**Combatting Grand Corruption: Portfolio Review**

**Introduction**

This portfolio covers the 21 month period from October 2013 until June 2015, as the Combatting Grand Corruption portfolio is relatively new for the Eurasia Program (EP). Moving forward, this portfolio will be expanded as per the EP’s new strategy, and renamed to “Contesting State Corruption” to reflect the intention of National Foundations and the EP to address corruption not only at the high state level, but also at the level of local government.

Thus far, $637,977 has been spent on this portfolio, including $451,714 in grants (6 grants), and $186,263 in consultancies (11 contracts) (see Annex 1).

**A. Assets recovery agenda**

This portfolio was developed in 2013 to seize upon the opportunity presented by the following developments: 1) a corruption scandal in the telecom market of Uzbekistan that was reported first by Swedish investigative journalists in 2011; and 2) a criminal investigation opened in a number of jurisdictions, including Switzerland, Sweden, the Netherlands, Norway and the United States into alleged corruption in Uzbek telecom and respective money laundering. As a result of these investigations, assets in the amount of around 900 million USD have been frozen in the Swiss bank accounts held by two offshore companies in Gibraltar, the beneficiary of which is believed to be Gulnara Karimova, the elder daughter of Uzbek President Islam Karimov.

We viewed these developments as an opportunity to raise the issue of ill-gotten assets and their fair recovery as a redress for the victims of corruption in Uzbekistan. The asset recovery would also ideally challenge the climate of impunity in this country, as the corrupt elite would be stripped of the assets they have acquired unlawfully.

Two successful precedents in the area of assets recovery inspired our agenda in pursuing work in this area. These were the “Biens Mal Acquis” campaign launched by the Sherpa Association in 2007 and the creation of the BOTA Foundation from the assets seized in Kazakh-gate. In the first case, Sherpa filed a legal complaint before the French Public Prosecutor against the ruling families of Congo-Brazzaville, Equatorial Guinea, and Gabon resulting in 11 luxury cars and other luxury goods owned by the son of Teodoro Obiang Nguema Mbasogo, the president of Equatorial Guinea, being [seized](https://globalvoicesonline.org/2011/10/03/equatorial-guinea-11-luxury-cars-belonging-to-obiangs-son-seized-in-paris/) by French police in 2011. In the instance of Kazakh-gate, the money seized by Switzerland in the case was not ultimately returned to the government of Kazakhstan, but allocated to a fund administered by international NGOs and chaired by a prominent human rights defender, Yevgenyi Jovtis. These two precedents proved the feasibility of seizing and forfeiting ill-gotten assets and their repatriation not back to the government in question, but allocation for social projects to be run and/or supervised by civil society organizations. The rest of the assets recovery agenda, i.e. how to most effectively use the assets, remains a topic of discussion for experts and stakeholders, as there are concerns that the Bota Foundation might have not spent the funds in an efficient way.

In 2013 we adopted the following action plan, taking into account the aforementioned considerations and the best entry point for our intervention into affairs around the Uzbek telecom market and the frozen assets:

1. Initiate journalist investigations and research to assess the scale of corruption and money laundering in and around Uzbekistan’s telecom market.

