

GFAR PROGRESS REPORT ON FRANCE – SEPTEMBER 2019

DEVELOPMENTS IN GFAR COUNTRIES SINCE DECEMBER 2017

KEY FINDINGS

Adequacy of Legal Framework

- Under French law, the return of assets to date is predominantly based on mutual legal assistance in criminal matters (MLA). No repatriation of stolen assets is possible unless the Victim State addresses such a request to France. A [bill](#) providing for a responsible transfer and allocation of confiscated stolen assets to the benefit of the victims, outside the context of MLA, was [adopted in first reading](#) by the French Senate in May 2019. In June 2019, the French Government launched a [parliamentary mission](#) and nominated two MPs from the National Assembly to review and propose the best options to ensure the responsible and transparent return of confiscated assets to benefit the victim populations in the country of origin. The parliamentary mission is expected to submit its report before the end of October 2019.
- Alternatively, assets can be returned to the State of Origin, if that State has been granted the status of plaintiff in the criminal procedure, known as “*partie civile*”, and the court determines that the plaintiff is entitled to the assets. An example of this situation is described below and concerns the assets (EUR 60 million) seized in the Karimova case that shall be returned to Uzbekistan.

Adequacy of Institutions and Political Will -

- The [French Court of Auditors](#) recently expressed its concerns regarding the lack of specialized investigation services in the fight against economic and financial crime. This problem has been chronic for many years, which significantly lengthens the criminal procedures and reduces the effectiveness of the criminal response. The French Ministry of Justice [responded](#) to the Court of Auditors by committing to reform the recruitment for judges.
- French authorities also still lack the necessary resources to investigate the increasing number of cases. A recent parliamentary report [outlines the undeniable understaffing](#) of the National Financial Prosecution Office (PNF) and recommends hiring without delay more judges, clerks and judicial assistants. A [Council of Europe report of October 2018](#) also pointed out the lack of resources in the French judicial system.

Transparency and Participation

- France lacks centralized data on the volume of assets frozen/seized, confiscated and returned in the context of international asset recovery. Only AGRASC’s (Agency for the Recovery and Management of Seized and Confiscated Assets) [annual report 2018](#) provided data on international asset recovery. AGRASC is [currently producing](#) a seized and confiscated assets' database. It is expected that it will be launched in 2019 and that it will be made accessible for magistrates and investigators only.
- Barely 3 % of the 3 million French court decisions made each year are publicly available, making it impossible to assess the number of international asset recovery decisions rendered each year by French judges. The [Constitutional Court](#) has, however, recently validated the [government’s promise](#) of 2018 to make all court decisions publicly available by 2020.

Enforcement Experience

According to a [recent parliamentary report](#), the PNF is currently investigating 90 cases of corruption of foreign public officials. Among those cases, 68 concern bribery in international business transactions and 22

relate to money laundering in connection with public fund embezzlement and corruption. Some of these investigations have been ongoing for a decade.

International Cooperation

- In 2015, the [UNCAC review report of France](#) underlined France's experience and good practices regarding international cooperation. This observation remains valid. Indeed, according to its [latest annual report](#), in early 2018, AGRASC was at the time processing 218 mutual legal assistance requests (81 outgoing requests and 137 incoming requests – an increase of 78 percent over the incoming requests processed [in 2014](#)). Of the 707 real estate properties seized in 2017, 50 were seized in the context of 12 mutual legal assistance requests.

Recent Cases

- Teodorin Nguema Obiang, Vice-President of Equatorial Guinea and son of the President of this country was convicted by a French Criminal Court in October 2017 for money laundering in connection with embezzlement of public funds and corruption offences. He appealed the decision. Teodorin Nguema Obiang's appeal hearing has been scheduled for the end of December 2019.
- In April 2019, Rifaat Al-Assad, Syrian President Bashar al-Assad's paternal uncle, was sent to trial in the Paris Criminal Court for money laundering in connection with aggravated tax evasion and embezzlement of public funds. According to the charges, Rifaat Al-Assad is suspected of having fraudulently acquired real properties, estimated at 90 million euros. Although this is not a corruption case, it will be interesting to see what the court decides in relation to the assets involved.
- In July 2019, a French Court decision ordered the confiscation and repatriation of G. Karimova's assets located in France, corresponding to three real estate properties amounting 60 million euros, to the Government of Uzbekistan.

Compliance with GFAR principles (See the principles attached)

A reform on asset repatriation is currently being elaborated in France. TI-F is advocating for the inclusion of principles of transparency, accountability, integrity, solidarity and effectiveness.

RECOMMENDATIONS

Institutions and Political Will

- **Reduce the length of the investigation phase** by increasing the resources of the National Financial Prosecutor's office as well as the investigative agencies.
- **Increase the capacity of investigative services** by recruiting sufficiently educated and experienced staff specialised in investigating economic and financial crime.

Transparency and Participation

- Ensure that the AGRASC database on seized and confiscated assets will provide **centralized and publicly available information about international asset recovery cases**.

Compliance with GFAR principles

- **Include principles of transparency, accountability, integrity, solidarity and effectiveness in the upcoming reform on responsible asset repatriation.**