# Recommendations of the Summit for Democracy cohort on international cooperation for anti-corruption

Tackling corruption is integral to efforts to strengthen democracy worldwide. International cooperation in the investigation of high-level corruption and asset recovery cases is crucial to overcome the impunity associated with serious corruption cases.

Existing international frameworks, such as the UN Convention against Corruption (UNCAC) and the UN Convention against Transnational Organized Crime (UNTOC) as well as relevant regional conventions provide the basis for international cooperation and asset recovery. The commitments made by countries in the Political Declaration of the UN General Assembly Special Session (UNGASS) against Corruption adopted in June 2021 strengthen and supplement the obligations in those frameworks.

Many other frameworks and recommendations relevant to the cohort's work were also mentioned in the cohort's discussions, including the Common African Position on Asset Recovery, the FACTI Panel report, the Oslo Statement on Corruption Involving Vast Quantities of Assets, the Lausanne Guidelines for Efficient Asset Recovery as well as discussions in UN international expert meetings on asset return and the 2017 Global Forum on Asset Recovery Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases – which a group of CSOs have elaborated on.

Some progress has been made in the last 10-15 years and should be recognized. In particular, there have been some examples of much improved international cooperation. However, key challenges remain, including:

- Non-cooperative territories
- Lack of resources for, slowness and bureaucracy of MLA
- Lack of political will
- Corruption fights back (disinformation campaigns, lawsuits against prosecutors, judges, media...)

The cohort met in two workshops and heard presentations and recommendations from experts on a range of relevant issues. Building on the discussions in these workshops and inputs received after the workshops from participants and experts, and without the claim for exhaustiveness, the **Cohort on International Cooperation for Anti-Corruption recommends the following key areas for action and reform** in relation to international cooperation in corruption investigations and in asset recovery, stressing that international cooperation is a critical aspect of any effort to overcome the impunity that weakens democracies and strengthens authoritarian governments world-wide:

## Strengthen compliance with international standards

1. **Establish or strengthen implementation review mechanisms** of international instruments and recommendations on international cooperation and asset recovery, such as those for the UNCAC, UNTOC, the Financial Action Task Force - FATF, the Political Declaration of the 2021 the UNGASS Against Corruption, regional anti-corruption conventions and other international initiatives (e.g. Global Forum on Asset Recovery Principles, Lausanne Guidelines for Efficient Asset Recovery, etc.).

2. Consider the introduction of a mechanism for systematic **annual reporting on country performance in MLA requests** and use states' **collective action** to bring pressure to bear on non-cooperative jurisdictions, especially in serious corruption cases.

## Widen the scope of international standards and domestic legislation

3. Increase **recognition of grand corruption offences as serious, aggravated and organized crimes** in line with recommendations by Transparency International and others, and make relevant improvements to national and international frameworks relating to jurisdiction, immunities, statutes of limitation, non-conviction based confiscation regimes and more.

4. Create centralized **registers of beneficial ownership** that cover all legal entities and arrangements, contain verified information on who ultimately owns or controls these, and that are accessible to all relevant domestic and foreign stakeholders. Ensure that the registers are adequately maintained and updated and that there are effective proportionate and dissuasive penalties for non-compliance.

5. Engage in greater **regulation and scrutiny of non-financial businesses and professions** (these may include casinos, real estate agents, lawyers, notaries, other independent legal professionals and accountants, etc.) that may be utilized to launder the proceeds of crime, and allow for the confiscation of the profits of their trade. Require them to adopt anti-money laundering measures and ensure adequate oversight.

6. Legally require and effectively implement **protection and reward mechanisms for whistleblowers** from the public and private sectors who report on corruption, in line with international best practices. Ensure penalties for reprisal actions and reinstatement in case of dismissal; and grant immunity to whistleblowers whose status has been recognized. Consider creating or designating an independent body with a mandate to recognize the status of a whistleblower.

7. Introduce innovative legal tools, such as **extended, value-based** and **non-conviction based confiscation** mechanisms, or rebuttable **presumptions of money-laundering** in specified instances where the manner in which a transaction occurs or an asset is held suggests no other justification than to conceal the origin of the proceeds of crime and their beneficial ownership.

8. Consider the adoption and implementation, as a complement to full-fledged criminal procedures, of special **sanctions regimes against highly corrupt**

**leaders** to undermine their ability to enjoy the proceeds of crime. Effective such regimes may include measures prohibiting natural and legal persons from providing or making available funds or other economic resources to persons alleged or found guilty of serious corruption. Coordinate joint action where possible, for greater effectiveness. Any sanctions and confiscation should follow due process of law.

9. Introduce, and harmonize at international level, laws and practices that ensure that the **proceeds of corruption, bribery and money laundering as well as any disgorgement of profits and fines arising from criminal processes or settlements are returned to the countries harmed,** without prejudice to victims' compensation, and promote the transparent and accountable disposition of recovered funds.

10. Introduce a coherent policy for returned assets that includes the **transparent and accountable use of returned funds for the benefit of the people harmed** in line with the practice recommendations below. This should provide for the possibility of active participation of civil society in managing or overseeing the return and use of recovered funds in the victim countries.

