arrive at stage four.

4) Stage Four: Asset Return.

In the negotiations, it was determined that the World Bank would manage a US$ 280 thousand grant provided by the Swiss government to co-finance the "Public Expenditure Management and Financial Accountability Review … initiated as a means of executing reforms in budget spending, with regard to Nigeria's national economic empowerment development strategy priorities in education, health, and basic infrastructure (power, roads, and water)" (ibid.). In addition, the grant saw the World Bank mobilise Nigerian civil society organisations to participate in the policy implementation and analysis of how the looted funds should find their way back into the Nigerian society (World Bank, 2007: 19).

As negotiated, the funds were allocated to prioritise pro-poor sectors, going to "power (USD 168.5 million), works (USD 144.5 million), health (USD 84.1 million), education (USD 60.1 million), and water resources (USD 48.2 million)", in line with the Nigerian authorities' pursuit to achieve the Millennium Development Goals (Okonjo-Iweala & Osafo-Kwaako, 2008: 8). The level of detail provided by the Nigerian Ministry of Finance on how these resources were allocated is, consequently, divided into sub-categories where the money is spent (see Libman, 2006). This thus provides a rather clear image of the confiscated assets' expenditure.

In part, this clear picture can and should be attributed to the cooperation between the World Bank and the Nigerian civil society organisation *Integrity*. The abovementioned negotiations saw the World Bank ask *Integrity* to monitor the proper utilisation of the returned assets. *Integrity*, in cooperation with other Nigerian civil society organisations, consequently reviewed 51 project sites across the five priority sectors for field monitoring visits in Nigeria's six geo-political zones (Jimu, 2009: 7; Okonjo-Iweala & Osafo-Kwaako, 2008: 8). The visits included interviewing 168 people, including local government officials and contractors involved in the project, as well as some potential ultimate beneficiaries of the projects.

The World Bank's 2007 review document concluded that the funds had, in general, been used to "increase budget spending in support of the MDG areas, as promised" (World Bank, 2007: 19). Jimu concludes that "of the 51 projects reviewed, 23 were described as completed, 26 were at various stages of completion, and 2 were described as stopped. All the 23 completed projects were described as functioning, though at varying levels of utilisation" (2009: 8). Jimu, then, concludes that there were some instances where spending agencies used their share of the returned assets to defray outstanding debts or make partial payments for projects that were readily initiated (p. 9). In several cases, projects that had readily been completed were paid for with the returned assets.

Besides these cases of wrongful spending of the funds, Jimu mentions that the projects struggled to maintain 'good quality', partly caused by a 'lack of faith and corruption' (ibid.). These factors ensure that several projects that lagged behind schedule were virtually abandoned, or were of such poor quality that they required major refurbishment shortly after the completion of the construction. The review process even showed some 'ghost projects' (projects that never existed). One example of this is a contractor abandoning their work after a local official refused to accept their bribe in exchange for a premature sign-off (ibid.). Additionally, Ugolor, Nwafor and Nardine (2006), operating for the Nigerian Network on Stolen Assets, concluded that the review process by the World Bank should be seen as 'partial', as a full physical inspection of projects was made impossible because of the lack of a comprehensive list of projects funded by the government through the repatriated funds – at the time.

In conclusion, although the World Bank review concludes that the Nigerian government, in general, purposed the repatriated funds to prioritise the Millennium Development Goals, the general persistence of corruption throughout various layers of Nigerian society has made the Asset Return only partially successful. The continued corruption amongst local public officials and contractors specifically has made oversight extremely difficult.

D. Case Study 4: Peru

1) Stage one: how did the Corruption Occur?

The former head of Peru's secret services (Servicio de Inteligencia Nacional) and the right hand of President Alberto Fujimori from 1990 to 2000 was Vladimoro Montesinos Torres. The Peruvian government, during this period, is well-observed to be corrupt (Barr, 2003 & Burt, 2009). Jimu observes that corruption reached a level of sophistication where "state structures were manipulated in a way to gain personal benefits for the members of government in an organised and (on the face of it) legal form" (2009: 11). Montesinos and his associates mainly extorted the bribes in awarding national defence procurement contracts, hiding these payments on legal provisions that allowed the executive to deny disclosure of the bidding process based on 'national security' (Burt, 2009). These proceeds were then laundered by using shell companies based in tax haven jurisdictions managed by trustees.

Through these legal, albeit morally inexcusable, structures, Montesinos was at the centre of a "multi-million dollar illegal business, responsible for the extortion of high profile entrepreneurs, embezzlement, graft, arms trading, and drug trafficking" (Jimu, 2009: 11). In 2000, then, Peruvian television channels were able to retrieve videos from congressman Fernando Olivera Vega and Luis Iberico that Montesinos recorded himself, displaying him bribing elected congressmen to convince them to leave the opposition to join Fujimori's group in Congress. Upon the airing of the video, Montesinos fled Peru by travelling to Panama whilst Fujimori attempted to cover his part in the affair by naming a false prosecutor tasked to obtain evidence that could incriminate Montesinos (Barr, 2003). The public did not, however, seem to believe Fujimori, as the accusations of widespread corruption increased.

In an attempt to escape the country, Fujimori travelled from Peru to Brunei to attend the annual Asia-Pacific Economic Cooperation (APEC) summit. Just after the APEC meeting, Fujimori then travelled to Japan, where he consequently faxed his resignation from the position of Peruvian president and was able to evade judicial accusations because of his Japanese nationality. In the end, Fujimori was arrested in 2005 while travelling to Chile, with Montesinos already arrested in 2001.

2) Stage two: how did the Confiscating Countries get Involved?

Similar to the Nigerian case, the confiscating countries simply got involved because the money was located in bank accounts in those countries. As above mentioned, under the regime of Fujimori, corruption by the elite thrived, taking "control of the country, undermining the institutional governance systems that existed in the country: the Constitution, elections, rule of law, free press, independent judiciary" (World Bank, 2007: 19). The report also concludes that more than US$ 2 billion was allegedly stolen from the state's coffers during Fujimori's rule. Hence, after the videos incriminating Montesinos came out and Fujimori was removed from office by the Peruvian congress, interim President Valentín Paniagua reformed the institutional and legal frameworks, setting up new anti-corruption systems that foresaw the conception of anti-corruption courts and prosecution agencies (Barr, 2003).

Consequently, bank accounts in Switzerland, the Cayman Islands and the United States were frozen (World Bank, 2007: 19). E.g., the Swiss Federal Office of Justice reported in 2002 that Peru's anti-corruption prosecutor, appointed by the new interim President Valentín Paniagua, was in Bern to trace frozen assets belonging to politically-exposed persons (Ornelas, 2012). By far the largest share of the laundered proceeds was stashed in Swiss bank accounts (i.e., US$ 75 million in Switzerland, US$ 33 in the Cayman Islands and US$ 20 million in the United States).

3) Stage Three: the Legislative Process of the Confiscating Countries.

In Switzerland, two options were discussed with the Swiss magistrate responsible for investigating the proceeds: (a) "the Peruvian authorities could prosecute the offenders domestically for corruption and then seek recovery of the assets through MLA requests and signed waivers"; or (b) "Switzerland could pursue drug trafficking and related money laundering offenses that were involved in the case" (Brun et al., 2021: 15). This second option would reduce the total amount being recovered, as Peru would have to share a percentage of the recovered assets. As such, Peru decided to pursue the first option, introducing legislation that permitted defendants to plead guilty and receive an agreement, thus establishing forms of cooperation and attaining useful information in return for a decreased criminal sentence. This route also ensured that defendants would authorise the foreign bank accounts that held their money to transfer it to the authorities of Peru. This method saw Peruvian authorities acquire several million (ibid.).

For the assets that were located in the Cayman Islands, Peruvian authorities hired local lawyers to help them pursue the proceeds and met with the FIU to seek its assistance. After intense financial analysis, the authorities discovered that the proceeds had never been sent to the Cayman Islands. Instead, a back-to-back loan scheme had been applied to simulate a 'transfer' of money to the Cayman bank and the 'return' to the Peruvian bank (p. 16). Upon discovering this, the authorities seized the funds in the Peruvian bank.

In the United States, two former associates of Montesinos were arrested who controlled US$ 20 million and US$ 30 million respectively. Through non-conviction-based proceedings in California and Florida, these funds were recovered and repatriated in their entirety to Peru, albeit with the condition that the money would be re-invested in anti-corruption and human rights efforts (ibid.). Within Peru itself, over US$ 60 million was recovered by seizing and confiscating luxury vehicles and properties through criminal proceedings involving over 1.200 defendants (ibid.). Jimu similarly mentions that other jurisdictions such as "Luxembourg, Mexico, Panama, Trinidad and Tobago and Uruguay" could also have returned assets, as Montesinos and his companions were known to have operated bank accounts (2009: 11).

4) Stage Four: Asset Return.

Per Jimu, the Peruvian government created a Special Fund for Management of Illegally Obtained Money against Interests of the State (FEDADOI), created to manage the assets that were recovered from corrupt officials by the government (2009: 11). The authorities decided to have the funds managed by a board of five members appointed from different government ministries (World Bank, 2007: 20). Although the board of FEDADOI established detailed procedures and guidelines to ensure that the nearly US$ 185 million were used transparently, the resources ended up mainly supplementing the budget of institutions that had a member on the board (ibid.). Similarly, although spending of the funds has often adhered to standard procedures regarding budgeting, questionable spending allocations occurred quite often because of a lack of a clear-set pre-identified course of action (Jimu, 2009: 11).

Some allocations of the money include a US$ 9 million payment for the payments of vacations for police personnel; disbursements for the policy reform process such as new uniforms and life insurances for the offices; US$ 400.0000 in legal fees towards repatriating Fujimori from Chile; expenses to the judiciary to support investment in information technology and infrastructure; and reimbursing the victims of the misrule during Fujimori's rule (ibid.). No specific information is released on how the remaining funds have been allocated.

