

Transparency International France’s contribution to OHCHR’s call for input on Human Rights Council resolution 52/21 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation:

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Since 2008, Transparency International France (TI-France) has been fighting against 'ill-gotten' luxurious properties purchased in France by corrupt leaders and their entourage. The recognition of anticorruption associations’ legal standing in corruption cases and the adoption in August 2021 of an

asset repatriation reform, two step forward reforms led by TI-France, have paved the way for better compensation for corruption victims.

With 15 years of experience, TI-F has acquired recognized expertise in asset recovery and has developed various means of action in this field, from advocacy to capacity-building and strategic litigation. TI-F's contribution to OHCHR's call for input on Human Rights Council resolution 52/21 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin falls within the association's long-standing battle for responsible asset repatriation.

There are many obstacles to the restitution of stolen assets, each of which is a further setback to the enjoyment of human rights. TI-F will not list all of these obstacles in this contribution but will focus on the ones observed by the association, based in France, a destination country, while working in the asset recovery area over the years.

1. What are the main obstacles identified at the different stages of the process of repatriation of funds of illicit origin to the countries of origin? Please refer to the identified legal, practical, and institutional obstacles.

Countries' poor performance in enforcing against foreign bribery and prosecuting transnational money laundering schemes is one of the first hurdles that hinders asset recovery and, *in fine*, the repatriation of funds of illicit origin to the countries of origin. Such a poor performance lies on several factors: lack of financial and human means that derive from a lack of political willingness to tackle foreign bribery and money laundering, international cooperation hurdles, etc. When they are not political, these **obstacles are more practical than legal**, as this is the case with international cooperation.

Apart from a few exceptions, **destination countries are too reliant on origin countries' initiatives to initiate asset recovery proceedings**¹. This is despite international and domestic legal frameworks that provide countries with jurisdiction to seize and confiscate assets of illicit origin and proceeds of crime. Countries may indeed enforce foreign bribery by taking legal action against their national companies for having bribed foreign officials abroad. The latest data however reveals that far too many countries still do not efficiently criminalize foreign bribery: close to 50% percent of global exports come from countries where foreign bribery enforcement is limited or inexistent².

¹ See for instance Into the Void, The EU's struggle to recover the proceeds of grand corruption, TI-EU, 2019: "The *system has made the EU very reliant on the outcome of the legal proceedings in the countries of origins, which are often hampered by the deficiencies of judicial and law enforcement systems in the countries affected by these sanctions. They may also be subject to political interference.*"

² Transparency International, [Exporting Corruption: Assessing enforcement of the OECD anti-bribery convention](#), 2022

Proceeds of corruption may also be laundered and hidden abroad. Countries, for instance, may establish jurisdiction over money-laundering offenses if assets suspected to be of criminal origin are located in their jurisdiction³. In such cases, convictions for money laundering can be pronounced in assets holding countries, thousands of miles away from where the predicate offence of corruption took place. However, too many countries still rely on a predicate offense to secure a conviction for money laundering and trigger an asset recovery process. In the European Union, for instance, the identification of the predicate offence for the conviction for money laundering has been ranked at the top of the ten most relevant legal and practical challenges⁴.

Far from being anecdotal, these practices hamper international cooperation and, ultimately, prevent the return of stolen assets to the origin countries.

2. What are the main obstacles encountered by requesting and requested States at the different stages of the process of repatriation of illicit funds:

It should first be noted that asset recovery does not limit itself to the requested State/requesting State pattern⁵. Destination countries (*i.e.*, countries where the stolen assets and proceeds of crime are located) may seize, confiscate, and then return stolen assets and proceeds of crime without having received any mutual legal assistance request from the country of origin (*i.e.*, the country where the stolen assets and proceeds of crime originate from). **It is necessary to break out this pattern as destination countries over reliance on origin countries' legal proceedings is one of the main obstacles to effective international asset recovery.**

A. *the identification and tracking of the funds.*

A major obstacle to the identification and the tracking of the funds lies in the financial opacity that allow the criminals to hide their stolen assets and proceeds of crime.

