



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

Distr.: Limited
19 December 2019

Original: English

Eighth session

Abu Dhabi, 16–20 December 2019

Agenda item 5

Asset recovery

Ukraine: draft resolution

Strengthening of international cooperation on asset recovery and the administration of frozen, seized and confiscated assets

The Conference of the States Parties to the United Nations Convention against Corruption,

Welcoming the entry into force on 14 December 2005 of the United Nations Convention against Corruption,¹ which is the most comprehensive and universal instrument on corruption, and recognizing the need to continue to promote the ratification or accession thereto and its full and effective implementation,

Noting the high-level debate held on 23 May 2018 on the occasion of the fifteenth anniversary of the adoption of the Convention, at which the effectiveness of the Convention as a platform for mobilizing political and public action to fight corruption was reaffirmed,

Reaffirming its commitment to fully implementing the provisions of the Convention in order to prevent and detect, in a more effective manner, international transfers of property acquired through the commission of an offence established in accordance with the Convention and to strengthen international cooperation in asset recovery, bearing in mind that corruption is a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and combat it essential,

Acknowledging the importance of promoting, facilitating and supporting international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery, as set out in article 1, subparagraph (b), of the Convention,

Noting the efforts of relevant international organizations and practitioner networks, including the Stolen Asset Recovery Initiative and the International Centre for Asset Recovery, whose activities are aimed at, inter alia, ensuring the effective sharing of information, best practices and experiences in asset recovery and the administration of proceeds of crime that have been frozen, seized or confiscated,

Recognizing the importance of technical assistance and capacity-building organizations,

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.



Recalling its resolution 6/3 of 6 November 2015, in which it urged States parties to establish or strengthen domestic mechanisms for inter-agency coordination and intergovernmental cooperation and to ensure appropriate levels of information-sharing and coordination between competent authorities that have a role in efforts to prevent and prosecute corruption and in asset recovery, including, but not limited to, regulatory authorities, investigative authorities, financial intelligence units and prosecutorial authorities,

Welcoming the progress report on the implementation of the mandates of the Working Group on Asset Recovery, in which the Working Group re-emphasized the importance of asset recovery as an important factor of the domestic resource mobilization required for the achievement of the Sustainable Development Goals and recommended strengthening cooperation between financial intelligence units, anti-corruption authorities and central authorities responsible for mutual legal assistance at the national and international levels,

Recalling its resolution 7/1 of 6 November 2017, in which it urged States parties to ensure that the information provided regarding their central and competent authorities, in line with article 46, paragraph 13, of the Convention, was up to date, in order to enhance the dialogue on mutual legal assistance,

Recalling also article 35 of the Convention, which obliges States parties to take measures, in accordance with principles of their domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation,

Recalling further its resolution 7/1, in which it encouraged States parties to make full use of the possibility of concluding agreements or mutually acceptable arrangements for the return and final disposal of confiscated property pursuant to article 57, paragraph 5, of the Convention and to consider the Sustainable Development Goals in the use and management of recovered assets, while fully respecting the principles of sovereign equality and the territorial integrity of States and of non-intervention in the domestic affairs of other States, in line with article 4 of the Convention,

Noting that the effective implementation of the provisions of article 31, paragraph 3, of the Convention, relating to the administration of frozen, seized and confiscated assets, is essential to depriving criminals of the proceeds of their crimes,

Welcoming the preparation by the Secretariat of the study entitled *Effective Management and Disposal of Seized and Confiscated Assets* and of the draft non-binding guidelines on the management of frozen, seized and confiscated assets,² and noting the practical benefits of those documents in the framework of improving national legislation and implementing the provisions of the Convention,

Stressing the need for States parties to ensure, within their means and in accordance with the fundamental principles of their domestic law, that there are adequate mechanisms in place to manage and preserve the value and condition of assets pending the conclusion of confiscation proceedings and, where appropriate, non-conviction-based proceedings to recover identified proceeds of crime,

Recalling its resolution 7/5 of 6 November 2017, in which it recalled the importance of States parties taking appropriate measures, within their means and in accordance with the fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental and community-based organizations, the private sector and academia, in the prevention of and fight against corruption, and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption,

² CAC/COSP/WG.2/2018/3, annex.

