

UNCAC Coalition Statement

Seventh Session of the Conference of the States Parties to the United Nations Convention against Corruption

**Plenary session on Prevention,
Thursday 9 November 2017, Vienna, Austria**

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Mr. President, Distinguished Delegates, Ladies and Gentlemen, I am most grateful for the opportunity to address the 7th Conference of States Parties to the UNCAC today.

I make this statement on behalf of the UNCAC Coalition, a global network of over 350 civil society organisations (CSOs) committed to promoting the ratification and implementation of the UNCAC.

Almost two years have passed since the last Conference of States Parties in St Petersburg where two resolutions were adopted on the topic of asset recovery. So, one may well ask whether there has been any progress: What volume of assets has been seized and confiscated? How much has been returned to victim countries?

The answers to these questions are difficult to find as, despite the “invitation” contained in Resolution 6/3, most States Parties still do not collect or publish data on the volume of assets seized, confiscated and returned or disposed of by their jurisdictions. And yet, adequate data are critical to assessing effectiveness in meeting the UNCAC’s commitments. As the international community recently committed to significantly improving asset recovery and return by 2030 and in light of the on-going second cycle of the review mechanism, the UNCAC Coalition wishes to call on States Parties **to take all necessary measures**

in order to collect reliable and comprehensive data about asset recovery and to publish them.

States Parties also have yet **to recognise the importance of the principles of transparency and accountability with regard to the use and management of returned assets.** In fact, despite some attempts during the last CoSP in Saint Petersburg, none of the two resolutions on asset recovery that were adopted (just like the ones before) contain any language items regarding these principles. This failure ought to be addressed. The principles of Transparency and accountability - which are in strict line with UNCAC Article 9.2 - are of critical importance: not only was it their absence that helped facilitate the diversion and theft of assets in the first place, but their absence may further undermine the credibility of the overall asset recovery process.

The Coalition also advocates strongly that victims of corruption must be properly compensated and should be accorded a central role within criminal proceedings on corruption. We have submitted a paper to the Conference on this important matter which we draw your attention to. We welcome the work of the Secretariat in looking at good practices on victims and urge the Conference to ensure that it continues to work towards guidelines for identification and compensation of victims.

Last but not least, the UNCAC Coalition wishes to call on States Parties **to do more to prosecute corrupt officials and recover their ill-gotten gains.**

To date, whenever senior public officials are involved, asset recovery efforts most often occur after a regime change only when and if the new government is willing and capable to conduct the appropriate legal proceedings – a strategy that does not work that well as illustrated by the low level of assets recovered so far.

There is no doubt that asset recovery is a complex and lengthy process; however, it is also clear that the longer enforcement authorities wait, the greater the chance that the assets will be moved beyond the reach of investigators and the smaller the chance that the assets will be ever be recovered.

The passage of time is definitively the single key obstacle to effective asset recovery.

The resolutions on asset recovery that were adopted during the last four Conferences of States Parties to the UNCAC all noted *“the particular challenges posed in recovering the proceeds of corruption in cases involving individuals who are or have been entrusted with prominent public functions, as well as their family members and close associates”*.

The Resolution adopted in Panama, like the one adopted in Marrakesh, expressed concern *“that some persons accused of crimes of corruption have managed to escape justice and thus have eluded the legal consequences of their actions, and have been successful in hiding their assets”*

Likewise, the Resolution that was adopted in Panama just like Resolution 6/3 in St Petersburg stressed *“the need to hold corrupt officials accountable”* and urged in various parts of the Resolution States Parties to actively and robustly pursue domestic investigations and prosecutions of those engaged in acts of corruption.

All these language items are welcome; however, the resolutions that have been adopted so far (including the last one in St Petersburg) all failed **to address the issue of immunity which in practice prevent such enforcement action from taking place.**

Immunities are indeed major obstacle to the effective prosecution of corruption and money laundering offences. This was confirmed by the report produced by UNODC on the implementation of UNCAC Chapter III.

It is critical to limit as much as possible the scope of domestic immunities. It is also essential for democracy and the rule of law to have transparent and effective procedures in place in order to lift them and to hold corrupt officials accountable.

Such limits ought to be extended to foreign and international immunities which are regularly abused. In fact, past cases have also shown how easy it is for public officials to abuse the privileges attached to their functions to transfer illicit vast wealth abroad –and/or to protect their ill-gotten gains by registering them as diplomatic assets. These are blatant violations of the international rules on immunity, which are not meant to benefit individuals, but to ensure the efficient performance of institutions.

States Parties should be called upon to ensure that immunities and other privileges enjoyed by public officials – domestic, foreign and international – are not abused or used to shield individuals from accountability for corruption offences or to provide safe havens to their ill-gotten gains.

In that regard, the UNCAC Coalition wishes to salute the outstanding decision taken by the Paris Court on October 27th. French judges found the son of the president of Equatorial Guinea – who is since recently vice-president of the country, guilty of money laundering and ordered the confiscation of all his assets in France, estimated to be worth 150 million euros. Not only did the judges reject his claim for immunity; but they highlighted the need for all States to tackle the international problem of grand corruption through the offence of money laundering.

This echoes the position of the UNCAC Coalition which further believes that it is high time for States Parties **to recognise and take effective action to address the seriousness of the crime of grand corruption.**

Since the 2015 resolutions on asset recovery, many more millions of dollars in much needed state funds – including money destined for health, education and poverty alleviation – have been stolen and deposited abroad by corrupt individuals. The few have enriched themselves at the expense of the many for too long and it is essential that States Parties address these failures to adequately prosecute and punish the corrupt and recover the proceeds of their crime.

Thank you very much for your attention.