Tremendous progress has been made in recent years on fighting financial opacity, notably with the lifting of banking secrecy and the Common Reporting Standard (CRS). This progress has not prevented economic criminals from adapting their practices. For example, a study published in 2020 highlighted the growing importance of real estate assets in offshore portfolios, which are not subject to the CRS⁶.

³ "Asset Recovery Handbook, A Guide for Practitioners, Second Edition", Stolen Asset Recovery Initiative (StAR), 2020, p.309

⁴ Eurojust Report on Money Laundering, October 2022, p. 8

⁵ The Stolen Asset Recovery Initiative (StAR)'s Asset Recovery Handbook

⁶ LE GUERN S. et BOMARRE J, Will We Ever Be Able to Track Offshore Wealth? Evidence from the Offshore Real Estate Market in the UK, Paris School of Economics, 2022

Effective beneficial ownership transparency⁷ coupled with a global register of assets providing "complete knowledge of global wealth holdings"⁸ would make it possible to combat these practices.

B. Measures to seize/freeze and confiscate the funds.

Money laundering investigations allow destination countries to trigger asset recovery proceedings without having to wait for origin countries to send a mutual legal assistance request. Despite these advantages, this avenue for asset recovery remains underuse. One of the reasons is that **many countries set up high standards for public prosecutors to characterize the predicate offense**. Consequently, as underlined by EUROPOL, "prosecutors from these countries are more reluctant to start money laundering investigations⁹", **which negatively impacts their ability to seize funds whose origin is suspected as being illicit**.

International standards already allow law enforcement authorities to characterize money laundering without having to rely on a prior conviction for the predicate offence. An interpretative note to Article 23 of the United Convention Against Corruption (UNCAC) expressly specifies that "a prior conviction for the predicate offence is not necessary to establish the illicit nature or origin of the assets laundered. The illicit nature or origin of the assets and [...] any knowledge, intent or purpose may be established during the course of the money-laundering prosecution and may be inferred from objective factual circumstances¹⁰." Likewise, the Financial Action Task Force (FATF) provides that when proving that property is the proceeds of a crime, it should not be necessary for a person to be convicted of a predicate offence¹¹.

A liberal interpretation of these international standards would allow prosecutors to open money laundering investigation without it being necessary to establish all the factual elements or circumstances relating to the predicate offence. French courts of justice have already adopted such a liberal interpretation¹². In the European Union, a 2018 directive provides that Member States should prosecute

⁷ See [Transparency International's work](#) on beneficial ownership transparency

⁸ EU Tax Observatory, [Global Tax Evasion Report 2024](#)

⁹ Legislative guide for the implementation of the United Nations Convention against Corruption, para. 248; Interpretative notes for the official records (travaux préparatoires) of the negotiation of the United Nations Convention against Corruption (A/58/422/Add.1), para. 32

¹⁰ Ibid 5.

¹¹ The FATF Recommendations, International standards on combating money laundering and the financing of terrorism & proliferation; updated February 2023, Recommendations No. 3 "*Money laundering offence*" and its interpretative note, p. 38, para.4

¹² Enforcement of money laundering does not require that the predicate offence occurred in France, nor that it falls within the French courts' jurisdiction, as long as its main elements are characterized (see Cass. Crim.; 20 February 2008; n° 07-82.977 – Cass. Crim.; 24 February 2010; n° 09-82.857). According to established case law, the French courts may even prosecute money laundering without having determined the circumstances of the commission of the predicate offences (see Cass. Crim.; 4 December 2019; n° 19-82.469). The intent and knowledge required to prove the money laundering offence can be inferred

and sanction money laundering without it being necessary to establish all the factual elements or circumstances relating to the predicate offence, including the identity of the perpetrator.¹³

C. the recovery and returning of the funds.

Once assets of illicit origin have been identified, seized, and confiscated, returning them to origin countries is not challenging per se. **What is challenging is repatriating confiscated funds while enforcing principles of transparency and accountability and including civil society organisations (CSOs) in the repatriation process.**

Countries are proving ill-equipped to meet this challenge. Very few countries, both of origin and destination, have a formal legal framework detailing the implementation of the principles of transparency and accountability in restitution procedures. Such a legal framework, with remedies and a clear division of roles and responsibilities between the various actors involved, either being national and supranational authorities, private actors or CSOs, would make it possible to prevent political and economic interests from taking precedence over the transparency and accountability of restitution procedures.