*Results:* We allocated two grants ($25,000 and $139,820) to the Organized Crime and Corruption Reporting Project (OCCRP). The second grant was allocated to a project with an expanded focus including Azerbaijan and Turkmenistan. Although OCCRP already had a network of local investigative journalists in some Eurasian countries, they had never done work in Central Asia prior to our grant. The result of these projects have gone above and beyond our expectations: a big story was [published](https://www.occrp.org/corruptistan/uzbekistan/gulnara_karimova/the-prodigal-daughter/) in March 2015 on corruption in the Uzbek telecom market and Gulnara Karimova’s involvement in shadowy deals, followed by [three stories](https://www.occrp.org/freekhadijaismayilova/) on the Aliyev family’s businesses in Azerbaijan. The publications have attracted huge international attention to the situation in and around the Uzbek telecom market and in Azerbaijan. The report on Gulnara Karimova has [brought](http://www.aftenposten.no/okonomi/Gulnara-Karimova-Jetset-prinsessen-som-lurte-alle-7985068.html) the Norwegian mobile operator Telenor to the attention of the international press and Norwegian regulators. On June 30, it was [reported](http://www.bloomberg.com/news/articles/2015-06-29/u-s-seeks-to-grab-300-million-in-uzbek-telecom-bribery-probe) that the US Department of Justice is seeking to seize $300 million—the proceeds of an international bribery conspiracy involving two Russian phone companies, MTS and Vympelcom, in connection to the Uzbek telecom corruption probe. Already on July 9, 2015 U.S. District Judge Andrew Carter in Manhattan allowed the government to [take the funds](http://www.bloomberg.com/news/articles/2015-07-09/u-s-wins-bid-to-seize-300-million-in-uzbek-bribery-probe) held by Bank of New York Mellon Corp. in Ireland, Luxembourg and Belgium, and in Clearstream Banking SA accounts linked to these companies and their subsidiaries.

1. Initiate where possible the seizure of remaining assets controlled by Gulnara Karimova.

*Results:* Three such properties were identified in France in the total amount of EUR 50 million, including Château de Groussay—worth EUR 30 million. Thanks to the complaint filed in 2014 by the Sherpa Association (our grantee), these properties were [seized](http://www.lefigaro.fr/flash-actu/2015/02/10/97001-20150210FILWWW00218-saisie-de-biens-de-la-fille-du-president-ouzbeke.php) by the French judicial authorities in February 2015. This lawsuit sought to demonstrate that the corrupt elites can be held accountable for committed crimes. There is a hope that even if the corrupt Uzbek ruling family is still in power this litigation could lead to the confiscation of the assets held in France and eventually ensure their restitution back to the people of Uzbekistan.

1. Work out a convincing argument that the confiscated assets should by no means be returned to the government of Uzbekistan.

*Results*: We have commissioned the following policy papers:

* 1. On corruption in the telecom market of Uzbekistan and how it has damaged human and socio-economic rights in the country firstly by syphoning assets out of public finances and social programs, and secondly by making telecom services more expensive and of lower quality. The draft paper is nearly complete, but we are currently considering transferring to a US entity for publication.
  2. On the link between corruption and human rights problems, a public narrative still requires further development. The paper prepared by our consultant Allison Gill is also almost ready for internal review on the matter of libel liability. Already thanks partly to the public presentation given earlier this year in Washington DC in February, the State Department has already accommodated the main points of the paper in its annual report on human rights released on June 25, 2015. In his opening remarks, Secretary of State John Kerry [highlighted](http://translations.state.gov/st/english/texttrans/2015/06/20150625316360.html#axzz3f8CeTXvQ) the existing link between corruption and human rights abuses. This argument will help us to translate future cases of corruption into human rights cases, thereby opening more opportunities for litigation.
  3. On the lack of progress in Uzbekistan in establishing institutional mechanisms to eradicate corrupt practices. We have commissioned David Lewis to complete a paper which is almost ready for release. The paper argues that most of the anti-corruption actions taken by the Uzbek authorities have been limited to legal actions against alleged corrupt officials, with no due process provided and no reforms to eliminate incentives for corrupt practices.

1. Build a coalition of stakeholders that would advocate for fair assets recovery and work on garnering the political will of the governments concerned.

*Results:* The two-day conference in Bern in November 2014 was organized, with our support, by the Centre for Civil and Political Rights (CCPR Centre). The conference convened experts and representatives of NGOs and the Swiss government and was a step towards building a coalition of stakeholders.