Although we thus cannot conclude definitively whether the funds were allocated properly and were spent fairly, the evidence seems to point towards sustained corruption. Specifically, the given that the resources ended up supplementing the budget of the institutions where a member of the FEDADOI board was originally from seems to point towards a lack of transparency and an inefficient fund allocation.

E. Case Study 5: Equatorial Guinea

1) Stage one: how did the Corruption Occur?

In Equatorial Guinea, former Minister of Agriculture and Forests and current Vice President, Teodoro Nguema Obiang Mangue, son of the President of Equatorial Guinea, Teodoro Obiang Nguema, is accused of attaining illicit wealth through corruption related to oil and gas reserves in the country (Urbina, 2009). Although his pay as a Minister was roughly €3.200 per month, the Guardian reported that Obiang Jr. had a private jet, a love for luxury cars, clothes from top design houses and trips to Rio de Janeiro and Hollywood (Chrisafis, 2012).

The wealth was achieved because the President and his cronies control all of the most beneficial natural resources of the country. The President himself controls important holdings, such as majority stakes in construction, natural gas, communication companies and oil. Obiang Jr. controls the

exploration and exports of wood, while the President's brother controls the security services in the country (Garcia Sanz, 2013). The oil was discovered in the 90s, with the potential to generate enormous wealth for the small African country. Sadly, however, the systemic corruption of the elite has largely squandered that potential (Human Rights Watch, 2021). By securing generous kickbacks when concluding contracts with foreign companies, the President's inner circle has been able to essentially let Equatorial Guinea function as a rentier state (or, kleptocratic police state) for their personal gain (Yates, 2015). To counter the corruption accusations, Obiang Jr. was appointed vice president in 2016, in an attempt to bolster his claim of diplomatic immunity (van den Berg, 2018).

2) Stage two: how did the Confiscating Countries get Involved?

In 2008, two French anti-corruption organisations, Transparency International-France and Sherpa, initiated a corruption case to the highest court in France, the *Cour de Cassation* (Human Rights Watch, 2021). The case was initiated after the Senate of the United States investigated the role of a US Bank in facilitating corruption in Equatorial Guinea by the President and his family, revealing that Obiang Sr. used his position to rob the state's coffers and launder the money in France (ibid.).

3) Stage Three: the Legislative Process of the Confiscating Countries.

The investigation by the US Senate led to the US DoJ seizing more than US$ 70 million worth of Obiang's assets in 2011 (Department of Justice, 2011) in real and personal property. The US DoJ claimed that it had the right to seize these funds, as they were the proceeds of foreign corruption offences by US companies – thus illegal under FCPA – and were laundered in the US to purchase (among others) real estate such as a Malibu mansion (ibid.). The US Justice Department settled its case in 2014 when Obiang Jr. agreed to forfeit US$ 30 million (U.S. Department of Justice, 2014).

In 2017, then, Swiss authorities seized 25 cars of Obiang Jr., as well as his US$ 100 million super yacht, while investigating whether he bought these using Swiss bank accounts and businesses (Human Rights Watch, 2019). Two years later, the Swiss prosecution announced that they would close their investigation after Obiang Jr. had agreed to "forfeit the cars, which raised US$ 27 million at a subsequent auction" (ibid.). Both the US and the Swiss authorities negotiated that the settlement's forfeited assets would be returned for the benefit of the people of Equatorial Guinea (ibid.). These countries' authorities have felt that this is necessary because of the corruption that remains ever-present in the elite, with a high risk that assets will be misappropriated once returned (Human Rights Watch, 2021). The report by Human Rights Watch similarly concludes that it had to be made critically important to maintain recovered assets independent from the Equatorial Guinean government officials.

4) Stage Four: Asset Return.

Despite the attack by Equatoguinean government officials that these cases of corruption brought against them are 'neo-colonialist attempts by foreign governments to loot the country's resource wealth' (Saadoun, 2019), France, the United States and Switzerland were able to hence negotiate settlements. In the US settlement, the DoJ settled with Obiang Jr., requiring him to sell a Malibu mansion purchased for US$ 30 million, a Ferrari car and several Michael Jackson memorabilia. US$ 10,3 million were to, then, be forfeited to the US, with the remaining settlement funds distributed to a charity or other organisation for the benefit of Equatoguineans (U.S. Department of Justice, 2021). A part of these funds, then, was, as outlined in a donor agreement between the US and the UN, used to "purchase, store, distribute and administer COVID-19 vaccines to at least 600,000 people in Equatorial Guinea. In addition, [a US-based charity] will receive US$ 6.35 million to manage the purchase, storage, distribution and delivery of additional medicines and medical supplies throughout Equatorial Guinea" (ibid.). As such, through this method, the confiscated assets paid for the countries' vaccine shots (Princewill, 2021).

Information about how French authorities returned the assets seems to be unable to be unavailable to researchers who have not mastered French. Transparency International reported in 2021 that the Court of Cassation confirmed, in its decision, that the assets that were confiscated from Obiang Jr. will be returned under a new 'restitution mechanism'. In 2021, the French Parliament approved a 'responsible asset repatriation mechanism', as part of a broader programming bill on sustainable development (Guy, 2021). The mechanism supposes two required conditions for the restitution of confiscated ill-gotten gains: "a final confiscation decision and a legal mechanism providing sufficient guarantees and flexibility to ensure that these assets do not fall back into the channels of corruption, but are used to finance projects that will benefit the people" (ibid.). Seeing that this was written in July 2021, it is likely that the conditions of return are still being negotiated or stipulated. As abovementioned, Swiss authorities auctioned Obiang Jr.'s cars, agreeing that the proceeds would be returned for the benefit of the people of Equatorial Guinea (Human Rights Watch, 2019). No further information is provided on how the funds were used.

F. Case Study 6, 7 & 8: the Philippines, Zambia and Nigeria #2

These cases have been described in such detail in Jimu (2009) – the Philippines and Brun et al. (2021: 16-18) – Zambia and Nigeria #2. In addition, Brun et al. (2021) have reviewed the cases of Zambia and Nigeria #2 as well. As such, the text that analysed these cases in detail in these authors' work is used in its entirety as the object of analysis and is colour-coded and attached in the appendix. The following sections will merely serve as summaries of these authors' work.

G. Summary: the Philippines

Former President Ferdinand Marcos siphoned off between US$ 5 billion and US$ 10 billion from government contracts through taking over large private enterprises. Marcos laundered the proceeds through shell corporations that invested the money in US real estate or by depositing the money in secrecy jurisdictions under pseudonyms. After a long legal process, the Philippines' treasury received US$ 624 million of Marcos's ill-gotten gains from Switzerland. Although the Swiss authorities ensured oversight in the choice of investments, transactions involving the fund have been questionable. Some of the returned funds have also been mixed with monies from the General Fund, making a full account nearly impossible. The Philippines' authorities have made no move to compensate the victims (Jimu, 2009: 12 & 13).

H. Summary: Zambia

Former President Frederick Chiluba was charged before a Zambian court with diverting assets from the Zambian Ministry of Finance to an account for his personal expenses and benefit. After the process was delayed several times, the Zambian attorney general (AG) initiated a civil suit in the UK against Chiluba and his associates to recover funds transferred to London and across Europe that funded Chiluba's luxurious lifestyle. A successful MLA was unlikely, as the Zambian prosecutor lacked the multilateral or bilateral agreements and experience necessary. The AG decided to file a suit in the UK to enforce a court order enforceable throughout Europe. The UK court ruled that Chiluba was guilty of misappropriating funds and held him liable for the value of these assets plus damages (Brun et al., 2021: 23-25)

I. Summary: Nigeria #2

Former governor of the state of Bayelsa, Nigeria, Diepreye Alamieyeseigha, was impeached for corruption in 2005. Through shady company and ownership structures, Alamieyeseigha was able to accumulate assets exceeding £10 million in value. An MLA request in the UK yielded a London Court finding that US$ 1.5 million in cash from Alamieyeseigha's London home were found to be proceeds of crime. Civil forfeiture proceedings in South Africa and the US similarly yielded traced assets. Nigeria was able to recover US$ 17.7 million, which was returned to their state coffers without any underlying strategy.

V. Results

Having described the case studies in detail and having mapped the four relevant stages, this section will seek to apply the coding method that has been described in this paper's methodology. The textual data that produces the codes is attached in the appendix. This section will merely list the results. The discussion will, consequently, describe the implications of the results.

A. First Coding Category: Explanation of why

In Table I, we can see that almost all countries have explained why they have confiscated the assets. Only Switzerland did not disclose any specific information behind their confiscation in the Philippine case study.

B. Second Coding Category: how did the Country get Involved?

Table II displays that 6 countries in 5 cases got the confiscating countries involved through bilateral requests. 9 countries in 4 cases got involved through media pressure. In case 5, the US got involved through an audit of a bank. In case 7, Zambia ensured UK court orders to get UK authorities involved. In case 8, the US & South Africa initiated civil forfeiture procedures.

C. Third Coding Category: Desire to Restore Justice

Table III displays mixed results. It could not be distinguished what the motivation behind the confiscations was in two cases (6 & 7). In two cases (1 & 3), the distinguishable confiscating countries exclusively relied on motivation aiming to 'restore justice for the victims'. Only one case (8) saw countries rely exclusively on the motivation that corruption should not pay. All other cases saw a mixture of all three motivations. In cases 2 and 5, countries (resp. US, France & US) displayed a mixture of motivation aiming to 'restore justice for the victims' and the motivation that corruption should not pay.

D. Fourth Coding Category: Increase the Effectiveness of the System

No case study mentioned an aim to increase the effectiveness of the system.

E. Fifth Coding Category: Strategy on how the Confiscated Assets Should be Returned

Table V displays that only two cases saw the confiscating countries return the confiscated assets without any strategy. The research found one case where the confiscating country returned the assets to their coffers in case 7. In cases 1 and 5, some of the confiscating authorities have stated that they aim to return the assets to the victims, but have not yet found the proper way. Two cases (4 & 6) saw the confiscating countries return the assets exclusively in a direct manner, to the origin country's state coffers. Two cases (2 & 3) saw the confiscating countries return the assets exclusively to the victims in an indirect manner. The other cases (1 & 5) have seen confiscating authorities return the assets in mixed manners.