3. Please describe the negative impact of these obstacles and the non-repatriation of illicit funds to the countries of origin on the enjoyment of human rights, with an enhanced focus on economic, social, and cultural rights.

The non-repatriation of confiscated assets of illicit origin negatively impacts the enjoyment of human rights as much as a repatriation process carried out secretly and opaquely, excluding civil society organizations. Indeed, a *transparent, inclusive, and accountable* return of misappropriated assets to the origin countries does not only help countries to recover misappropriated wealth but also to develop and strengthen their institutions and build the confidence they need to prevent such cases in the future.

The restitution of embezzled assets with a view to their social reuse is also a **symbol of justice**. By depriving corrupt leaders of the enjoyment of the proceeds of their crime and allocating these confiscated sums to improving people's living conditions, strengthening the rule of law, and fighting corruption, the restitution of embezzled assets not only restores citizens' confidence in public institutions, but also emphasizes the message that "crime does not pay".

from objective factual circumstances (see Cass. Crim.; 17 February 2016, n° 15-80.050; Cass. Crim.; 17 March 2015, n° 14-80805; Cass. Crim.; 25 October 2017, n° 16-80.238).

¹³ Ibid., Article 3.3. b)

4. What are the main challenges faced by requesting and requested States in overcoming the obstacles to the repatriation of funds of illicit origin to the countries of origin? Please provide examples of good practices in relation to overcoming the challenges and obstacles to the repatriation of funds of illicit origin to the countries of origin.

Very few countries, both of origin and destination, have a formal legal framework detailing the implementation of the principles of transparency and accountability in restitution procedures. They instead rely on UNCAC Article 57, which gives rise to disparate asset recovery practices within one same country, with major discrepancies from one recovery process to another.

One avenue to overcome asset recovery challenges previously exposed consist in enshrining principles of transparency, accountability, and inclusion of CSOs into domestic legal frameworks.

In August 2021, France promulgated a law that established a legal framework for stolen assets repatriation¹⁴. Under the new law, the confiscated assets of illicit origin must be returned as close as possible to the population of the origin country with the aim of financing 'co-operation and development initiatives. In practical terms, a specific budgetary line has been created under the auspices of the Public Development Assistance Mission, which falls under the Ministry of Foreign Affairs. Ring-fencing the revenues in this way gives the Ministry of Foreign Affairs the flexibility to decide on a case-by-case basis how funds will be returned. In November 2022, one year and a half after the promulgation of asset repatriation law, the French Prime Minister released a circular detailing the implementation modalities of the law which added clarity to the mechanism and strengthened its transparency and accountability¹⁵.

As of today, France is currently negotiating with Syrian and Equatoguinean authorities the modalities of the return of confiscated stolen assets from these countries but hasn't returned any assets yet. This law legal framework has, nevertheless, the merit of existing and minimises the risk of sacrificing the requirements of justice and transparency in asset recovery procedures on the altar of political and economic interests.

5. Please share what, if any, are the mechanisms in place in your country to measure illicit financial flows not only related to corruption but also to human and drug trafficking.

N/A

¹⁴ [Circular n° 6379/SG of November 22nd, 2022](#),

¹⁵ [Article 2.XI of Law No 2021-1031 of 4 August 2021](#)

6. What measures should be undertaken to ensure that returned assets are devoted to the fulfilment of human rights? Please provide information on good practices in this regard, including in relation to the establishment of managing and oversight mechanisms to ensure the appropriate use of repatriated funds.