Although the coalition has not yet been fully formed, we already have at least an informal network which includes the following actors:

* 1. OSJI Anti-Corruption Team
  2. OCCRP
  3. Declaration de Berne (Switzerland)
  4. International Centre for Assets Recovery (Switzerland)
  5. Sherpa Association
  6. Ozodlik radio (RFERL Uzbek service)
  7. Ola Westerberg and Joachim Dyfvermark, Swedish investigative journalists
  8. James Maton of Cooley (UK) LLP, a legal expert on corruption related issues;
  9. David Lewis, academic and OSF consultant
  10. Allison Gill, human rights expert and OSF consultant
  11. Brian Campbell, a legal expert who previously worked with ILRF.

There is also a group of Uzbek civil society activists who have initiated a letter to the Swiss authorities calling upon them to not return the frozen assets to the Uzbek government but instead to commit them to the Uzbek people from whom they were stolen.

Finally, we are currently in the process of reviewing a grant proposal from the International State Crimes Initiative (ISCI) which, if endorsed, will aim to build a coalition of stakeholders to address the crimes committed by the Uzbek regime. ISCI will pursue an integrative approach linking human rights issues with problems of corruption, thereby allowing us to qualify these misdeeds perpetrated by the Uzbek regime as state crimes.

Despite the aforementioned achievements, the assets recovery program faces some potential challenges. Although those ill-gotten assets attributed to Gulnara Karimova are frozen, the investigation by Swiss prosecutors into this affair is also frozen due to the apparent lack of political will in Switzerland to bring the case to its end. According to our intelligence, the Swiss Prosecutor’s Office possesses sufficient evidence to move the case to court. This is evidence that was seized in Gulnara’s villa, retrieved from her computer and bank deposit boxes. The issue we are currently encountering results from a complaint filed by the lawyer representing the interests of Gulnara and the Uzbek government. The Swiss court decision on this complaint has resulted in the evidence being sealed since late 2014. Without this evidence it would be difficult to establish predicate of offence regarding the frozen assets. The assets in question can only be confiscated and subsequently dealt with based upon a court decision establishing that money laundering occurred. The current practice suggests that the Swiss authorities tend to take action over cases of ill-gotten assets frozen in Switzerland only when the ruling regime controlling these assets leaves power (with the exception of Kazakh-gate). Another problem is that CSOs in Switzerland do not have standing as civil party in the judicial process and therefore cannot themselves launch litigation in the public interest, as for instance, in France and the UK.

That does not mean, however, that we should wait passively until there is regime turnover in Uzbekistan. We still have at least three courses of action: 1) to keep pressure on the Swiss authorities by continuing to publish the results of journalist investigations, especially as OCCRP has obtained a lot of new materials on the Karimov presidential family; 2) to move the campaign to the US as new opportunities are emerging there, namely the increasing interest of the DoJ in the affairs of Eurasia’s telecom industry; 3) to open debate among CSOs and experts over the fate of the frozen assets.

Over next three years we want to achieve the following objectives:

* Build a coalition of stakeholders that would campaign for fair assets recovery;
* Support the dissemination of a critical mass of investigative stories that would amount political pressure upon the respective governments and judicial authorities in an attempt to speed the investigations process for the alleged cases of corruption and money laundering in and around Uzbek telecom;
* Establish an active dialogue between the coalition, our main partners, and the governments that are expected to make decisions on the fate of the frozen assets;
* Reach consensus among coalition members and key Uzbek civil society groups regarding the best ways to manage the assets in case they are confiscated and allocated for social programs in Uzbekistan.

The environment and conditions for this agenda are somewhat contradictory: on the one hand, major Western countries, especially the United States, are determined to tackle grand corruption and money laundering on a global scale; on the other hand, Uzbekistan is considered by the US and NATO as their geostrategic ally, and therefore its misdeeds can sometimes be overlooked. Yet, the successes of the cotton campaign suggest that changes can be achieved even in such a geopolitically unfavourable environment.

**B. Expanding anti-corruption work into the whole region of Eurasia**

In 2014 we began expanding our anti-corruption program into the whole region of Eurasia. We started with a study of the national foundations’ own experience and priorities in this and adjacent fields. This study resulted in a matrix where these priorities were presented (see Annex 2). The national foundations’ and their local partners’ priorities turned out to be quite diverse across the region, but could be synthesized into two large categories: first, the transparency and accountability related programs mainly linked to extractive industries and national budgets; and second, core anti-corruption work with a focus on building institutional constraints on corrupt practices.