TABLE I. Coding Category 1

Explanation of why		
Case Study	***Yes***	***No***
1: Uzbekistan	All	-
2: Kazakhstan	All	-
3: Nigeria #1	All	-
4: Peru	All	-
5: Equatorial Guinea	All	-
6: the Philippines	-	Swiss
7: Zambia	All	-
8 Nigeria #2	All	-

TABLE II. Coding Category 2

How did the Confiscating Country get Involved?				
Case Study	***Bilateral Request***	***Obligations of Gatekeepers***	***'Media pressure'***	***Other***
1: Uzbekistan	France	-	US, NL, Swiss	-
2: Kazakhstan	-	-	US	-
3: Nigeria #1	Swiss	-	-	-
4: Peru	Swiss, Cayman Islands	-	US, Swiss	-
5: Equatorial Guinea	-	US*	France, Swiss, US	-
6: the Philippines	Swiss	-	-	-
7: Zambia	-	-	-	**
8 Nigeria #2	UK	-	-	***

**through an audit*
***through UK court orders*
****through civil forfeiture procedures in US & South Africa*

TABLE III. CODING CATEGORY 3

Desire the Restore Justice			
Case Study	***For the Victims***	***Corruption Should not pay***	***Unclear***
1: Uzbekistan	US, Swiss	-	NL, France
2: Kazakhstan	US	US	-
3: Nigeria #1	Swiss	-	-
4: Peru	US	Swiss	Cayman Islands
5: Equatorial Guinea	Swiss, France, US	France, US	-
6: the Philippines	-	-	Swiss
7: Zambia	-	-	UK
8 Nigeria #2	-	UK, US, South Africa	-

TABLE IV. CODING CATEGORY 4

Increase the Effectiveness of the System			
Case Study	***Through Incentives***	***By Saving on Expenditure***	***No Mention***
1: Uzbekistan	-	-	All
2: Kazakhstan	-	-	All
3: Nigeria #1	-	-	All
4: Peru	-	-	All
5: Equatorial Guinea	-	-	All
6: the Philippines	-	-	All
7: Zambia	-	-	All
8 Nigeria #2	-	-	All

TABLE V. CODING CATEGORY 5

Strategy on how the Confiscated Assets Should be Returned					
Case Study	***No Strategy***	***Returned to Confiscating State's Coffers***	***Aim to Return to Victims***	***Directly Returned to Victims***	***Indirectly Returned to Victims***
1: Uzbekistan	-	-	US, NL	France	Swiss
2: Kazakhstan	-	-	-	-	US**
3: Nigeria #1	-	-	-	-	Swiss
4: Peru	-	-	-	Cayman Islands, US, Swiss	-
5: Equatorial Guinea	-	-	France, Swiss	-	US
6: the Philippines	-	-	-	Swiss*	-
7: Zambia	-	UK	-	-	-
8 Nigeria #2	UK, South Africa, US	-	-	-	-

**but with oversight*
***in cooperation with Switzerland*

VI. DISCUSSION

Having analysed the case studies and having applied the coding scheme that was drawn out in the methodology section of this paper, the following section will contextualise these findings. First, the paper will outline the limitations of the paper, to contextualise the consequent findings as clear and honest as possible.

One of the problems that the research encountered lies in the fact that there is limited availability of case studies. Seeing that the return of assets is an incredibly strenuous process and required a multi-jurisdictional approach, the number of cases where assets have been returned is limited. This makes the conclusions of the current research subject to change, as each added case carries significant value for interpretation. Moreover, as evidenced in the analysis, some of the featured cases are still ongoing. Cases 1 and 5 have only seen the corrupt official's assets be confiscated less than five years ago. This means that the confiscating countries' authorities have not yet been able to return all of the assets, despite stating the intent to do so. As such, we are unable to draw conclusions on the process of asset return, the degree of success and the implications thereof.

The second limitation is somewhat related to the first, as the publicly-disclosed information in cases of asset returns is rare. Although almost all countries in this analysis have disclosed information on why they have confiscated assets, when there is no information disclosed, it is incredibly difficult to analyse the asset return process. For example, a country with limited resources for detecting financial crimes, such as the Cayman Islands, lacks the resources or the capability to draw up a proper statement of intent or a press release. As such, the process becomes more difficult to analyse, as the researcher has to rely on a second-hand relay of the facts. Similarly, some countries' authorities will likely be untransparent in their *modus operandi*, thus not releasing a statement of intent or a press release, because they refuse to do so. The last problem with these statements and press releases can be the simple fact that they are expressed in the language of the confiscating country. Although artificial intelligence translating machines do an admirable job translating the contents of these releases, misinterpretation is likely to occur. In this case, the process becomes more difficult as well.

Third, given the qualitative methodology, the research has not been able to conduct a significance test. Although the methods section and the colour coding in the appendix have attempted to make the research as reproducible as possible, a qualitative methodology will always cause the results to remain open for interpretation. The research initially aimed to somewhat counterbalance this by conducting interviews with experienced practitioners of Asset Recovery – i.e., Dutch lawmakers from the Fiscal Intelligence- and Investigation Service (FIOD). These interviews would have added detailed explanations to the preferred method of confiscation and returning of the assets, as well as seeking to test whether the conclusions from the case studies were in line with the interviewee's experiences. Unfortunately, however, time constraints and a lack of response from the FIOD meant that the interviews have not been conducted, thus missing out on this possibility of de-facto validation or falsification of the results.

Having outlined the paper's limitations, the following sections will contextualise the findings of the previous section by interpreting what consequences the findings carry. First, we can conclude that, given the opportunities, almost all confiscating countries provide a somewhat extensive elaboration of why they have, in the first place, confiscated assets. Although the level of detail on these explanations varies extensively per confiscating country, they do, on average report enough details. All confiscating countries observed, apart from the Swiss in the case study of the Philippines, have released official government statements detailing why they are confiscating assets, except for the Cayman Islands in case study four. For example, the US DoJ, through the US Office of Public Affairs, has released extensive details on each of the cases in which they were involved. In, e.g., the fifth case study, the DoJ reports how it weighed the case, explaining that the reported government salary of Obiang Jr. does not match with the more than US$ 30 million worth of assets. Following extensive research, the DoJ has thus concluded that these proceeds are the consequence of corruption and money laundering (U.S. Department of Justice, 2014). What these results thus show us is that all confiscating countries feel the obligation to present, in some shape or form, a form of accountability through an official statement.

Second, we can see that, in a large share of the cases, the confiscating country got involved through a bilateral request of some sort. Although it did not evidence from the analysis, this development could be seen as attributable to the UNCAC framework, where countries are encouraged to undertake bilateral efforts to ensure the return of assets. With the limited case studies selected and the lack of a longitudinal design, this research is unable to conclude whether this is a development that has increased in prevalence with time. This is, however, definitely something that future research should keep an eye on.

This research's case studies only featured one case where the confiscating country got involved because of the obligations of gatekeepers regarding illicit finances. Although again, because of the limited case studies selected, this research cannot conclude whether this is significant under-performance, one would have expected this number to be higher. Perhaps, however, these kleptocrats and corrupt government officials are incredibly well-equipped to stall their ill-gotten gains in countries with strict laws regarding financial secrecy, enabling them to maintain their corruption-induced proceeds and thereby go under the radar.

We can conclude that, in a lot of the cases that this paper researched, criminal investigations have been initiated following media pressure. For example, in both the Uzbek and the Kazakh case studies, the confiscating countries' authorities only got involved and initiated their investigations after media pressure. Although this given does not, by itself, have any implications, it might be indicative of a lack of resources or a gap in the legal frameworks that are required to catch these illicit gains, or, more ominously, it could mean that the gatekeepers are, currently, not performing their functions as they should. Further research should look into this more explicitly.

With the third coding category, we can see incredibly diverse results. Four countries have not made clear whether they aim to restore justice at all. Essentially, there are two options as to why these countries are currently unclear about their motivation to restore justice: (1) they have not stipulated whether their achieving of justice is intended to prevent corruption in their own country or to do right by the victims; or (2) their press release on the confiscation of assets was not extensive enough to provide the analyst with a definitive answer on the underlying motivation for their confiscation.

The number of times that a confiscating state reasoned along the lines of 'corruption should not pay' was somewhat surprising. Although this was often coupled with a statement that explained that the confiscated assets should be returned to the country to be re-invested in (e.g.) anti-corruption and human rights efforts (Brun et al., 2021: 16). Although the US DoJ has, in general, confiscated the assets to consequently attempt to return them (as is outlined in the analysis) – which is thus a way of restoring justice for the victims, their initial motivation for confiscation is often merely to ensure that 'corruption does not pay'. E.g., in the fifth case study, the DoJ confiscated the funds, as they were the proceeds of foreign corruption offences by US companies – thus illegal under FCPA – and were laundered in the US. This should thus be seen as a very rational form of argumentation.

Unfortunately, somewhat contradicting expectations following extensive literature research, not a single case made mention of aiming to achieve an increase in the effectiveness of the system by confiscating assets. Although this does not necessarily mean that the underlying aim of confiscation is not to increase the system's effectiveness, it displays that the official documents published do not mention it. In-depth interviews could have perhaps displayed whether this factor was relevant for the confiscating authorities at all. This should be seen as a limiting factor for this research.

Fifth, in perhaps the most important coding category, we can see incredibly varying results. To start on a positive note, almost all cases saw the confiscating country employ at least some kind of strategy for returning the assets. This research encountered only one case where the confiscating state simply allocated the confiscated assets to their state coffers in case study 7, as the UK's court order allowed for the assets to be confiscated domestically. Making the return process similarly difficult in this case is the fact that the UK's court order of confiscation was rendered un-enforceable in Zambia itself, thus not giving it a leg to stand on in terms of claiming ownership.

