

Switzerland:

Federal Council
The Office of Public Prosecutor
The Federal Criminal Court

Gibraltar:

HM Government
HM Government of Law Offices

France:

Ministry of Justice
Ministry of Europe and Foreign Affairs

United States of America:

US Department of Justice

Uzbekistan:

Ministry of Justice
The Office of Prosecutor General

25 July, 2019

CIVIL SOCIETY ACTIVISTS OF UZBEKISTAN CALL FOR JUSTICE IN THE RETURN OF GULNARA KARIMOVA'S ILL-GOTTEN ASSETS

Key points:

- **Responsible repatriation of Gulnara Karimova's assets requires a retrial of Karimova and her accomplices in Uzbekistan that would meet standards of due process and fair trial.**
- **The governments of Switzerland, France and other countries where Karimova's assets are frozen should be guided not only by anticorruption law but by human rights law when repatriating them. these assets**
- **Asset return to the government of Uzbekistan should occur only after anti-corruption reforms are implemented in practice and the rule of law is established.**
- **US Department of Justice should block any attempts to return to Gulnara Karimova and her associates any portion of her ill-gotten assets.**

Since our [statement](#) in August 2018, where we proposed principles for the responsible repatriation of assets to the people of Uzbekistan, a number of events have occurred that require our attention and merit a new statement.

The assets we discuss here are assets Gulnara Karimova acquired by extorting multi-million-dollar bribes from companies providing mobile communication services in Uzbekistan, MTS, Telia (formerly Teliasonera), and Vimpelcom. The fact that bribes were extorted has been confirmed by the companies themselves in Deferred Prosecution Agreements with various jurisdictions including the United States and The Netherlands. These three companies have subsequently agreed to pay fines totaling \$2.6 billion. Karimova's banking assets are located

primarily in a number of European countries, namely Switzerland, Ireland, Belgium, Luxembourg and Sweden, and real estate assets in France and the United Kingdom. In France, three real estate properties were arrested, estimated approximately at 60 million euros.

The amount of Gulnara's assets in Europe totals more than one billion U.S. dollars.

Currently, the fate of assets still frozen in Switzerland (which amounted to 800 million Swiss francs in 2012) is being decided. CHF130 million of this amount is held by companies formally owned by Rustam Madumarov, one of Gulnara Karimova's accomplices. An additional CHF555 million is held by companies formally owned by another Karimova accomplice, Gayane Avakyan. In addition, insider information suggests several deposit boxes are held in a Swiss bank and contains a substantial amount of valuable jewelry.

What recent developments have prompted this call for justice ?

Our main concern is there are secret negotiations taking place in Uzbekistan between two parties: Gulnara Karimova, represented by her Swiss lawyer and daughter, and the Uzbek authorities.

It is our understanding that Karimova was placed under house arrest in February 2014, then transferred to the Zangiata women's prison colony No 21 (Tashkent region) in 2017. [In late June 2018, she was](#) transferred again to the Tashkent apartment of her daughter, after which she [was returned](#) to the Zangiata colony in early March 2019. It is our understanding that, in exchange for Karimova's consent to repatriating the assets in Switzerland to Uzbekistan, her representatives are demanding her release from prison and the freedom to leave Uzbekistan, allegedly for adequate medical treatment. Those representing Gulnara are also counting on receiving a portion of the frozen assets, presumably to ensure that she maintains a comfortable future after release and perhaps to generously compensate them for their work representing her.

In the latest [statement](#) made on behalf of Gulnara Karimova, on June 23, 2019, she claims to have agreed to permit the return of CHF131 million in bribes she took now frozen in Switzerland and is prepared to do the same for the CHF555 million. The statement hints that she is ready to take these steps in exchange for her release from prison and the right to leave Uzbekistan.

We do not yet know whether the Uzbek government will accept these conditions, but we do expect that Karimova will again be detained under house arrest conditions – a situation significantly more comfortable than the Zangiata prison colony.

Any such deal should be recognized as a **large-scale bribe to the government of Uzbekistan**, with Karimova simply shifting roles from the party extorting bribes to the party offering bribes. Moreover, such an outcome will in no way reflect international norms and standards of justice, or the interests of the victims of the original corruption – the people of Uzbekistan.

The 2014, 2015, and 2017 court decisions that led to Karimova's conviction and that of her accomplices in Uzbekistan – as well as the resulting claims for her assets based on those convictions – do not meet the requirements of fair trial and basic due process. The trials were held behind closed doors, with no court filings or documents published and therefore failed to

earn any public trust around the process or results. They highlight the fact that the standards of Uzbekistan's system of justice are deplorably low.

