

Uzbekistan's National Legal Framework For Asset Recovery: Bridging Gaps With Global Practice

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Abstract: This article examines Uzbekistan's legal framework for asset recovery and its alignment with global standards. It highlights constitutional protections of property, existing civil and criminal provisions, and recent reforms, while identifying gaps in this regard. The study concludes that Uzbekistan must adopt unified definitions, strengthen procedural mechanisms, and harmonize national legislation with international best practices to improve asset recovery and reinforce the rule of law.

Keywords: Asset recovery, illicit assets, legal framework, international standards.

Introduction: In most states, legislation guarantees the right to own, use, and dispose of property, which in turn contributes to creating a favorable investment climate. Accordingly, Article 65 of the Constitution safeguards the inviolability of private property, and recent presidential programs have further prioritized its protection.

It should be emphasized that the process of recovering illegal assets is interconnected with a number of other legal concepts, and it is therefore advisable to examine national legislation in several distinct parts. This process is partially regulated by civil, civil procedural, criminal, criminal procedural, and administrative legislation, as well as by various other regulatory legal acts.

Civil Code of the Republic of Uzbekistan addresses unjust enrichment, but this mechanism centers on property obligations rather than criminal liability, and thus offers limited relevance for asset recovery. Thus, unlike the return of illegal assets, a civil law obligation of this nature does not primarily focus on punishing the individual, but rather on the property (assets). Scholars have criticized this approach for lacking procedural safeguards.

It should once again be emphasized that the legalization of proceeds derived from criminal activity constitutes the second, successive stage of the offense, and presupposes, first of all, the acquisition of such proceeds (illicit assets).

The Criminal Code (CC) and the Criminal Procedure Code (CPC) of the Republic of Uzbekistan contain provisions and norms that clarify the legal essence and practical mechanisms of returning illegally acquired assets. At the same time, it must be borne in mind that the subject is not merely 'illegal assets', but specifically the return of criminal assets. In this regard, it is essential to recognize that the commission of a certain offense must first be proven.

Article 243 of the CC criminalizes money laundering, including conversion, transfer, concealment, and other forms of disguising illicit assets, and linked to other criminal activities. As can be seen, in this context the discussion concerns the stage following the seizure of illegal assets (in this case, criminal assets), where the primary focus lies not on the initial seizure of such property, but on its subsequent concealment or legalization. However, this article does not address liability for the acquisition of illegal assets.

It is noteworthy that the draft law, prepared by the Prosecutor General's Office of the Republic of Uzbekistan, proposes the introduction of liability for the offense of illegal enrichment under Article 271 of the CC, which is expected to be adopted in its new edition. However, it has not yet been adopted.

Under Article 211 CPC, illicit assets may be used to compensate victims, with remaining amounts transferred to the state. At the same time, any property, property rights, or income derived

therefrom, obtained directly or indirectly as a result of criminal activity in the course of a committed crime, as well as any property used as an instrument, means, or material basis for the commission of a crime, shall be subject to confiscation in favor of the state .

Furthermore, Article 285 of the CPC , provides norms related to restitution to victims, state confiscation, and rights of good-faith third parties . In this case, however it should be noted that when returning illegal assets, first of all, it is necessary to prove that the assets were acquired as a result of committing a crime. As follows from the essence of this article, it is envisaged that the income obtained illegally through the commission of a crime is subject to voluntary and compulsory return from the accused or defendants in order to compensate for the material damage caused. This situation simultaneously serves as one of the mechanisms in the criminal law system for mitigating liability to a certain degree through compensation for material damages .

CPC provisions (Articles 289-290) allow confiscation of prohibited property and seizure of assets. In this case, the accused or defendant may have registered such property not in their own name, but in the names of third parties in order to conceal the traces of the property transfer. If evidence confirming these circumstances is not found , then the issues of seizure and confiscation of property remain open.

Furthermore, Article 87 of the CPC stipulates methods of gathering evidence for this type of case. However, a number of important legal issues remain unresolved within the framework of criminal procedure legislation. In particular, the legal grounds and procedures for the seizure and subsequent confiscation of property, especially property owned or used by third parties, are not clearly defined. Secondly, the issues relating to the tracing of criminal assets, namely, the determination of their actual location, type, and ownership rights, are not procedurally regulated, which results in legal gaps that hinder the effective identification and recovery of illegally acquired assets .

Article 179³ of the of the Code of the Republic of Uzbekistan on Administrative Responsibility establishes liability for violations of anti-money laundering internal control and reporting requirements . This provision, by its essence, does not serve as a direct legal mechanism blocking the entry of illicit income into lawful economic circulation, but it can be considered as an integral part of a system of preventive measures.