As such, we can conclude that most cases follow the principles of UNCAC, stipulating that the assets should be returned to the country where the corruption occurred and where the population, hence, suffered from the corruption. In two cases (1 & 5), the process is simply too recent to accurately conclude whether the assets were returned to the victims in a manner that should be categorised as direct or as indirect.

In half of the cases, the assets were returned 'directly' to the victims. In these cases, we often see sustained corruption. For example, in the Peruvian case study, we can conclude that, although the Peruvian government created a special fund to manage the returned assets, the funds were still distributed in an untransparent manner and were often allocated to the departments where those involved in the special fund were readily active. Similarly, the Swiss asset return to the Philippines, despite pressure from Swiss authorities and negotiated oversight, has not resulted in those funds being appropriately allocated per se.

In the cases where the assets were returned 'indirectly', the results are less opaque. Although the Swiss asset return to Nigeria has been dubbed 'only partially successful' (i.e., because of the general persistence of corruption through Nigerian society), it should be noted that, had the Swiss authorities returned the assets directly, without interference from the World Bank and Nigerian civil society actors, the funds would likely have been more grossly abused. With the current arrangement, a minimal level of reporting, and thus transparency and accountability, was established.

In the first and second cases, Switzerland and the US show similarities in their approach. In both cases, the confiscating authorities negotiated that the return of the assets would see the assets be used to improve the living conditions of the people whom the funds should have benefitted in the first place. In addition, both cases saw the confiscating countries attempt to involve civil society actors of the respective country. This development seems especially promising, seeing that these actors are likely to be more aware of the relevant factors that should determine what the funds should be spent on and how the regime that is responsible for allocating those funds should be monitored.

Lastly, the approach of the US in Equatorial Guinea saw the confiscating authorities circumvent the Equatoguinean authorities altogether. Recognising that the country's authorities could not be trusted with allocating the funds properly, seeing that the person whose assets were confiscated remains vice president, they sought a different manner. Having confiscated the assets to consequently use these funds to finance the COVID-19 vaccine campaign in Equatorial Guinea should be thus seen as an incredibly innovative and perhaps ground-breaking initiative by the US authorities. One factor that has to be taken into account with taking an approach as radical as this one, though, is that it could spur accusations of neo-colonial behaviour. By avoiding relevant civil society actors of the affected country and the affected country's authorities altogether, it is easy to understand how this could be perceived as antagonising.

VII. Recommendations

To reiterate, this paper has aimed to address the following question: given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to properly re-allocate those funds? Having discussed the implications of the analysis of our case studies and the subsequent coding scheme, this section will now aim to provide the policy recommendations that are forthcoming from the analysed data.

The recommendations that follow should hence be seen as being based on the data collected in the case studies, as well as on the existing recommendations and best practices noted in the literature review. For example, the FATF's 'best practices' paper has readily provided us with suggestions for asset return, as has the StAR. These proposals are, then, integrated into this paper's recommendations, making them rooted in a both analysis and existing literature.

A. Update the definitions and relevant provisions in UNCAC regarding Asset Recovery

As has readily been described in existing academic literature, enforcement is a major obstacle in international law. It is, in general, difficult to convince a large group of states to agree to dismiss their sovereignty in issues, even if the long-term outcome would prove to be beneficial for all parties involved. Multilateral agreements, conventions or treaties have always been faced with this difficult, seeing that they are a product of their negotiators' will (Brunelle-Quraishi, 2011). The United Nations Convention Against Corruption is faced with the same issue, providing the current guidelines and framework surrounding how to prevent corruption and how to return assets.

Half of the case studies showed countries making use of MLAs to chase the ill-gotten proceeds of former corrupt government officials. This means that the UNCAC provides the legal framework and the requirement to file an MLA, with countries seemingly following this stipulation. One of the reasons why countries might steer away from an MLA, however, is that the convention has not been revised or updated since it has been drafted in 2003. A lot has happened since this time, meaning that some of the definitions of or provisions on Asset Recovery have become outdated and, hence, have lost some relevance.

Most of the cases that this paper has discussed have occurred and have been dealt with post-2003. The fact that the document has, since then, not been revised or updated is thus indicative of a lack of focus on this issue and is a factor that further limits the UNCAC's enforceability. The technical capabilities of detecting financial crime have evolved to such a degree that a revised UNCAC could, and probably should, be a lot more demanding from countries when it comes to dealing with corruption. As such, the EU should apply pressure at the international level to update the definitions and relevant provisions in UNCAC regarding Asset Recovery.

In addition, the current version of UNCAC only counts six pages on Asset Recovery. Given the impact that the return of assets can have on the country of origin, the provisions on the return of assets should be expanded to include a more detailed overview of what the UN expects from the countries. This overview should include or be based on the process as described in the theoretical framework, based on Brun et al. (2021: 6). Combining the definitions provided in the current version of UNCAC with that of academic literature and FATF's definition, the updated version should discuss asset recovery as the 'return of the illicit proceeds of offences by, or property of public officials through confiscation, where those proceeds are located in foreign countries'. In this regard, not only should the UNCAC take into account the financial impact that the returned assets could have in the country of origin, but also the impact that it could have in terms of inspiring civil society organisations to continue to fight against corruption. By indicating a stronger desire to return the assets, the UNCAC could signal these organisations their vested interest.

Moreover, the UNCAC should include the 10 guiding principles that are mentioned in the Global Forum on Asset Recovery. These principles should ensure a more integer and satisfactory process and eventual return. Although the 10 principles are a product of the World Bank, not the UN, the two have a shared agenda and share almost the same

membership – only a handful of UN member countries are not signatories to the International Bank for Reconstruction and Development (World Bank, 2015).

B. Guarantee rights and protections for independent civil society and media

Following the analysis of the case studies, we can conclude that the inclusion of independent civil society actors, as well as media actors, is essential for the issues underlying asset recovery. Half of the cases saw the media play a role in instigating investigations in the confiscating countries, eventually leading to the confiscation of assets. The media attention and the persisting work of the civil society actors are thus indispensable in maintaining a report on government officials, which leads them to uncover possible corruption.

By guaranteeing these actors' and organisations' rights, we enable them to persist in their work and to continue applying pressure on government officials to be accountable and transparent. To this point, countries with the resources to do so (e.g., EU MS, US, Canada, etc.) or supra- or international institutions should think about funding civil society organisations through 'anti-corruption programmes'. Per Laslett et al. (2017: 91), "a vibrant, active civil society is argued to be an essential bulwark against grand corruption", involving civil society should be central to any initiatives that aim to improve the framework surrounding asset recovery.

The data gathered through the case studies have underwritten this statement, displaying the important role of NGOs. Sherpa, an NGO involved in the Kazakh asset return, has stated that NGOs are particularly important in their function as 'initiators of legal proceedings', by bringing "civil action cases when the public prosecutor's office has been inactive" (Sherpa, 2020). In addition, the NGO claims that the involvement of NGOs guarantees "the transparency and smooth running of the proceedings. The role of NGOs and independent civil society is also essential when considering the restitution of assets in countries that do not necessarily offer guarantees of exemplary behaviour" (ibid.).

C. Open up registries that could reveal corruption for the public

The case studies have shown the immense impact that independent media and investigative journalists can have in the fight against corruption. In half of the cases, the confiscating country got involved through 'media pressure' in the form of domestic media channels reporting about the corruption of government officials. Following up on these news reports, consequently, is what allowed the confiscating country to confiscate the assets in question. The EU should seek to enable reporters to conduct research like this, by forcing its MS to open up registries that allow journalists to verify information and check for corruption.

Following the fifth EU anti-money laundering directive, the EU obliged countries to have a publicly-accessible beneficial ownership (BO) registry. However, multiple countries still do not have an up-and-running registry, while others have created barriers for the public to access the information – e.g., the Netherlands charges €2,55. Although charging the public for accessing the BO registry does not go against European legislation, it does limit the ability of citizens and journalists to analyse the data, detect irregularities or recognise conflicts of interests. The result is that researchers are unable to access the information that they need to assess whether companies or individuals are conducting suspicious interactions, enabling these corrupt individuals to hide their proceeds and launder their money (Freigang & Martini, 2022).

Complex ownership structures – frequently making use of trusts in the form of mailbox firms or companies set up in jurisdictions with high levels of secrecy such as the British Virgin Islands, Bermuda and Cyprus – have enabled these individuals to purchase luxury goods, real estate and other assets. Moreover, the fact that countries have an extremely limited requirement regarding ownership disclosure enables these corrupt individuals to use family members, cronies or close associates to manage their companies on paper, shielding the real owner from the scrutiny of the authorities. These opaque structures obscure the true owner of the actor who is buying the asset, thereby allowing corrupt individuals to enjoy the profit from their ill-gotten gains (ibid.: 16).

Regarding BO registries, Freigang and Martini report that "Australia, Canada, Italy, and the US still rely on information collected by financial institutions to be able to identify the beneficial owner of companies. The FATF has now agreed that this approach is not satisfactory and that it hinders timely access to information by the competent authorities. In this context, the absence of a centralised register of beneficial ownership information presents a major gap to address" (ibid.). "Only France, Germany, the Netherlands and the UK have central beneficial ownership registers that are up and running. … At present, none of the countries has put in place effective verification mechanisms, whose absence limits the reliability and therefore the usefulness of the registers. Register authorities do not have the mandate and consequently the resources to undertake any independent checks on the information provided by companies or beneficial owners" (ibid.: 17).

Trusts enable the original owner to transfer their asset into a trust, which is managed by the trustee for the benefit of the beneficiary. With trusts, control and ownership are "explicitly separate and multiple individuals with different roles (settlor, beneficiary, trustee) could qualify as beneficial owners. Such trust structures are often combined with complex ownership constructs using multiple anonymous companies to further obscure the ultimate beneficial owner" (ibid.). In their analysis, Freigang & Martini conclude that most countries do not have a beneficial ownership registry for trusts.