We then advanced to holding a meeting in Budva, Montenegro in November 2014 that convened the representatives of national foundations (a few EDs and program staff members), as well as some experts and NGOs (see the summary of this meeting in Annex 3). One of the outcomes of that meeting was the decision, enthusiastically supported by the workshop participants, to start working on the issue of public procurement, an area not sufficiently addressed so far by civil society in the region. Following that decision we organized a workshop in Belgrade, Serbia on June 29-July 2, 2015. This workshop was dedicated to the role CSOs could and should play in promoting transparent and accountable public procurement. The workshop convened NGOs, journalists and experts from eleven countries, including Serbia and Bosnia & Herzegovina. The workshop provided a platform for knowledge and experience exchange, with the aim to build a region-wide network of CSOs specializing in the field of public procurement. We are currently in the process of analysing the results of this workshop and are going to present key takeaways and the action points for follow up.

Resulting from the 2014 Budva meeting, four other sub-program priorities were adopted:

A. Transparency of the allocation of frequencies and licenses in the telecom market, a topic that has emerged out of two prior endeavours: research into corruption in the telecom market of Uzbekistan, and work on public procurement, as the latter represents a process very much akin to the allocation of frequencies and licenses. This is an innovative area of anti-corruption work which has been thus far neglected by CSOs, despite the lucrative nature of the telecom industry, only third after oil and gas in terms of profitability and proneness to corruption. Responding to this gap, we have commissioned a small paper to overview the situation in the region’s telecom sector. In an adapted format, the paper will be released as a guide for CSOs advising them how to monitor the allocation of spectra and licences in the industry. We will decide whether and how to proceed further in building a region-wide network of dedicated CSOs and experts working on this issue based on the outcomes of this research project. This work can be combined with addressing the use of telecom technologies in surveillance and censorship, as well as state monopolies over radio and TV broadcasting in the region of Eurasia.

B. Integrity of public office holders, an area that would encompass regulations around conflict of interests, assets disclosure, unlawful enrichment by public officials, and the regulation on politically exposed persons. We will capitalize on the work already being done by the national foundations and CSOs in Georgia (conflict of interests), Moldova (public integrity) and Ukraine (assets disclosure and recovery). Our Uzbekistan-related assets recovery agenda can be also partly accommodated into this programmatic framework (and partly into the telecom project). The EP will work on this agenda by fostering regional networks, exchange of experience and information, bringing international expertise to the region, advocacy with key international stakeholders like the EU, and publishing policy papers by and in the name of our key partners.

C. While public procurement and integrity of public office holders are considered as cross-sectoral institutional constraints on corrupt practices, there is another scope of structural issues involved in facilitating corruption: these are single sector-focused government policies adopted in certain sectors of economy, state or society. Reforming these policies is expected to reduce the incentives for state officials to engage in corrupt practices. One such example is the government policy in Uzbekistan’s cotton industry, the subject on which we have already [published](http://www.opensocietyfoundations.org/reports/uzbekistan-s-cotton-sector-financial-flows-and-distribution-resources) a policy paper. Another paper addressing the currency exchange policy in Uzbekistan was commissioned in June 2015. We also have a research paper in the pipeline on the *propiska* system and related immigration policies in Russia that fuel widespread corruption of law enforcement agencies, local and immigration authorities. Addressing policy-generated corruption would open new space for advocacy. For instance, in the case of currency exchange policies, the published paper would provide an opening for engagement with the IMF and make it an ally in pressing upon the Uzbek authorities for reforms.

D. Finally, we are planning to invest in capacity building in the field of investigative journalism. Main partners in this endeavour will be OCCRP and the Swedish School of Economics in Riga, Latvia. The project aims to boost journalist investigations in the region and, thereby, contest corrupt practices.