In 2022, TI-France published the second edition of its [Handbook on Asset Restitution](#) gathering good practices and recommendations for the responsible return of stolen assets.

So far, despite growing voices calling for the enforcement of transparency, integrity, and accountability principles in asset recovery processes¹⁶, **no country has yet set an example of best practice in asset recovery**. Destination countries and origin countries alike have failed to address these issues properly, insofar as no country has adopted a comprehensive, consistent, and systematic asset recovery policy. On the contrary, **asset recovery experiences and practices remain disparate, with major discrepancies from one recovery process to another**, even in recent cases.

TI-France has focused particularly on these issues when producing this handbook, with the aim of providing a methodological foundation for a comparative approach to asset recovery processes. Drawing on lessons learnt from past experiences in asset recovery and based on several studies carried out abroad, **TI-France has developed a series of color-coded indicators to measure the degree of transparency, accountability, and inclusiveness at each stage of the asset recovery process and proposes a series of good practices and recommendations**.

TI-France has identified **four main stages in the asset repatriation process**:

- Stage 1: Negotiating the restitution terms between states.
- Stage 2: Selecting the projects to be financed with the recovered funds.
- Stage 3: Selecting recipient entities and allocating funds.
- Stage 4: Monitoring and evaluation.

¹⁶ [GFAR Principles for Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases](#), [Civil society principles for accountable asset return](#)

Stage 1: Degree of transparency, accountability, and inclusiveness during the negotiations of the restitution terms between states

	Transparency	Accountability	Inclusiveness
Objectives	<ul style="list-style-type: none"> Non-governmental actors and the general public are informed of the main steps in the negotiation timetable and of key information on the nature of the confiscated assets; they have access, where applicable, to the restitution agreements concluded as a result of the negotiations. 	<ul style="list-style-type: none"> At the end of the negotiations, the following aspects are clearly defined: the terms of the restitution; the roles and responsibilities of the authorities of the destination country and the origin country; the objectives of the asset restitution process; and the terms and conditions of the monitoring and evaluation process. 	<ul style="list-style-type: none"> Civil society and the general public have immediate access to information. Their concerns and suggestions are taken into account. Civil society is also allowed, to a certain extent, to participate in negotiations of restitution agreements.
Sources of verification	<ul style="list-style-type: none"> Confiscation order Restitution agreements (e.g. Memoranda of Understanding, etc.) Press releases and similar publications from the destination country and the origin country concerning the negotiations and conclusion of restitution agreements. 	<ul style="list-style-type: none"> Restitution agreements (e.g. Memoranda of Understanding, etc.) 	<ul style="list-style-type: none"> Online public consultation document Summary report of the public consultation Call for expressions of interest encouraging CSOs to participate in the negotiations Press releases and similar publications from the destination country and the origin country concerning the negotiation and conclusion of restitution agreements.
Level 3	<ul style="list-style-type: none"> The information is centrally accessible as open source on a dedicated website or webpage, accessible from both the origin and destination countries, in at least the languages spoken in the origin and destination countries, and by default, i.e. without needing to submit a request. Essential information on the case (for example, nature of the case, confiscation order, identity of natural and legal persons involved, assets involved, charges, etc.), the general asset recovery framework, the documentation on the sharing of the funds (including the amount of reasonable expenses deducted by the destination state, if any), and the documentation on the terms of the restitution (precise amount of confiscated assets, schedule of the asset recovery process, choice of final allocation of funds, terms and conditions for monitoring and auditing the transfer and use of the funds, etc.), are published as soon as the restitution framework has been defined and the decisions have been taken. 	<ul style="list-style-type: none"> The intermediate and final objectives of the asset recovery process, as well as the terms and conditions of the monitoring and evaluation process, are determined at the end of the negotiation phase. The role of the government authorities involved in the asset restitution process and the stage at which they intervene are clearly defined. Contact points are designated within the various intervening authorities. Both the destination state and the origin state must be held accountable, where appropriate, for the irregularities identified during the asset restitution process. Where restitution agreements are concluded as a result of the negotiations, they include clauses whereby any suspicion of irregularities or non-compliance with the GFAR principles will result in the suspension of the transfer of assets. 	<ul style="list-style-type: none"> Civil society has access to all the documentation related to the restitution without delay and throughout the asset restitution process. A four-way dialogue is established between the destination country, the origin country, destination country CSOs and origin country CSOs. The authorities of the destination and origin countries select one or more CSOs to be involved in the negotiations in a transparent way, in line with good practices in the selection of civil society actors.¹²