Corrupt individuals often invest in real estate to launder or invest their ill-gotten proceeds. Already in 2017, Transparency International published a report showing how easy it is for trusts or anonymous companies to acquire property and launder their money (Martini, 2017). The US, Germany, Canada, nor Australia have a centralised registry of land or real estate ownership. "The information is maintained by subnational registers, with varying rules regarding the types of information that is collected, disclosed and how it can be accessed. Public access to information is often restricted or made more difficult, for example by charging a fee, requiring the demonstration of a legitimate interest, or poor levels of digitalisation" (Freigang & Martini, 2022: 18). None of the assessed countries held a registry of beneficial owners of properties. In addition, foreign companies are often excluded from the requirement to disclose their beneficial owner to purchase a property, serving as an easy loophole for corrupt individuals to invest or launder money.

Lastly, almost no one collects or publishes information on beneficial ownership of luxury goods such as private planes or

yachts. “More often than not, yachts and planes are owned by legal entities, often incorporated in secrecy jurisdictions. As with real estate purchases by foreign companies, this allows kleptocrats to circumvent transparency rules in countries that do not require foreign companies to register their beneficial owners. They can avoid scrutiny altogether in countries that do not have beneficial ownership registers at all. No country collects beneficial ownership information in their registers of vessels or aircraft” (ibid.: 20). Seeing that corrupt individuals have a proclivity to lavish on luxury goods (e.g., Obiang Jr. had multiple luxury sports cars seized in multiple countries), the lack of registries in this regard is troubling.

The EU should see to it that MS authorities increase the transparency of these registries by making them publicly available while requiring companies and legal entities to disclose their beneficial owners. This would enable researchers and journalists to dig out suspicious transactions or possible cases of corruption. As we have seen in the case studies, the case was often brought to attention through media or other forms of public pressure.

D. Invest more in the authorities that oversee these processes

In their 2022 report for Transparency International, Freigang & Martini (2022) conclude that the financial intelligence units (FIUs) that oversee the process of asset return, often initiating the research necessary to confiscate, are under-resourced in ample countries. In their research, the authors conclude that Australia, Canada, France, Germany, Italy, the Netherlands, the UK and the US are all under-resourced. “Particularly in the UK and the US, where FIUs received 5,300 and 10,130 suspicious transaction reports (STRs) – respectively – per staff member, according to most recent annual data. Even Germany’s FIU, which is relatively better resourced after a series of reforms, continues to face serious challenges in effectiveness and implementation of a risk-based approach. … Australia, followed by Canada, have larger budgets for their FIUs relative to other countries, but their FIUs also have additional regulatory and supervisory responsibilities. France, the Netherlands, and particularly the UK and the US dedicate substantially fewer resources to their FIUs” (ibid.: 6).

This lack of resources available for the FIUs has become visible in the case studies similarly. With the Uzbek case, the Dutch FIU has been unable to form an accurate press release on what they plan on doing with the assets that have been seized and the French approach to the Equatoguinean case has appeared similar. Although these cases cannot be attributed directly to the insufficient sourcing for the FIUs, it is noteworthy that only one case study featured a confiscation process that was initiated because of a gatekeeper’s obligation to report an STR. Given their privileged position, one would expect these gatekeeper professions to generate more reports that would lead to confiscation. To this point, it should be noted that Freigang and Martini remark that “staff numbers are insufficient to allow for the FIUs to effectively assess information being reported through STRs … it can be assumed that, even with rigorous risk-based prioritisation, many high-risk reports may not be adequately processed and analysed for the commission of potential crimes” (ibid.: 29-30).

To be able to prevent corrupt government officials to profit from their crime, countries should “substantially increase the resourcing of dedicated financial crime investigative units in national law enforcement with a strategic focus on investigating complex, large scale corruption and money laundering cases. They should ensure that law enforcement and FIUs have direct and unfiltered access to key information, including beneficial ownership and real estate data” (ibid.: 37).

The authors conclude by recommending countries to “substantially increase the resourcing of financial intelligence units to adequately perform their analytical and intelligence-sharing functions. They should prioritise investment in technological platforms and advanced analytics in order to assist in the analysis of incoming STRs. They should also prioritise reforms that ensure that FIUs have the necessary powers to request additional information from obliged entities as part of sanctions implementation and asset tracing” (ibid.).

E. Ensure civil as well as criminal mechanisms to confiscate assets

In general, the confiscation of assets of corrupt government officials is a complicated process, taking place after a formal conviction under civil or criminal law. Especially troubling is, oftentimes, the multi-jurisdictional nature of cases dealing with corruption, we have seen this in the case studies with, for example, the Nigerian government struggling to convince the Swiss authorities to confiscate the assets in the case study Nigeria #1. Another factor that severely limits the ability to punish corruption through confiscation is when the origin country remains under corrupt rule. In these cases, cooperation through MLAs is incredibly difficult as the origin country is unlikely to cooperate by yielding information required to investigate whether corruption has occurred.

This was shown in the Equatoguinean case study, where the Equatoguinean government refused to cooperate, instead opting to actively make the investigation more difficult by hiring lawyers to press the French public prosecution in the process. Essentially, this factor saw the process become more difficult, as the ‘corrupt party’ has control of the public prosecution, disabling a fair trial. In order to surpass these challenges, confiscating countries have sought to adopt alternative means that allow proceeds from corruption to be investigated without “the need for a prior criminal conviction for an underlying crime” (Freigang & Martini, 2022: 33). By enabling these mechanisms, the confiscating countries thus seek to take away the leverage that corrupt parties currently hold.

In their 2022 report, Freigang and Martini consequently recommend countries to “ensure they have civil and criminal mechanisms to seize and confiscate assets – including, for example, unexplained wealth orders or non-conviction-based forfeiture – and eventually return these assets to the victims of corruption” (Freigang & Martini, 2022). An example of the unexplained wealth order is already provided in the analysis of the Equatoguinean case study. As explained, the French Parliament approved a ‘responsible asset repatriation mechanism’, as part of a broader programming bill on sustainable development (Guy, 2021). The mechanism supposes two required conditions for the restitution of confiscated ill-gotten gains: “a final confiscation decision and a legal mechanism providing sufficient guarantees and flexibility to ensure that these assets do not fall back into the

channels of corruption, but are used to finance projects that will benefit the people" (ibid.).

In essence, the mechanism sees the establishment of an offence when an individual is unable to show sufficient income to correspond to their lifestyle (French Criminal Code 321-326). This mechanism thus establishes the principle that the government can apply a presumption based on 'criminal lifestyle', thereby essentially shifting the onus of proof if a defendant is convicted of money laundering or certain other offences (Leasure, 2017: 12). Unless the defendant can rebut the presumption that their assets are the proceeds of crime by proving the lawful use and origin of a specified asset, these assets can be confiscated.

This mechanism should also be seen as a plug against loopholes in domestic legislation. For example, in the Equatoguinean case, Obiang Jr. could circumvent the US tax code to buy lavish property with ill-gotten gains because he earned his income primarily outside the US. This exempted him from filing through the more rigorous framework for individuals who earned their proceeds within the US. Unexplained wealth orders could counter this principle by facilitating the confiscation of assets of individuals such as Obiang Jr., as the procedure grants no weight to the location where the income was earned – instead judging the assets by their 'legitimacy' by itself.

Non-conviction-based confiscation (NCBC), then, allows for the confiscation of assets without the requirement of a criminal conviction of a potential underlying crime. Existing standards, conventions and recommendations at the international level (e.g., the UNCAC and the FATF recommendations) have readily encouraged countries to adopt those measures, seeing most countries adopting a form of NCBC - in their 2022 report, Freigang and Martini conclude that from the assessed countries, only France and the Netherlands do not "allow some type of confiscation based on a civil law burden of proof" (p. 34).

It is important to note that NCBC should not be considered a one-size-fits-all, as the circumstances where it is adopted should be strictly regulated and should have clear boundaries of application. The abovementioned international recommendations, for example, recommend adopting NCBC only when there is "substantial evidence to establish that the proceeds were generated from criminal activity, but there is insufficient evidence to meet the criminal burden of proof or when a criminal investigation or prosecution is unrealistic or impossible" (Freigang & Martini, 2022: 33). These safeguards should be in place to ensure that the defendants' rights are not violated in the process of attempting to ascertain justice. Freigang & Martini note that "the EU is still in the process of developing a unified standard for NCBC rules. In 2013, the European Parliament urged Member States to consider implementing civil law asset forfeiture for cases of organised crime, corruption and money laundering" (p. 34). As such, this research recommends the EU to ramp up its efforts to implement a unified standard.

F. Return the assets through a trust arrangement that engages local civil society organisations as well as government officials

As we have seen in the case studies, when assets were returned 'directly' to the victims, sustained corruption often was the consequence. Oftentimes, the redistribution of the returned funds occurred in an untransparent manner. This is not only detrimental financially (i.e., by depriving resources from other public sources), but also socially. Sustained corruption, especially when this corruption occurs with resources specifically returned following a procedure aimed to repair the wrongs of previous corruption, will most definitely negatively impact the view of the society on the public apparatus.

On the contrary, 'indirectly' returning the assets have led to cases of 'partial success' and 'clear successes'. By involving relevant local civil society organisations, the trust fund gains legitimacy, ensuring a more appropriate allocation of the funds. As we have seen in the case study of Nigeria #1, the involvement of civil society organisations, in addition, ensured a minimal review process. Although this review process, in this case, only served to reveal the mismanagement of funds by regional governments, it is still valuable information. Without the involvement of these organisations, it might very well have been the case that this information would not have seen the light of day – allowing the corruption to persist without scrutiny.

