

FRANCE ADOPTS NEW PROVISION FOR RETURNING STOLEN ASSETS AND PROCEEDS OF CRIME: A STEP FORWARD WITH ROOM FOR IMPROVEMENT

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Yesterday, on 2 March, 2021, within a broader aid and development programming bill, the French National Assembly unanimously adopted new provisions providing for the restitution of confiscated stolen assets to the people in the countries of origin. Over the coming weeks, the French Senate will examine the text before its final adoption.

Supported by the executive branch of the French government, these newly adopted provisions create a restitution mechanism. Illicitly acquired assets – either with proceeds of corruption or embezzled public funds – once confiscated by the French justice system, will no longer fall back within the French general budget, as is currently the case, but will be returned "as close as possible to the population of the foreign State concerned" to finance "cooperation and development actions".

The creation of such a restitution mechanism is a first step forward. It comes fourteen years after the first complaints by French civil society organizations, including the French chapter of Transparency International, in cases of *Biens Mal Acquis* (literally "ill-gotten gains" in French) and just a few months before the final decision of the Court of Cassation, the highest judicial court, in the Equatorial Guinean part of this case.

The text provides for the creation of a specific budget program within the French Treasury, hosting the proceeds from the sale of the confiscated assets before their allocation to cooperation and development programmes in the countries of origin. The mechanism, as long as it distinguishes the confiscated stolen assets from development assistance funds, should be able to ensure the traceability of funds during the initial stages of the restitution process.

Transparency International nevertheless warns of the need to strengthen the mechanism to ensure that the funds, once returned, do not fall back into the hands of the corrupt. "Every time opacity has prevailed over transparency and independent civil society has been excluded from the process, the restitution of assets has failed, engendering mistrust and rekindling the vicious circle of corruption and embezzlement," warns Patrick Lefas, Chairman of Transparency International France.

Principles inspired by the [Global Forum on Asset Recovery](#) such as transparency, accountability and inclusion of civil society, both from France and from the country of origin, must be enshrined in law to ensure the integrity and effectiveness of the process. The forthcoming discussions at the Senate should make it possible to improve the mechanism adopted by the deputies in this regard. With this text, France has the opportunity to propose a model for the responsible restitution of illicit assets that could inspire many other countries and deal a severe blow to transnational corruption.

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