	Transparency	Accountability	Inclusiveness
Level 2	<ul style="list-style-type: none"> Access to all the information is restricted to stakeholders only. Only general information on the restitution framework is published (States Parties, amount of money returned, brief reminder of the charges, etc.), shortly before the funds are transferred or at the end of the asset recovery process. The negotiations are not publicised while they are ongoing. 	<ul style="list-style-type: none"> Only the broad outlines of monitoring and evaluation are defined at the end of the negotiations. Only the main authorities of the origin country and the destination country involved in the restitution are identified. There is no designated point of contact within the various intervening authorities. The origin country and the destination country do not provide for their mutual accountability or for the suspension of the asset restitution process in the event of irregularities or non-compliance with the GFAR principles; they may even include a clause in restitution agreements expressly excluding their responsibility. 	<ul style="list-style-type: none"> Civil society is informed solely about the general restitution framework, and only after the restitution agreement is concluded. The competent authorities in the origin country and the destination country hold hearings with chosen CSOs on limited issues, with a view to concluding the restitution agreement. CSOs are selected at their own discretion, with no transparency as to the criteria considered.
Level 1	<ul style="list-style-type: none"> The negotiations take place behind closed doors. Civil society is not informed or given access to the resulting agreements. 	<ul style="list-style-type: none"> Roles and responsibilities, as well as the terms of the asset recovery process, are not defined. No specific accountability mechanism is put in place, and the destination and origin states include a waiver of responsibility clause in the restitution agreements. 	<ul style="list-style-type: none"> Civil society has no role in the negotiations and is not consulted.

Stage 2: Degree of transparency, accountability and inclusiveness when identifying needs and selecting recipient projects or programmes

	Transparency	Accountability	Inclusiveness
Objectives	<ul style="list-style-type: none"> Civil society and the general public have immediate access to information and documents related to the selection of specific projects or programmes to which the returned funds will be allocated. 	<ul style="list-style-type: none"> Funds are allocated to specific projects or programmes following a selection process that meets the highest standards of transparency, fairness and impartiality, based on objective criteria to ensure that the needs and expectations of the affected populations have been taken into account. 	<ul style="list-style-type: none"> The terms and conditions for selecting recipient projects and programmes guarantee that civil society is included and that the needs and expectations of the affected populations are taken into account regarding the use of returned funds.
Sources of verification	<ul style="list-style-type: none"> Consultation document for identifying needs and selecting recipient projects or programmes Summary report on the responses and proposals received Award decisions 	<ul style="list-style-type: none"> Consultation document for identifying needs and selecting recipient projects or programmes Summary report on the responses and proposals received Award decisions 	<ul style="list-style-type: none"> Consultation document for identifying needs and selecting recipient projects or programmes Summary report on the responses and proposals received
Level 3	<ul style="list-style-type: none"> The information is accessible as described under Step 1, Level 3. All the information and documentation concerning the selection of recipient projects or programmes, including the total budget allocated to each project or programme, is published in real time throughout the selection process. 	<ul style="list-style-type: none"> The selection of recipient projects or programmes is made following a public consultation to identify the needs and expectations of the affected populations, organised in accordance with the good practices in this field,¹⁴ and allowing civil society actors to make proposals. All actors involved in selecting projects are clearly identified. Contact points are designated for these actors. Stakeholders have access to remedies in the event of irregularities – such as conflicts of interest – in the selection of recipient projects or programmes.¹⁵ 	<ul style="list-style-type: none"> Civil society and the general public in the origin country and/or, when circumstances warrant, in the destination country, are consulted before recipient projects or programmes are selected, in order to determine the expectations and needs of affected populations. The consultation is organised in accordance with good practices in public consultation¹⁶ and identifies the populations directly affected by the crimes. The consultation is organised with sufficient notice to allow civil society actors to submit proposals for allocating returned funds. It clearly and plainly specifies the objective criteria taken into account during the selection process.