Not only does the involvement of civil society organisations thus increase legitimacy, but it also ensures a minimal review process, thereby possibly inspiring the population of the country of origin to remain hopeful of a future without corruption. This process should be guided by clear procedures and marked provisions for the organisations' participation in the asset return framework (Pearson, 2020). The EU should thus seek to adopt, in its framework on Asset Recovery, a provision stating that assets should be returned indirectly, through trust arrangements that engage local civil society organisations as well as government officials.

Laslett et al. (2017: 90) elaborate on this point, by claiming that "caution should be exercised when attempting to deliver justice through a white-collar crime lens that is focused upon punishing individual deviance, through state-centric processes. Such a frame will not fully address the causes underpinning the offending; it risks entrenching the marginalised position of victims; and, it will generate secondary forms of victimisation if seized assets are returned to the Uzbek state". By engaging civil society organisations, the process is more able to pursue reform and justice "in a strategic manner, that acknowledges their mutual dependency" (Laslett et al., 2017: 9).

In addition, setting up an intermediary actor to allocate the funds, such as a trust fund, further enforces this minimal level of reporting, and thus transparency and accountability. In the Kazakh case study, we have seen that the trust has essentially become a 'created democratic space', where the civil society engages with the authorities of the origin country and the confiscating country to think of the best solution for the returned funds. Similarly, Laslett (2017) suggests that a "trust could have a specific mandate to use the returned funds for the broad purpose of restituting victims, and contributing towards non-reoccurrence. In effect the Trust becomes a created democratic space where victims and civil society can joint together in a bid to use the assets for socially useful ends". Laslett is thus even suggesting to have the asset return fund function as a sort of 'societal pitch', where the best idea should 'win' the funds and employ the proceeds to ensure that democratic restrictions precluding "the public from meaningfully participating in spaces of political power" are lifted (Laslett et al., 2017: 9).

G. *'Patience is key, and practice makes perfect'*

Once the UNCAC has been revised, it is essential to also display some patience with how countries return assets. Although this might seem counterintuitive, seeing the gravity of the subject, it seems that responsible authorities are becoming increasingly aware. Switzerland seems to have learned, for example, from their experiences by updating the way that they return assets. In the case studies of the Philippines (2004) and Peru (2009) the Swiss authorities returned the assets 'directly'. This led to these return processes being marked, respectively, to have "neither compensated the victims, nor taken any actions as to the allocation of the money" (Jimu, 2009: 12 & 13) and being riddled with "questionable spending allocations … because of a lack of a clear-set pre-identified course of action" (Jimu, 2009: 11). It is worth noting that the Peruvian case, perhaps, deserves a distinction because of the lengths to which the Peruvian government went to promise the confiscating countries non-corruption (i.e., setting up an independent trust fund, with trusted officials, etc.).

Seeing these relatively unsuccessful processes, the Swiss authorities seemed to have changed their approach in the cases of Nigeria #1 (2005-2006) and Uzbekistan (2020). In the Nigeria #1 case, the Swiss authorities returned the assets to Nigeria, with the World Bank managing the funds. This led to the Nigerian government prioritising the Millennium Development Goals, although persistent corruption at the regional and local level has made the return only 'partially successful'. In Uzbekistan, the Swiss authorities took the most radical approach, negotiating with Uzbek authorities that the return would follow the principles stipulated by the Global Forum on Asset Recovery, such as transparency and accountability, the use of the assets to improve the living conditions of the people of Uzbekistan, potential involvement of non-state actors, etc. (Swiss Federal Department of Foreign Affairs, 2020; Pearson, 2020).

This leads us to the conclusion that the Swiss authorities, indeed, seemed to have learned from their experiences. In the most recent case, the Uzbek one, the Swiss authorities thoroughly negotiated, even including principles stipulated by the Global Forum on Asset Recovery (Swiss Federal Department of Foreign Affairs, 2020). In this case, they have hence readily attempted to integrate principles of transparency and accountability and have even attempted to involve non-state actors in the return process. Although more cases would need to be studied to ascertain the validity of this conclusion, it thus seems to be the case that the Swiss authorities have adopted a steep learning curve – increasingly following principles as stipulated by the Global Forum on Asset Recovery.

VIII. Conclusion

This paper has sought to answer the following question: given that the goal of asset recovery should be seen as correcting the wrongful consequences of corruption, how should a confiscating authority best return the confiscated assets of corrupt government officials, given that the government of the country from which the assets are confiscated remains corrupt and can, as such, not be trusted to properly re-allocate those funds? The paper initiated its research with a literature review to properly define Asset Recovery, followed by a section reviewing the economic motivations and implications of Asset Recovery and concluded with the key frameworks surrounding Asset Recovery to contextualise the paper's contributions.

By forming a methodology of Qualitative Content Analysis, grounded in this literature, the paper has analysed eight cases of asset return. These cases were, consequently, coded, to assess to what extent the confiscating authorities got involved in similar fashions, had similar motivations and used similar instruments or constructions to return the assets. In cases where the confiscating authority returned the assets to the country of origin in a 'direct' manner, this often leads to sustained corruption. As such, the paper concludes that confiscating countries should attempt to return assets 'indirectly', by, e.g., establishing a bilateral agreement on how the assets should be allocated or should employ a trust fund. This 'indirect' manner is more likely to engage civil society actors that will hold the origin country's authorities accountable, thus establishing a minimal level of reporting, leading to more transparency and, overall, better results. This paper's contribution lies in the recommendations that follow from this analysis.

(1) The EU should apply pressure at the international level to update the definitions and relevant provisions in UNCAC regarding Asset Recovery. The current provisions are outdated and do not take current technical capabilities into account.

(2) The EU should guarantee the rights and protections for independent civil society and the media in countries around the world. NGOs and the media are indispensable in maintaining a report on government officials. The EU should sponsor or fund NGOs abroad.

(3) The EU should enforce the fifth anti-money laundering directive more strictly, obliging its MS to open up registries that could reveal corruption for the public. Currently, barriers to entry disallow researchers to access the information that they need to assess whether companies or individuals are conducting suspicious interactions.

(4) EU MS should invest more in the authorities that oversee the processes of Asset Recovery and return. Research has shown that FIUs are extremely understaffed and overburdened. This causes high-risk reports to not be adequately processed.

(5) The EU should pressure MS to adopt civil as well as criminal mechanisms to confiscate assets, such as unexplained wealth orders or non-conviction-based forfeiture. The lengthy and multi-jurisdictional process behind confiscating assets belonging to corrupt government officials is overly complicated. These mechanisms would allow countries to confiscate the proceeds of crime without the need for a prior conviction for an underlying crime.

(6) The EU should adopt, in its framework on Asset Recovery, a provision stating that assets should be returned indirectly, through a trust arrangement that engages local civil society organisations as well as government officials. The indirect return of assets increases the level of transparency and accountability of the origin country's processing of the funds.

(7) Patience is key, and practice makes perfect. Responsible authorities become increasingly aware of the gravity of their decisions as they get more experience in the process, learning to integrate the principles of transparency and accountability in the return process.

REFERENCES

[1] Atkinson, C., Mackenzie, S., & Hamiton-Smith, N. (2017). *What Works: Crime Reduction Systematic Review Series*. 67.

[2] Balasubramanian, S., & Pacheco, C. (2015). *ACHIEVING DEVELOPMENT IMPACT WITH AN INCLUSIVE ASSET-RETURN MODEL: The*. 24.

[3] Barnett, M. N. (1997). Bringing in the new world order: Liberalism, legitimacy, and the United Nations. *World Politics*, *49*(4), 526–551.

[4] Barr, R. R. (2003). The persistence of Neopopulism in Peru? From Fujimori to Toledo. *Third World Quarterly*, *24*(6), 1161–1178. https://doi.org/10.1080/01436590310001630116

[5] Barrett, D. (2014, March 5). U.S. Seizes Largest Ever Embezzlement by Foreign Dictator. *Wall Street Journal*. https://online.wsj.com/article/SB10001424052702304554004579421372555584560.html

[6] Boucht, J. (2019). Asset Confiscation in Europe—Past, Present, and Future Challenges. *Journal of Financial Crime*, *26*(2), 526–548.

[7] Bowles, R., Faure, M., & Garoupa, N. (2000). Economic analysis of the removal of illegal gains. *International Review of Law and Economics*, *20*(4), 537–549. https://doi.org/10.1016/S0144-8188(00)00049-1

[8] Brun, J.-P., Sotiropoulou, A., Gray, L., & Scott, C. (2021). *Asset Recovery Handbook: A Guide for Practitioners, Second Edition*. World Bank Publications. https://documents1.worldbank.org/curated/en/502771607689049444/pdf/Asset-Recovery-Handbook-A-Guide-for-Practitioners-Second-Edition.pdf

[9] Brunelle-Quraishi, O. (2011). Assessing the Relevancy and Efficacy of the United Nations Convention against Corruption: A Comparative Analysis. *Notre Dame Journal of International and Comparative Law*, *2*(1), 101–166.

[10] Bureau of Democracy, Human Rights, and Labor. (1997, January 30). *1996 Human Rights Report: Nigeria*. https://1997-2001.state.gov/global/human_rights/1996_hrp_report/nigeria.html

[11] Burt, J.-M. (2009). Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations. *International Journal of Transitional Justice*, *3*(3), 384–405. https://doi.org/10.1093/ijtj/ijp017

[12] Cassella, S. D. (2015). *Civil asset recovery: The American experience*.

[13] Chrisafis, A. (2012, February 6). France impounds African autocrats' 'ill-gotten gains'. *The Guardian*. https://www.theguardian.com/world/2012/feb/06/france-africa-autocrats-corruption-inquiry

[14] Complaint. United States Securities and Exchange Commission v. VimpelCom Ltd, Case No. 1:16-cr-00137-ER, para. 21 (S.D.N.Y. Feb. 18, 2016)., (2016). https://www.justice.gov/opa/file/827181/download

[15] Damhuis, K. (2018). *Roads to the radical right: Understanding different forms of electoral support for radical right-wing parties in France and the Netherlands*.