We are concerned that the government of Switzerland, by accepting Karimova's apparent consent to repatriate her ill-gotten assets to Uzbekistan, may either knowingly or unwittingly become an accomplice to the aforementioned bribery scheme: Karimova bribing the government of Uzbekistan in exchange for her release, favorable treatment, and a personal payout from assets she stole from the people of Uzbekistan. We propose that the Swiss Office of Public Prosecutor and the Federal Council of Switzerland consider the reputational consequences and potential precedent of such a decision made on the basis of such a parody of justice.

We are quite surprised that the consent of a person who has stolen assets is required to finalize the confiscation and repatriation of those assets. In this case, bribery has already been proven by the confessions of the telecommunications companies and the materials associated with the lawsuit against Telia's managers in Sweden. Given this clear evidence that the asset "owner" engaged in criminal activities, why do the Swiss judicial authorities need the consent of the criminal to confiscate the assets?

We are also extremely concerned about the fact that on July 1, 2019, the Swiss Federal Criminal Court [granted](#) Gulnara Karimova an opportunity to regain control over CHF350 million in assets that are held through Takilant Ltd., a Gibraltar company whose registration has lapsed.

In addition to the assets frozen in Switzerland, we are concerned about the fate of the assets of Gulnara Karimova confiscated this year in France. According to press reports, the French authorities have [decided](#) to transfer these assets directly to the government of Uzbekistan (approximately 60 million euros). In Spring 2019, the French Senate [passed legislation](#) on responsible repatriation of stolen assets, a model all countries should follow and which Uzbek civil society activists welcomed. Under its provision, the Karimova case could become the first case when French authorities would repatriate assets in interests of victims of corruption, with safeguards against a mismanagement of these assets.

However, according to available information, unlike Switzerland, it appears that French authorities [intend to return](#) corrupt assets directly to the government of Uzbekistan – an authoritarian, repressive and still very corrupt regime - without any preconditions or a comprehensive framework for return. We perceive this as an equivalent to returning jewelry to a thief who had stolen them. That would conflict with France's commitments to promoting human rights as well as fighting against corruption and money laundering. The unconditional return of assets would undermine France's commitment to responsible international asset return, which would cause reputational damage to France.

What do we suggest?

1. We believe the entire process of recovery of the assets stolen from the people of Uzbekistan cannot be completed without a fair trial held in the country, one that would hold all those responsible for the corruption scandal in Uzbekistan's telecom industry, and complicit in that crime, to account. Since all previous court decisions in Uzbekistan against Gulnara Karimova, her accomplices, and her assets have been clear parodies of justice, **we demand a retrial consistent with internationally recognized standards of fair trial and due process**

rights. Only on the basis of the proposed second legal process should the Swiss government then make a decision on the responsible repatriation of Uzbek assets. We note that it will not be possible to undertake such an endeavor without a **series of proper reforms to the entire judicial system** of Uzbekistan, an outcome that aligns with the principles of fair repatriation of assets that we [put forward](#) in August 2018.

2. Gulnara Karimova's representatives argues that she is mistreated in the prison colony and needs medical examination and treatment. While we are not in the position to judge whether these allegations are valid, we believe the conditions of Gulnara's detention should not be reviewed or addressed distinct from a review of the conditions for all prisoners in that colony and all the other prison facilities in the country. Rather than create exceptional conditions for this one prisoner, the Government of Uzbekistan and colony administrators should recognize the current allegations as a call to **raise the standards of detention for all prisoners in accordance with international human rights standards.** Reform of the penitentiary system, long overdue, should be certified by international observers representing, at a minimum, the relevant UN human rights mechanisms and the International Red Cross.

As a first step, the government should ensure **unimpeded access to all prisons in the country, including the Zangiata prison colony, for Red Cross representatives and UN special rapporteurs** on torture and independence of judges and lawyers. Such access could provide a reliable picture of the conditions of detention being experienced by Gulnara Karimova and the wider prisoner population.

To be clear, we are categorically **against Karimova's release prior to an open retrial** to observers which would meet the standards and norms of a fair trial. Uzbekistan is a party to the International Convention on Civil and Political Rights, article 14 of which demands that it provide a fair trial to all citizens. Switzerland should not condone a violation.

