

**Memorandum of Understanding on the Framework for the Restitution
of Illegally Acquired Assets Forfeited in Switzerland
to the Benefit of the Population of the Republic of Uzbekistan
between
the SWISS FEDERAL COUNCIL
and
the GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN**

The Swiss Federal Council and the Government of the Republic of Uzbekistan (hereinafter the “Signatories”),

Willing to fight effectively against corruption at the domestic and international levels;

Recognizing their common goal of recovering illegally acquired assets on behalf, and to the benefit, of all those harmed by the underlying criminal conduct;

Recalling that in 2012, within the framework of a complex criminal investigation in connection with Ms. Gulnara Karimova, the Office of the Attorney General of Switzerland froze assets totaling approximately CHF 800 million.

Welcoming the fact that following two judgments of the Appeals Chamber of the Swiss Federal Criminal Court dated 8 May 2019, a penalty order issued by the Office of the Attorney General of Switzerland on 22 May 2018 came into force, securing an initial conviction against a relative of Gulnara Karimova and ordering the forfeiture of approximately USD 131 million with a view to returning these funds to Uzbekistan;

Considering that Chapter V of the United Nations Convention against Corruption (hereinafter the “Convention”) sets out an international legal framework in the field of asset recovery;

Referring to Article 51 of the Convention, which provides that States Parties shall afford one another the widest measure of cooperation and assistance with regard to the return of assets;

Referring further to Article 57 paragraph 5 of the Convention, which provides that States Parties may give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property;

Recalling Goal 16 of the *2030 Agenda for Sustainable Development* to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”, and in particular its targets 16.4 (reduction of illicit financial and arms flows) and 16.5 (reduction of corruption in all its forms);

Aware of the need for the international community to develop good practices on asset return, as stipulated in paragraph 25 of the *Addis Ababa Action Agenda*, as well as the need to undertake the restitution in a transparent and accountable manner that satisfies the scrutiny of civil society and the international community;

Recalling in this regard the *Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases*, which were endorsed at the Global Forum on Asset Recovery (GFAR) in December 2017 in Washington and which neither infringe national sovereignty nor domestic principles of law;

Welcoming the *Guiding Principles in the Event of Transfer of Recovered Assets*, adopted at the *Strategic Meeting on Restitution of Uzbek Assets in View of Possible Future Confiscations* on 29 September 2017 in Muri (Switzerland), which was attended by representatives of Uzbekistan, Switzerland and other countries;

Stressing the importance of early dialogue and for there to be continuing dialogue throughout the process;

Have reached the following understanding:

Paragraph 1

The present *Memorandum of Understanding on the Framework for the Restitution of Illegally Acquired Assets Forfeited in Switzerland to the Benefit of the Population of the Republic of Uzbekistan* (hereinafter the “*Memorandum*”) contains the overarching principles that should govern the restitution of assets definitively forfeited as part of the criminal investigation in connection with Gulnara Karimova, which was initiated in 2012 by the Office of the Attorney General of Switzerland (hereinafter the “*Funds*”).

The *Memorandum* should apply to the restitution of assets that have already been definitively forfeited at the date of signature (approximately USD 131 million; hereinafter the “first instalment”). If further assets are definitively forfeited at a later date as part of the criminal investigation in connection with Gulnara Karimova, which was initiated in 2012 by the Office of the Attorney General of Switzerland (hereinafter “potential further instalments”), the *Memorandum* should also apply to their restitution.

Paragraph 2

The Signatories confirm their intention to maintain a fruitful cooperation based on strong partnership, dialogue and mutual respect, which promote trust and confidence.

Paragraph 3

The Signatories share interests in a successful process. To reach this goal, the Signatories consider that arrangements for the restitution should be mutually agreed upon and enshrined in agreements governing the restitution.

For the restitution of the first instalment, the Signatories intend to conclude two separate but interlinked agreements:

- a first agreement on the principle that the forfeited assets (approximately USD 131 million after deduction of the costs of the Swiss proceedings and the monetary penalties imposed), will be returned to Uzbekistan (hereinafter “Sharing-Agreement”); and
- a second agreement on the modalities of the restitution, including the use and destination of the assets to be returned, as well as the monitoring of the restitution (hereinafter “Restitution-Agreement”).

For the restitution of each of the potential further instalments, the Signatories also intend to conclude two separate but interlinked agreements, that is, a specific Sharing-Agreement and a specific Restitution-Agreement.

Paragraph 4

For the restitution to be successful, the Signatories understand that the restitution and the Restitution-Agreements should be based on the following principles:

- The restitution of the Funds should benefit the population of the Republic of Uzbekistan and follow the objective of improving its living conditions, strengthening the rule of law or fighting impunity;
- All steps should be taken to ensure that the Funds do not benefit persons involved in the commission of the offences;
- The end use of the Funds should support sustainable development, be in line with the development strategy of the Republic of Uzbekistan and be consistent with the *2030 Agenda for Sustainable Development*;
- Transparency and accountability should be guaranteed;
- Mechanisms monitoring the use of the Funds should be established and financed from the Funds;
- When restituting the Funds, existing political and institutional frameworks (policies and programs) should be used when considered appropriate by the Signatories, in order to ensure coherence, avoid duplication and optimize efficiency;
- Information on the restitution, administration and use of the Funds should be made public and available to the population in both Switzerland and the Republic of Uzbekistan;
- Consideration should be given to the potential role of the public (civil society or community-based organizations) to fulfill these principles.

Paragraph 5

The Signatories intend to apply the *Memorandum* in conformity with the principles of ethics, transparency, mutual respect and cooperation. The Signatories intend to maintain regular exchanges and to engage constructively to conclude the processes necessary for the final restitution of the Funds.

Paragraph 6

The *Memorandum* can be published by each Signatory in accordance with its policy on information disclosure.

Paragraph 7

This *Memorandum* is considered a basis for continued cooperation and does not create any legally binding rights or obligations between the Signatories.

Paragraph 8

The *Memorandum* comes into effect upon the last signature of the Signatories.

Signed in two copies in the English language.

Berne, 25.8 2020

Tashkent, 8.9 2020

For the Swiss Federal Council

For the Government of the
Republic of Uzbekistan

C. Cicéron Bühler 

Corinne CICÉRON BÜHLER
Director of the Directorate of
International Law
Swiss Federal Department of
Foreign Affairs

Bakhrom KUCHKAROV
Deputy Minister of Justice
of the Republic of Uzbekistan