[16] Davé, B. (2007). *Kazakhstan—Ethnicity, Language and Power*. Routledge. https://doi.org/10.4324/9780203014899

[17] Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, CONSIL, EP, 127 OJ L (2014). http://data.europa.eu/eli/dir/2014/42/oj/eng

[18] Duyne, P. C. van (Ed.). (2014). *Corruption, greed and crime-money: Sleaze and shady economy in Europe and beyond*. Wolf Legal Publishers.

[19] ECLI:NL:RBAMS:2016:4520, Rechtbank Amsterdam, 13/846004-14, ECLI:NL:RBAMS:2016:4520 (Rb. Amsterdam 20 July 2016). https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2016:4520

[20] European Commission. (n.d.). *Confiscation and asset recovery*. Retrieved 19 June 2022, from https://ec.europa.eu/home-affairs/policies/internal-security/organised-crime-and-human-trafficking/confiscation-and-asset-recovery_en

[21] FATF. (n.d.). *About—Financial Action Task Force (FATF)*. Retrieved 19 June 2022, from https://www.fatf-gafi.org/about/

[22] Financial Action Task Force. (2012). Best Practices on Confiscation. *BEST PRACTICES*, 13.

[23] Forbes. (2021). *VEON (VEON)*. Forbes. https://www.forbes.com/companies/veon/

[24] Forman, J., & Damschroder, L. (2007). Qualitative Content Analysis. In *Deliberative Procedures in Bioethics* (Vol. 11, pp. 183–201).

[25] Franke, A., Gawrich, A., & Alakbarov, G. (2009). Kazakhstan and Azerbaijan as Post-Soviet Rentier States: Resource Incomes and Autocracy as a Double 'Curse' in Post-Soviet Regimes. *Europe-Asia Studies*, *61*(1), 109–140.

[26] Freedom House. (2021). *Uzbekistan: Freedom in the World 2021 Country Report*. Freedom House. https://freedomhouse.org/country/uzbekistan/freedom-world/2021

[27] Freigang, V., & Martini, M. (2022). *UP TO THE TASK? The state of play in countries committed to freezing and seizing Russian dirty money*. Transparency International. https://images.transparencycdn.org/images/2022-Report-Up-to-the-task.pdf

[28] Garcia Sanz, N. (2013). *Forum Arab Asset Recovery*. https://star.worldbank.org/sites/star/files/nuria_garcia_sanz_panel_3_presentation.pdf

[29] Gottschalk, P. (2018a). Blame game in private investigation reports: The case of Deloitte examination at Telenor VimpelCom. *Journal of Investigative Psychology and Offender Profiling*, *15*(2), 99–108. https://doi.org/10.1002/jip.1493

[30] Gottschalk, P. (2018b). The Case of Telenor VimpelCom Investigation. In P. Gottschalk (Ed.), *Investigating White-Collar Crime: Evaluation of Fraud Examinations* (pp. 147–153). Springer International Publishing. https://doi.org/10.1007/978-3-319-68916-6_10

[31] Gray, L., Hansen, K., Recica-Kirkbridge, P., & Mills, L. (2014). Few and Far: The Hard Facts on Stolen Asset Recovery. *World Bank Publications*.

[32] Guy, B. (2021, July 30). *Definitive conviction of Teodorin Obiang in France sends strong…*. Transparency.Org. https://www.transparency.org/en/press/teodorin-obiang-conviction-asset-recovery-equatorial-guinea-france

[33] Human Rights Watch. (2004). *Political Freedoms in Kazakhstan: BACKGROUND*. https://www.hrw.org/reports/2004/kazakhstan0404/3.htm

[34] Human Rights Watch. (2019, February 8). Swiss Prosecutors Squander Opportunity to Counter Kleptocracy. *Human Rights Watch*. https://www.hrw.org/news/2019/02/08/swiss-prosecutors-squander-opportunity-counter-kleptocracy

[35] Human Rights Watch. (2021, July 28). France: Equatorial Guinea Vice President's Conviction Upheld. *Human Rights Watch*. https://www.hrw.org/news/2021/07/28/france-equatorial-guinea-vice-presidents-conviction-upheld

[36] IREX, & Save the Children. (2015). *BOTA Foundation: Final Summative Report*. https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf

[37] Ivory, R. (2014). *Corruption, Asset Recovery, and the Protection of Property in Public International Law: The Human Rights of Bad Guys*. Cambridge University Press. https://doi.org/10.1017/CBO9781107415737

[38] Jimu, I. (2009). Managing Proceeds of Asset Recovery: The Case of Nigeria, Peru, the Philippines and Kazakhstan. *Basel Institute on Governance*.

[39] Kaufman, M. T. (1998, June 9). NEW CHAPTER IN NIGERIA: THE OBITUARY; Sani Abacha, 54, a Beacon of Brutality In an Era When Brutality Was Standard. *The New York Times*. https://www.nytimes.com/1998/06/09/world/new-chapter-nigeria-obituary-sani-abacha-54-beacon-brutality-era-when-brutality.html

[40] King, C. (2018). Asset Recovery: An Overview. In C. King, C. Walker, & J. Gurulé (Eds.), *The Palgrave Handbook of Criminal and Terrorism Financing Law* (pp. 377–397). Springer International Publishing. https://doi.org/10.1007/978-3-319-64498-1_16

[41] Kirchmair, P. (2014). *Corruption*. https://www.toonpool.com/cartoons/Corruption_234521

[42] Lasslett, K. (2017). *Uzbekistan and Principles for Responsible Asset Return*. http://statecrime.org/uzbekistan-and-principles-for-responsible-asset-return/

[43] Lasslett, P. K., Kanji, F., & McGill, D. (2017). *Confronting Grand Corruption in Uzbekistan*. 102.

[44] Leasure, P. (2016). Asset recovery in corruption cases: Comparative analysis identifies serious flaws in US tracing procedure. *Journal of*

Money Laundering Control, *19*(1), 4–20. https://doi.org/10.1108/JMLC-04-2015-0010

[45] LeVine, S. (2010). Was James Giffen telling the truth? *Foreign Policy*. https://foreignpolicy.com/2010/11/19/was-james-giffen-telling-the-truth/

[46] Libman, M. L. (2006). *Nigeria - Utilization of repatriated Abacha loot: Results of the field monitoring exercise (Vol. 5) : Appendix 5 : list of projects selected for monitoring* [Text/HTML]. World Bank. https://documents.worldbank.org/en/publication/documents-reports/documentdetail/877611468775752082/Appendix-5-list-of-projects-selected-for-monitoring

[47] Lillis, J. (2010). *Kazakhgate Bribery Saga Fizzles Out amid Claims of Cold War Heroism | Eurasianet*. https://eurasianet.org/kazakhgate-bribery-saga-fizzles-out-amid-claims-of-cold-war-heroism

[48] Lillis, J. (2013). *Uzbekistan's Coca-Cola Problem: Is It the Real Thing? | Eurasianet*. https://eurasianet.org/uzbekistans-coca-cola-problem-is-it-the-real-thing

[49] Lord, K., Miller, J., & Deelan, E. (2022). *Asset recovery: A powerful tool in the fight against global corruption*. World Economic Forum. https://www.weforum.org/agenda/2022/02/asset-recovery-corruption/

[50] Lui, F. T. (1996). Three Aspects of Corruption. *Contemporary Economic Policy*, *14*(3), 26–29. https://doi.org/10.1111/j.1465-7287.1996.tb00621.x

[51] Martini, M. (2017). *Doors wide open: Corruption and real estate in four key markets*. Transparency International, International Secretariat.

[52] Maton, J., & Daniel, T. (2009). Recovering the proceeds of corruption by public officials: A case-study. *ERA Forum*, *10*(3), 453–465. https://doi.org/10.1007/s12027-009-0123-6

[53] Mauro, P. (1995). Corruption and Growth. *The Quarterly Journal of Economics*, *110*(3), 681–712. https://doi.org/10.2307/2946696

[54] Mayring, P. (2000). Qualitative content analysis. In *A Companion to Qualitative Research: Vol. 1(2)* (pp. 159–176).

[55] Menken, S., Keestra, M., Rutting, L., Post, G., Roo, M. de, Blad, S., & Greef, L. de. (2016). *An Introduction to Interdisciplinary Research: Theory and Practice*. Amsterdam University Press.

[56] Merttens, F., MacAuslan, I., & Marzi, M. (2014). *Evaluating the BOTA Foundation's social sector programmes in Kazakhstan*. Oxford Policy Management. https://www.opml.co.uk/projects/evaluating-bota-foundation-social-sector-programmes-kazakhstan

[57] Messick, R. (2016, March 3). How Asset Return Agreements Can Bolster Reform: The Kazakh Experience. *GAB | The Global Anticorruption Blog*. https://globalanticorruptionblog.com/2016/03/03/how-asset-return-agreements-can-bolster-reform-the-kazakh-experience/

[58] Ministerie van Justitie en Veiligheid. (2016, February 18). *Vimpelcom betaalt bijna 400 miljoen dollar aan Nederland voor omkoping in Oezbekistan—Nieuwsbericht—Openbaar Ministerie* [Nieuwsbericht]. Ministerie van Justitie en Veiligheid. https://www.om.nl/actueel/nieuws/2016/02/18/vimpelcom-betaalt-bijna-400-miljoen-dollar-aan-nederland-voor-omkoping-in-oezbekistan

[59] Okonjo-Iweala, D. N., & Osafo-Kwaako, P. (n.d.). *The Role of Civil Society Organizations in Supporting Fiscal Transparency in African Countries*. 16.