	Transparency	Accountability	Inclusiveness
Level 2	<ul style="list-style-type: none"> Only stakeholders are given access to all the information available. The only material published at the beginning of the implementation phase is a report informing the public of the choice of recipient projects or programmes, containing a brief presentation of the projects or programmes chosen and the main stages of implementation. 	<ul style="list-style-type: none"> The origin country chooses the recipient projects or programmes on a discretionary basis, in consultation with the destination country, without the selection criteria being made public. Only the main authorities involved in the selection of recipient projects or programmes are identified. No specific accountability mechanism is put in place to ensure that recipient projects or programmes are selected according to objective criteria. 	<ul style="list-style-type: none"> No public consultation is organised. The involvement of CSOs is limited to hearings with a handful of CSOs selected at the discretion of the origin and destination countries, with no transparency as to the criteria considered.
Level 1	<ul style="list-style-type: none"> The terms and conditions for allocating the returned funds to specific projects or programmes are not published. 	<ul style="list-style-type: none"> The allocation of the funds to recipient projects or programmes is not subject to a formalised procedure, and roles and responsibilities are not defined. The origin country selects the recipient projects or programmes on a wholly discretionary basis, with no specific accountability mechanism in place to ensure that they are selected according to objective criteria. 	<ul style="list-style-type: none"> Civil society and the general public are not consulted on the selection of recipient projects and programmes.

Stage 3: Degree of transparency, accountability and inclusiveness when selecting recipient entities and allocating funds

	Transparency	Accountability	Inclusiveness
Objectives	<p>→ Civil society and the general public have access to all the information and documentation concerning the disbursement and allocation of the returned funds.</p>	<p>→ The process of allocating funds and implementing recipient projects or programmes ensures the best possible use of the funds returned, allows for the clear identification of all actors involved, and provides for appropriate mechanisms to prevent and remedy any potential irregularities.</p>	<p>→ Civil society can fulfil its role as a guardian of the integrity of the asset restitution process and monitor the legitimacy of the allocation process.</p>
Sources of verification	<ul style="list-style-type: none"> • Calls for tender • Award decisions • Contracts concluded • Press releases and similar publications from the origin and destination countries concerning the allocation of the funds 	<ul style="list-style-type: none"> • Calls for tender • Award decisions • Contracts concluded 	<ul style="list-style-type: none"> • Calls for tender • Award decisions • Contracts concluded • Press releases and similar publications from the origin and destination countries concerning the allocation of the funds
Level 3	<ul style="list-style-type: none"> • The information is accessible as described under Step 1, Level 3. • All the information and documentation concerning the tendering and award process (including the reasons why the successful bids were selected) and the resulting contracts are published throughout the selection process and while the recipient projects or programmes are being implemented. 	<ul style="list-style-type: none"> • The returned funds are allocated to the recipient entities responsible for implementing the recipient projects or programmes following a competitive tender process, in accordance with good practices in public procurement.²⁷ • There is full disclosure of all actors involved in implementing recipient projects or programmes, in both the origin and destination countries, and the authorities responsible for selecting recipient entities and disbursing funds. • Contact points are designated for these various actors. • Stakeholders have access to remedies in the event of irregularities in the allocation process (including during the tender process).²⁸ • No transfer of funds can take place until the arrangements for monitoring and control have been defined. 	<ul style="list-style-type: none"> • Civil society and the general public have access to all the information and documentation concerning the allocation of the funds, so that they can monitor and report any potential irregularities. • CSOs may apply for tenders to select recipient entities in charge of implementing recipient projects or programmes, under the same conditions and requirements as those set for other bidders.