3. We also call on the governments of Switzerland, France and other countries where Uzbek assets are frozen to be **guided by the norms of international law, including provisions of the UN Convention against Corruption, as well as international human rights norms including (but not limited to) such as the rights to development and fair trial.** The fate of Karimova's stolen assets should be addressed in light of the **entire body of international law related to the areas of anti-corruption and human rights.**

4. We call on the Swiss Office of Public Prosecutor and relevant judicial authorities of Switzerland to review the case of Gulnara Karimova and honestly consider whether they are capable of completing, effectively and without delay, a protracted case of confiscation related to assets stolen from the people of Uzbekistan.

5. We call on the **French authorities to suspend the transfer of Gulnara Karimova's assets** to the government of Uzbekistan until it meets the above-mentioned conditions - the retrial of Gulnara Karimova and her accomplices in a proceeding that meets the standards of article 14, and the implementation of the program of anti-corruption reforms. The French authorities should also take seriously [the call](#) of the two leading French anti-corruption NGOs, Sherpa and Transparency International France for guaranteeing full transparency and integrity of the asset return process and making sure the assets are used exclusively for public interest and not do not fall back into corrupt channels.

6. We call on the US Department of Justice to take their own measures to **block possible steps towards returning any portion of the assets to Gulnara Karimova** or the repatriation of these assets without adopting safeguards against a mismanagement of the returned assets.

7. We call upon the **Gibraltar authorities** to refuse the requests from lawyers representing Gulnara Karimova to reinstate Takilant and Swisdorn in order to reclaim assets frozen in Switzerland. Every stakeholder should bear in mind that these companies were created for the purpose of taking bribes and did so on behalf of Gulnara Karimova. It has been proven that the source of these assets are bribes from telecommunications companies in exchange for Gulnara's illegal, secret assistance in obtaining licenses and frequencies for mobile business. It is also clear that the Government of Uzbekistan has not yet adopted adequate safeguards guaranteeing the integrity of the returned assets management.

8. We call on the countries holding Gulnara Karimova's assets to ensure **full transparency in the process of preparation**, acceptance, and implementation of asset repatriation. We are concerned about the amounts being considered for repatriation. Gulnara Karimova, in her aforementioned statement, identifies only two amounts frozen in Switzerland as subject to repatriation (CHF131 million and CHF555 million, totaling CHF686 million). This is much less than the CHF800 million [announced](#) by the Swiss government in 2012. We also note that Karimova remains silent about the contents of her deposit boxes in Swiss banks.

In a communication dated 24 June 2019, the Swiss Attorney General's Office [said](#) CHF130 million had been confiscated and was being prepared for transfer to Uzbekistan. The same report says the fate of another CHF650 million related to the case of five suspects is still under consideration for confiscation. In total, this amounts to CHF780 million.

However, taking into account bank interest, the total amount of Gulnara Karimova's CHF800 million in assets should now be at least **CHF912 million** (assuming 2% per annum over a 7-year period). The difference, likely at least CHF130 million, has not been accounted for or reported to the public.

9. We categorically oppose **returning any amount of stolen assets to Gulnara Karimova and other applicants**. All frozen assets should be transferred to Uzbekistan after confiscation, but only under appropriate conditions (which means not immediately).

10. We remain committed to the principles of repatriation of Uzbek assets that we [put forward](#) in August 2018. The main principle is that before the government gains control over Gulnara Karimova's assets, specific reforms must be implemented to **establish anti-corruption mechanisms and practices**, namely:

- create an independent judiciary;
- implement administrative reform; as a part of this reform, adopt and implement a provision on conflict of interest;
- require all civil servants, judges, and members of parliament to submit annual declarations showing their income and assets those of their family members and make these declarations available to the public;

- ensure transparency of public finance and the beneficial ownership of all companies and investors operating in the country; and
- provide adequate conditions for the freedom of association and freedom of the press.

Progress in implementation of these reforms can be assessed against international benchmark indicators [proposed](#) in our statement in August 2018.

Last, but not least, these crucial reforms should be implemented **not at the end of the repatriation process, but before repatriation begins**, to guarantee that these assets will not be stolen again but will serve the interests of the people of Uzbekistan, the main victims of corruption. We cannot rely on promises of reform or even the early adoption of anti-corruption laws. In Uzbekistan, many progressive laws have been adopted and are simply not implemented in practice. Structural changes in norms and practices, not progress on paper, must rightly be a key condition for repatriation.

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