A 2020 draft law proposed introducing to the CC, the CPC, the Criminal Executive Code and other regulatory legal acts special confiscation and related

amendments, but it has not yet been enacted. Some scholars argue confiscation undermines property rights , but we believe the acquisition of such assets itself constitutes a violation of the legitimate property rights of their rightful owners.

The 2004 Law defines income from criminal activity broadly, covering illicit property, profits, and converted assets. This law is directed towards the prevention of money laundering rather than the restitution of criminal proceeds. At the same time, this law together with the extensive national legislation adopted for its implementation employs the term suspicion, a concept also reflected in the United Kingdom's Proceeds of Crime Act as well as in the works of various legal scholars. In our national legislation, however, this term is not applied to all categories of illicit assets, but specifically to matters concerning the prevention of money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction.

Anti-money laundering obligations apply to financial institutions and designated non-financial businesses, including banks, securities firms, insurers, notaries, lawyers, and crypto-asset providers. Today, illicit proceeds are increasingly laundered through crypto assets rather than bank transfers .

Regulations also define concepts such as beneficial ownership, offshore zones, high-ranking officials, and persons close to high-ranking officials (politically exposed persons), but these are absent from the main 2004 law , creating legal inconsistencies. This creates a conflict with the Law on Normative-Legal Acts , which prohibits regulating such matters through subordinate acts.

By-laws further clarify the framework. The June 28, 2021 Presidential Decree adopted a national Strategy and Roadmap, aligning rules with the United Nations and the Financial Action Task Force (FATF) standards and identifying priority risks (shadow economy, cash reliance, cross-border flows, corruption). To address these risks, Chapter 6(g) strengthens international cooperation on tracing, freezing, confiscation, and return of assets . Notably, it is only in this part of the document that the term "return of assets" is employed.

The Strategy uses the term "predicate crimes" for the first time in our national legislation . Under national legislation, this term is defined as any offense provided for in the CC, the commission of which is directed toward the obtaining illegal income .

Complementing this, Resolution No. 402 (2021) mandates reporting of suspicious transactions to the financial intelligence unit (FIU) and establishes information-exchange procedures, while the

cooperation regulation (Clause 22) enables cross-border tracing and seizure through contact points. It is noteworthy that the expression “return of assets” appears solely in this part of the document.

Along with regulatory legal acts, we consider it appropriate to examine the explanations of the Plenum of the Supreme Court, which are binding for courts, state bodies and other organs, enterprises, institutions, organizations, and officials applying the legislation to which this explanation pertains. The Supreme Court clarified that money laundering requires prior commission of a predicate crime producing illicit proceeds. The Resolution lists predicate crimes, but the scope remains narrow. The list omits areas like crypto-assets, IP violations, and gambling, which should also qualify as predicate crimes.

The Resolution also stipulates that illicit property should be confiscated after compensating victims, with legitimate assets returned to their owners.

The 2022 Civil Service Law introduced mandatory income and asset declarations, but full implementation remains pending (the State Register of Civil Service Positions has not yet been approved). Draft laws establishing a comprehensive declaration regime and liability for illicit enrichment have not been adopted. While declarations alone are not sufficient, they are a critical early-warning tool when combined with verification and enforcement.

In conclusion, Uzbekistan’s asset-recovery regime remains fragmented: key terms (e.g., illicit assets, beneficial owner, offshore zone, high-ranking officials and persons closely associated with high-ranking officials) are not uniformly embedded in primary legislation; procedures for tracing, seizing, and confiscating assets, especially those held via third parties, are under-specified; and the absence of an operational declaration regime and a codified illicit enrichment offense constrains enforcement.

To address these deficiencies, Uzbekistan should: (i) establish uniform statutory definitions across the Criminal Code, the Criminal Procedure Code, and related legislation; (ii) legislate comprehensive procedures for the identification, freezing, confiscation, and administration of assets, including determinations of beneficial ownership and recovery of derivative income or dividends; (iii) incorporate a dedicated chapter in the Criminal Procedure Code on asset tracing and management; (iv) implement income/asset declarations, accompanied by mechanisms for verification, sanctions for non-compliance, and the criminalisation of illicit enrichment; and (v) strengthen international cooperation, including recognition and execution of

foreign confiscation orders. By taking these actions, the framework would be in line with international norms, enhance real-world recoveries, and strengthen economic security and the rule of law.

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