[60] Operti, E. (2018). Tough on criminal wealth? Exploring the link between organized crime's asset confiscation and regional entrepreneurship. *Small Business Economics*, *51*(2), 321–335. https://doi.org/10.1007/s11187-018-0003-y

[61] Organized Crime and Corruption Reporting Project. (n.d.). *The Billion Dollar Payoff—Corruptistan*. OCCRP. Retrieved 13 May 2022, from https://www.occrp.org/en/corruptistan/uzbekistan/gulnarakarimova/payoff

[62] Ornelas, A. (2012). *Suiza transferirá a Perú el dinero bloqueado*. SWI Swissinfo.Ch. https://www.swissinfo.ch/spa/politica/fondos-del-fujimorismo_-suiza-transferir%C3%A1-a-per%C3%BA-el-dinero-bloqueado-/33638740

[63] Pakpahan, R. H., Pakpahan, R. H., & Firdaus, A. (2019). Pembaharuan Kebijakan Hukum Asset Recovery: Antara Ius Constitutum Dan Ius Constitutuendum. *Jurnal Legislasi Indonesia*, *16*(3), 369–378. https://doi.org/10.54629/jli.v16i3.514

[64] Patrucic, M. (2015a, March 21). *Following Gulnara's Money—Corruptistan*. OCCRP. https://www.occrp.org/en/corruptistan/uzbekistan/gulnarakarimova/following-gulnaras-money

[65] Patrucic, M. (2015b, March 22). *How The President's Daughter Controlled The Telecom Industry—Corruptistan*. OCCRP. https://www.occrp.org/en/corruptistan/uzbekistan/gulnarakarimova/presidents-daughter-controlled-telecom-industry

[66] Pearson, L. (2020, November 12). *Gulnara Karimova, the princess fallen from grace*. Transparency International EU. https://transparency.eu/gulnara-karimova-the-princess-fallen-from-grace

[67] Pilet, F. (2012, September 30). La princesse a perdu la clé de son trésor genevois. *François Pilet*. https://francoispilet.net/la-princesse-a-perdu-la-cle-de-son-tresor-genevois/

[68] Princewill, N. (n.d.). *Michael Jackson memorabilia will pay for Covid shots in Equatorial Guinea*. Retrieved 1 June 2022, from https://www.cnn.com/2021/09/21/africa/equatorial-guinea-us-vaccine-intl/index.html

[69] Saadoun, S. (2019, December 17). The Victims of Corruption Deserve Justice. *Human Rights Watch*. https://www.hrw.org/news/2019/12/17/victims-corruption-deserve-justice

[70] Sherpa. (2020, May 20). A missed opportunity: France's return of Gulnara Karimova's illegally acquired assets. *Sherpa*. https://www.asso-sherpa.org/a-missed-opportunity-frances-return-of-gulnara-karimovas-illegally-acquired-assets

[71] Simser, J. (2010). Asset recovery and kleptocracy. *Journal of Financial Crime*, *17*(3), 321–332. https://doi.org/10.1108/13590791011056282

[72] Stephenson, K. M., Gray, L., Power, R., Brun, J.-P., Dunker, G., & Panjer, M. (2011). *Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action*. World Bank Publications.

[73] Swiss Federal Department of Foreign Affairs. (2020). *Switzerland and Uzbekistan sign an agreement with a view to the restitution of confiscated assets*. https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-80393.html

[74] Transparency International. (n.d.). *Grand corruption—Our priorities*. Transparency.Org. Retrieved 19 June 2022, from https://www.transparency.org/en/our-priorities/grand-corruption

[75] Transparency International. (2022). *Uzbekistan*. Transparency.Org. https://www.transparency.org/en/countries/uzbekistan

[76] Trinchera, T. (2020). Confiscation And Asset Recovery: Better Tools To Fight Bribery And Corruption Crime. *Criminal Law Forum*, *31*(1), 49–79. https://doi.org/10.1007/s10609-020-09382-1

[77] Ugolor, R. D., Nwafor, A., & Nardine, J. H. (n.d.). *SHADOW REPORT ON THE PEMFAR MONITORING EXERCISE*. 78.

[78] UK Government. (2019, September). *Asset Recovery Action Plan*. GOV.UK. https://www.gov.uk/government/publications/asset-recovery-action-plan/asset-recovery-action-plan

[79] UNCAC Coalition. (2020, September 16). Asset Recovery: Switzerland and Uzbekistan sign agreement on return of USD 131 million – Statement by Uzbek Civil Society Activists. *UNCAC Coalition*. https://uncaccoalition.org/asset-recovery-switzerland-and-uzbekistan-sign-agreement-on-return-of-usd-131-million-statement-by-uzbek-civil-society-activists/

[80] *United Nations Convention Against Corruption*. (2003). https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

[81] United Nations Office on Drugs and Crime. (n.d.). *Stolen Asset Recovery Assistance (StAR)*. United Nations : Office on Drugs and Crime. Retrieved 21 February 2022, from //www.unodc.org/unodc/en/corruption/StAR.html

[82] United Nations Office on Drugs and Crime. (2018a, May). *Asset Recovery*. United Nations: Office on Drugs and Crime. //www.unodc.org/unodc/en/corruption/asset-recovery.html

[83] United Nations Office on Drugs and Crime. (2018b, May). *Organized Crime Module 10 Key Issues: Confiscation*. //www.unodc.org

[84] United States Securities and Exchange Commission 1-14522 Open Joint Stock Company 'VimpelCommunications', (2007). https://cdn.occrp.org/projects/corruptistan/documents/uzbekistan/Telecoms_14.pdf?_gl=1*1j4r24j*_ga*MTcxMDc1MjU5My4xNjQ4NDcwMDM0*_ga_NHCZV5EYYY*MTY1MjQzNDY4Ny44LjAuMTY1MjQzNDY4Ny42MA..

[85] United States Securities and Exchange Commission, File 114522, (2008). https://cdn.occrp.org/projects/corruptistan/documents/uzbekistan/Telecoms_17.pdf?_gl=1*wb1bdh*_ga*MTcxMDc1MjU5My4xNjQ4NDcwMDM0*_ga_NHCZV5EYYY*MTY1MjQzNjUxOC45LjAuMTY1MjQzNjUxOC42MA..

[86] UNODC Central Asia. (n.d.). *UNODC and Anti-Corruption Agency Sign Action Plan to Cooperate on Fight Against Corruption in Uzbekistan*. Retrieved 3 May 2022, from https://www.unodc.org/centralasia/en/news/unodc-and-anti-corruption-agency-sign-action-plan-to-cooperate-on-fight-against-corruption-in-uzbekistan.html

[87] Urbina, I. (2009, November 16). Taint of Corruption Is No Barrier to U.S. Visa. *The New York Times*. https://www.nytimes.com/2009/11/17/us/17visa.html

[88] U.S. Department of Justice. (2011, October 25). *Department of Justice Seeks to Recover More Than $70.8 Million in Proceeds of Corruption from Government Minister of Equatorial Guinea*. https://www.justice.gov/opa/pr/department-justice-seeks-recover-more-708-million-proceeds-corruption-government-minister

[89] U.S. Department of Justice. (2014, October 10). *Second Vice President of Equatorial Guinea Agrees to Relinquish More Than $30 Million of Assets Purchased with Corruption Proceeds*. https://www.justice.gov/opa/pr/second-vice-president-equatorial-guinea-agrees-relinquish-more-30-million-assets-purchased

[90] U.S. Department of Justice. (2015, December 9). *Justice Department Settlement Successfully Releases More than $115 Million in Alleged Corruption Proceeds to People in Kazakhstan*. https://www.justice.gov/opa/pr/justice-department-settlement-successfully-releases-more-115-million-alleged-corruption

[91] U.S. Department of Justice. (2016, February 18). *VimpelCom Limited and Unitel LLC Enter into Global Foreign Bribery Resolution of More Than $795 Million; United States Seeks $850 Million Forfeiture in Corrupt Proceeds of Bribery Scheme*. https://www.justice.gov/opa/pr/vimpelcom-limited-and-unitel-llc-enter-global-foreign-bribery-resolution-more-795-million

[92] U.S. Department of Justice. (2021, September 20). *$26.6 Million In Allegedly Illicit Proceeds to Be Used To Fight COVID-19 and Address Medical Needs in Equatorial Guinea*. https://www.justice.gov/opa/pr/266-million-allegedly-illicit-proceeds-be-used-fight-covid-19-and-address-medical-needs

[93] U.S. Department of State, & U.S. Department of Justice. (n.d.). *U.S. Asset Recovery Tools & Procedures: A Practical Guide for International Cooperation*. https://star.worldbank.org/sites/star/files/booklet_-_english_final_edited.pdf

[94] Baker Hughes Incorporated and Roy Fearnley: Litigation Release No. 20094, (2007). https://www.sec.gov/litigation/litreleases/2007/lr20094.htm

[95] Usman, T. (2014). *Why we honoured Abacha*. https://www.premiumtimesng.com/news/156004-why-we-honoured-abacha-nigerian-government.html

[96] Uzbekistani Presidential Decree 4986, (2021). https://cis-legislation.com/document.fwx?rgn=130266

[97] van den Berg, S. (2018, February 19). France assails Equatorial Guinea claim of immunity of Obiang's son in graft case. *Reuters*. https://www.reuters.com/article/us-equatorial-france-court-idUSKCN1G31QF

[98] Witness Statement: ROZ Trading Ltd et al. V. The Coca-Cola Export Corp. Et al. GZ SC:ij-4986., (2007).

[99] World Bank. (2007). *Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan*. The International Bank for Reconstruction and Development/The World Bank. https://doi.org/10.4337/9781847202888

[100] World Bank. (2015). United Nations and Its Relationship to the World Bank Group. In *The World Bank Group A to Z 2016* (pp. 182–182). The World Bank. https://doi.org/10.1596/978-1-4648-0484-7_united_nations_and

[101] World Bank. (2017). *GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases.* https://star.worldbank.org/sites/star/files/the-gfar-principles.pdf

[102] Yates, D. A. (2015). The Rise and Fall of Oil-Rentier States in Africa. In J. A. Grant, W. R. N. Compaoré, & M. I. Mitchell (Eds.), *New Approaches to the Governance of Natural Resources: Insights from Africa* (pp. 45–64). Palgrave Macmillan UK. https://doi.org/10.1057/9781137280411_3