Stage 4: Degree of transparency, accountability and inclusiveness during the monitoring and evaluation of the asset restitution process

	Transparency	Accountability	Inclusiveness
Objectives	<p>→ Civil society and the general public have access to all the documentation related to the monitoring and evaluation process and are kept informed of the progress and results of the implementation of recipient projects or programmes.</p>	<p>→ An effective, impartial and independent monitoring and evaluation process is planned and put in place to monitor whether the objectives of the asset recovery process are being achieved. This process is accompanied by appropriate mechanisms to prevent and remedy any problems and irregularities during the project implementation phase.</p>	<p>→ The opinions of civil society and the general public are taken into account in the evaluation of the asset restitution process, and the CSOs of the origin and destination countries have access to all the resources they need to properly monitor and evaluate the process.</p>
Sources of verification	<ul style="list-style-type: none"> • Calls for tender for the selection of monitors and evaluators • Award decisions • Contracts concluded • Mandate for monitors and evaluators • Interim and final monitoring reports • Interim and final evaluation reports • Press releases and similar publications from the origin and destination countries concerning the monitoring and evaluation process 	<ul style="list-style-type: none"> • Calls for tender for the selection of monitors and evaluators • Contracts concluded • Mandate for monitors and evaluators • Interim and final monitoring reports • Interim and final evaluation reports 	<ul style="list-style-type: none"> • Calls for tender for the selection of monitors and evaluators • Contracts concluded • Mandate for monitors and evaluators
Level 3	<ul style="list-style-type: none"> • The information is accessible as described under Step 1, Level 3. • The authorities of the origin and destination countries issue press releases or similar publications, regularly and throughout the implementation phase of the recipient projects or programmes, in order to keep civil society and the general public informed of their progress and results. • All the documentation relating to the transfer and management of the returned funds, the monitoring and evaluation terms and conditions (including for selecting the monitors and evaluators), as well as the interim and final monitoring and evaluation reports is published without delay and throughout the implementation of the recipient projects or programmes. 	<ul style="list-style-type: none"> • The authorities of the origin and destination countries plan and implement an impartial and independent monitoring and evaluation process in accordance with good practices in monitoring and evaluation.²⁹ Interim and final monitoring and evaluation reports are then published according to a pre-determined schedule, depending on the duration of the implementation phase of the recipient projects or programmes. 	<ul style="list-style-type: none"> • Civil society and the general public have access to all information and documentation concerning the implementation, monitoring and evaluation of recipient projects or programmes in order to carry out their own checks and report any potential irregularities. CSOs also have access to relevant sites.

	Transparency	Accountability	Inclusiveness
Level 2	<ul style="list-style-type: none"> • Only stakeholders are given access to all the information available. Only tenders are published. The identity of the recipient entities is disclosed when implementation of the recipient projects or programmes begins. 	<ul style="list-style-type: none"> • Recipients of the funds are selected through a tender process organised exclusively by the authorities in the origin country and the destination country to implement the projects chosen by those authorities. • Only the main actors involved in allocating the funds (state authorities) and implementing the funded projects (recipient entities) are identified. • No specific accountability mechanism is in place. 	<ul style="list-style-type: none"> • Civil society and the general public are only given access to very limited information, and only after the project implementation phase is underway, which does not allow them to flag potential irregularities in time to remedy them. • CSOs are not allowed to apply for tenders for selecting recipient entities.
Level 1	<ul style="list-style-type: none"> • The conditions for allocating funds to recipient entities and implementing recipient projects or programmes are not published. 	<ul style="list-style-type: none"> • The allocation of funds to recipient entities is not subject to a formalised procedure, and the roles and responsibilities involved are not defined. The origin country selects the recipient entities on a wholly discretionary basis, with no specific accountability mechanism in place to ensure that they are selected according to objective criteria. 	<ul style="list-style-type: none"> • Civil society does not have access to the information necessary to monitor the process for allocating the funds to recipient entities.