11. Share domestic best practices for and experiences with ensuring adequate **remedies for corruption victims,** develop guidance and review national legislation to ensure compliance with UNCAC Articles 32 and 35. **Grant independent CSOs legal standing** to represent the public interest and to initiate and pursue corruption cases, and, where appropriate, to pursue claims on behalf of victims of corruption.

12. Share best practices regarding the implementation of **asset disclosure requirements for public officials** taking into account the utility of such reporting in asset recovery investigations and confiscation proceedings, and consider adhering to the **"International Treaty on Exchange of Data for the Verification of Asset Declarations".**

## Strengthen international operational coordination and cooperation

13. Where appropriate, use **informal cooperation channels and early engagement with concerned foreign jurisdictions,** to avoid difficulties caused by the differences in national approaches and for the purpose of sharing information, advancing investigations, building trust across jurisdictions, improving subsequent formal mutual legal assistance efforts and facilitating the recognition and enforcement of the seizure and confiscation orders.

14. Promote knowledge and use of **international coordination and informal law enforcement and asset recovery cooperation mechanisms** such the International Anti-Corruption Coordination Centre (IACCC), the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GloBE), the Interpol Global Focal Points Initiative and the Camden Asset Recovery Inter-Agency Network (CARIN) and similar regional ARIN networks, or the Norwegian-initiated Corruption Hunters Network, and consider creating or supporting **international rapid response mechanisms** to assist countries that have low capacity.

15. Encourage and support **cooperation between CSOs and investigative journalists,** such as in the Global Anticorruption Consortium.

16. **Provide and encourage coordination of technical and operational assistance to countries with limited capacity,** including **training and capacity building,** to facilitate law enforcement and related asset recovery efforts, with the support of multi-jurisdictional initiatives such as the UN Office on Drugs and Crime / World Bank Stolen Asset Recovery Initiative, the Basel Institute's International Centre for Asset Recovery (ICAR), the IACCC, or regional initiatives (RAI, SELDI...).

17. Ensure a **coordinated approach to enforcement against the offences of corruption and money laundering,** to ensure that laundering the proceeds of corruption offence can be effectively prosecuted and sanctioned.

18. When domestic enforcement authorities face challenges in pursuing cases, they should consider **externalizing cases** and engaging with enforcement authorities in other countries, e.g. by asking the requested country to initiate their own proceedings for money laundering; by establishing Joint Investigation Teams; or by working with relevant civil society organizations that have legal standing to initiate and pursue corruption cases.

19. States should request **INTERPOL to improve treatment of requests related to Politically Exposed Persons (PEPs)** so they are not rejected as "politically motivated". This could possibly be done through the creation of an independent commission to review these requests.

## Enhance domestic enforcement and asset management capacities and practices

20. Ensure the necessary **powers, independence** and adequate **resourcing of enforcement authorities.**

21. Enhance the financial investigation capacity of law enforcement authorities, including by providing them with powers to **trace assets following conviction**.

22. Implement measures to strengthen domestic asset recovery regimes, including through enhanced **coordination among relevant domestic stakeholders,** such as multidisciplinary asset recovery and asset management agencies, so that each stakeholder can use his/her professional network and professional tools in the interest of asset recovery.

23. Develop a **constructive cooperation between law enforcement agencies and CSOs** and implement systems to keep up to date on the publications of **investigative journalists,** to ensure that all available information is accessed, that all useful information collected is used optimally during the investigation, and that investigations can move forward thanks to civil society in case law enforcement agencies cannot advance in a timely and efficient manner.

24. Provide a safe, enabling and inclusive environment for human rights defenders, whistleblowers (including civil servants), journalists, academics

and other stakeholders to uncover and report on corruption. Mitigate the **risks of retaliatory activities** of corrupt actors (disinformation campaigns, law suits against prosecutors, Strategic Lawsuits Against Public Participation (SLAPP), lawsuits against CSOs, other attacks).

25. **Provide relevant authorities with the power to preserve the value of restrained assets** (e.g. **early sale** to prevent dissipation) and to enhance the value of confiscated assets (e.g. mechanisms for online sale or auction platforms).

26. Develop comprehensive national registries or other mechanisms to **allow tracking of restrained, seized or frozen, confiscated and returned assets.**

27. Ensure a high level of transparency by releasing detailed, disaggregated **statistics** on asset recovery cases at all stages of the process, including information on the country of origin, and by **publishing** relevant court decisions, memoranda of understanding, return agreements and other documents related to the confiscation, management and return of assets in full online in a timely manner.

28. When anticipating that assets will be confiscated and returned to the victim country, competent authorities should **seek to engage with relevant independent civil society organizations** and **facilitate the involvement of civil society experts** in the different stages of the process.

29. Promote the **use of confiscated assets/recovered funds for crime prevention purposes or for social-reuse,** in a transparent and accountable manner, including for example by transferring them to public institutions or CSOs.

30. Focus on repairing the damage caused by corruption, including by **improving compensation of civil claimants in criminal procee**dings.