[*Noting in particular* that a large proportion of the proceeds of corruption, including those emanating from transnational bribery and other offences established by the Convention, are yet to be returned to the States parties, the prior legitimate owners and the victims,]

1. *Calls upon* States parties to the United Nations Convention against Corruption¹ to take effective measures at the national level to ensure the effective implementation of the provisions of the Convention, in particular chapter V, on asset recovery;

2. *Encourages* States parties to take the necessary measures, in accordance with their domestic law, to implement the provisions of article 31, paragraph 3, of the Convention, relating to the administration by the competent authorities of frozen, seized and confiscated assets, in order to secure those assets or preserve their economic value, and to consider making that process of administration transparent;

3. *Calls upon* States parties to consider, consistent with article 31, paragraph 3, of the Convention, where appropriate and consistent with their national legal systems, the possibility of establishing the necessary human and institutional capacities for competent authorities responsible for the administration of frozen, seized and confiscated proceeds of crime, as well as of improving the national legal basis for ensuring effective regulation of the administration of such proceeds, with a view to the return or disposal of the proceeds of crime, consistent with chapter V of the Convention;

4. *Emphasizes* that the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States should be fully respected during the return or disposal of confiscated property, and encourages States parties, where appropriate, to give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the return and final disposal of confiscated property, pursuant to article 57, paragraph 5, of the Convention;

5. *Encourages* States parties, in a common effort, to apply lessons learned in all areas of asset recovery cooperation by, inter alia, strengthening domestic institutions and enhancing international cooperation, including through participation in relevant international practitioner networks, such as the asset recovery focal points under the Convention against Corruption, the Global Focal Point Initiative, supported by the International Criminal Police Organization and the Stolen Asset Recovery Initiative, the Camden Asset Recovery Inter-Agency Network and other similar networks, as well as regional initiatives, as appropriate;

6. *Calls upon* States parties to consider, with full respect of the fundamental principles of their domestic law and consistent with the Convention, the possibility of improving the effectiveness of domestic inter-agency coordination by, inter alia, developing strategic policies to combat corruption and recover proceeds of crime;

7. *Urges* States parties to consider, in accordance with the fundamental principles of their domestic law and in accordance with the Convention, the establishment or further development of inter-agency or intergovernmental cooperation in identifying, tracing, freezing, seizing, confiscating and returning proceeds of crime, which would enable States parties to better detect, deter and prevent acts of corruption;

8. *Calls upon* States parties to consider, in line with international standards and in accordance with their domestic law, with due respect for all the rights and guarantees provided under that law, improving lawful access to relevant information sources, including international databases, which would positively affect the quality and efficiency of the tracing of proceeds of crime, with due respect for personal data;

9. *Encourages* the States parties to consider, with due regard to article 4 of the Convention, within their domestic legal framework or administrative arrangements, the various possible models of disposal and administration of

confiscated proceeds of offences established in accordance with the Convention, including, but not limited to, allocating such proceeds to the national revenue fund or the State treasury, reinvesting funds for special purposes and compensating victims of the underlying crime, including through the social reuse of assets for the benefit of communities, including with a view to returning such proceeds of crime in accordance with chapter V of the Convention;

10. *Calls upon* States parties to ensure the effective use of State resources in the process of administering frozen, seized and confiscated assets, where appropriate and in accordance with their domestic legal systems, by deepening internal cooperation between competent authorities and enhancing the capacities of competent authorities responsible for the administration of such assets, with a view to involving them in the early stages of the process of preparing and planning asset seizures;

11. *Welcomes* the study prepared by the Secretariat entitled *Effective Management and Disposal of Seized and Confiscated Assets*, and decides that the Working Group should continue its work by, inter alia:

(a) Continuing to collect information on best practices from States parties, with a view to completing the draft non-binding guidelines on the management of frozen, seized and confiscated assets and updating the study entitled *Effective Management and Disposal of Seized and Confiscated Assets*;

(b) Continuing its efforts to collect information on challenges and barriers that States parties face, as well as best practices in recovery and return of proceeds of crime, with a view to proposing possible recommendations for the full and effective implementation of chapter V of the Convention;

(c) Continuing to provide reports to the Conference on its activities;

12. *Encourages* States parties to further work closely to strengthen the capacities of competent authorities responsible for asset recovery to draw upon and improve the skills of experts on an ongoing basis in order to enhance the identification, tracing, seizure and confiscation of the proceeds of crime;

13. *Recommends* that States parties, where appropriate and in accordance with the fundamental principles of their domestic law and in accordance with the Convention, take necessary measures to develop or establish an appropriate legal framework and allocate the resources necessary to ensure that authorities responsible for investigating and prosecuting crimes of corruption, as well as tracing, seizing, freezing and confiscating the proceeds of crime and implementing measures for their return and administration, are enabled to carry out their functions effectively and free from any undue influence;

14. *Encourages* States parties to remove barriers to applying measures for the recovery of assets, in particular by simplifying their legal procedures, where appropriate and in accordance with their domestic law, and by preventing the abuse of such procedures;

15. *Requests* the Secretariat, within available resources, to provide assistance to the Open-ended Intergovernmental Working Group on Asset Recovery and the open-ended intergovernmental expert meetings to enhance international cooperation under the Convention in the discharge of their functions, including through the provision of interpreting services in the six official languages of the United Nations;

16. *Invites* States parties and other donors to provide extrabudgetary resources for the purposes specified in the present resolution, in accordance with the rules and procedures of the United Nations.