	Transparency	Accountability	Inclusiveness
Level 3		<ul style="list-style-type: none"> • Monitors and evaluators are selected according to criteria that guarantee their impartiality and independence and the quality and reliability of their work,²⁷ following a competitive tender process in accordance with good practices in public procurement,²⁷ and they are held accountable to stakeholders for their activities.²⁸ • The recipient entities are subject to specific sanctions if any irregularities are reported by monitors overseeing the implementation of the projects (e.g. suspension of funding, reimbursement of all or part of the funds in the event of misappropriation by recipient entities, etc.). 	<ul style="list-style-type: none"> • Civil society and the general public have the opportunity to flag any problems or irregularities encountered in the implementation of recipient projects or programmes through a complaints and alert mechanism available throughout the implementation phase, set up in accordance with good practices.²⁸ • The opinions of civil society and the general public, in particular those of victim populations, are taken into account when monitoring and evaluating the impact of recipient projects or programmes, in accordance with good practices.²⁸ • CSOs may apply for tenders for the selection of monitors and evaluators under the same conditions and requirements as those set for other applicants. Where CSOs play a role in monitoring and evaluating, they are allocated a share of the returned funds for the performance of their tasks, on the condition that they will have to account for the expenditure of these funds.
Level 2	<ul style="list-style-type: none"> • Only stakeholders are given access to all the information available. • Only the documentation relating to the transfer and management of the returned funds is published at the end of the asset recovery process, excluding information and documentation relating to the monitoring and evaluation process. 	<ul style="list-style-type: none"> • The authorities of the origin and destination countries draw up the monitoring and evaluation arrangements, which are not made public. • Monitors and evaluators are selected at the discretion of the authorities of the origin and destination countries and are only required to prepare a final report, which is accessible only to these authorities. • No specific accountability mechanism is in place, either for the monitors and evaluators, or for recipient entities. 	<ul style="list-style-type: none"> • Civil society and the general public are only given access to very limited information after the asset recovery process is complete, which does not allow them to flag possible problems or irregularities in time to remedy them. • The monitoring and evaluation process remains opaque to civil society actors, who do not have the opportunity to make their opinions heard. • CSOs do not have the option of applying for tenders for the selection of monitors and evaluators.
Level 1	<ul style="list-style-type: none"> • No material is published on the implementation of recipient projects or programmes, or their monitoring and evaluation. 	<ul style="list-style-type: none"> • There is no formalised procedure for monitoring the implementation of recipient projects or programmes or for evaluating the asset recovery. They are exclusively the responsibility of the authorities of the origin country, with no guarantees of independence and impartiality and with no specific accountability mechanisms in place. 	<ul style="list-style-type: none"> • Civil society does not have access to the information needed to monitor the implementation of recipient projects or programmes and evaluate the asset recovery process. The opinions of civil society actors are not heard or taken into account in the monitoring and evaluation carried out by the authorities of the origin country.

This handbook also aims to dispel several misconceptions: that returning confiscated stolen assets is tantamount to providing official development assistance; that involving a CSO in the asset recovery process is enough to satisfy the inclusiveness requirement; and that involving an intergovernmental organisation in the recovery process fulfils transparency and accountability requirements. Countering these myths makes it possible to move beyond a paternalistic or neo-colonial vision and place the origin countries' populations – the primary victims of corruption – at the heart of asset recovery. Given that both destination and origin countries have obligations of transparency and accountability, the argument that imposing such principles is similar to conditionality falls short.

7. Please provide any additional examples, good practices, and recommendations in relation to the repatriation of funds of illicit origin to the countries of origin.

See TI-France's [Handbook on Asset Restitution](#) for further examples, good practices and recommendations in relation to the repatriation of funds of illicit origin to the countries of origin.

8. Please provide information on opportunities for addressing and mechanisms for repatriating human and drug trafficking related illicit financial flows.

N/A