



# The Practical Experience of Financial Investigations in the Republic of Kazakhstan: Problems of Searching and Returning Assets from Abroad

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**Abstract:** The article discusses the practical experience, prospects and vectors of development of financial investigations in Kazakhstan, the problems associated with the search and return of assets located abroad. The authors focus on the main obstacles faced by law enforcement agencies in the investigation of financial crimes, as well as existing mechanisms for the return of fraudulently acquired funds from abroad. The article highlights examples of successful and unsuccessful mechanisms for asset recovery, provides recommendations for improving the situation in this area.

**Keywords:** financial investigations; Republic of Kazakhstan; asset search; asset recovery; foreign assets; asset recovery problems; cross-border asset search; international cooperation; anti-corruption; financial fraud; money-laundering

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## I. Introduction

The PricewaterhouseCoopers (PwC) research showed that the statistics of economic crimes and financial fraud remains record high, having a significant impact on the financial and economic activities of companies. For instance, in 2020, customer fraud (deception of customers) took the top line and accounted for 35 % of all crimes committed compared to 29 % registered in 2018.<sup>1</sup> The Republic of Kazakhstan has also seen negative effects of the growth of the number of economic crimes. The course of policy taken since the end of the 20th century aimed at accelerating economic development contributes to the rapid development of legislation aimed at keeping a balanced approach in the regulation of private and public interests. However, the legislative

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<sup>1</sup> Fighting Fraud: A Never-Ending Battle. PwC's Global Economic Crime and Fraud Survey, (2020). Available at: [https://www.pwc.com/hu/hu/kiadvanyok/assets/pdf/PwC\\_Global\\_Economic\\_Crime\\_and\\_Fraud\\_Survey\\_2020.pdf](https://www.pwc.com/hu/hu/kiadvanyok/assets/pdf/PwC_Global_Economic_Crime_and_Fraud_Survey_2020.pdf) [Accessed 10.11.2023].

framework responds to all acute social and economic challenges caused by economic shocks and policy development only with a certain lag. In September 2020, the Committee on Legal Statistics and Special Records of the Prosecutor General's Office of the Republic of Kazakhstan noted a significant increase in crimes committed in the economic sphere. Compared to 530 economic crimes registered from January to July 2019, for the similar period from January to July 2020 the number of this category of crimes has increased by at least 65 %, exceeding 870 cases.<sup>2</sup> The discussion around strengthening the combat against economic crimes, development and implementation of new methods for financial investigations as well as criminalization of new types of illegal activity indicate the ongoing changes of this area of law in the Republic of Kazakhstan and represent the main subject reviewed in this study.

It is worth noting that the damage caused by economic crime<sup>3</sup> is significant and affects not only the interests of individual companies and individuals, but also the interests of government agencies. Currently, we can identify the following most discussed problems in the field of economic crime combat:

- a. the emergence of new ways and techniques of committing crimes;
- b. the legislator's lag in the regulation of modern spheres of the economy;
- c. impossibility, in most cases, to provide recognized evidence in support for the legal claim for discovered assets with methods and approaches currently used in financial investigations, for instance, due to corporate nontransparency or other obstacles in removing the corporate veil from unscrupulous market players.

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<sup>2</sup> The damage from economic crime in Kazakhstan exceeded 52 billion tenge. Kz.kursiv.media. 2 September 2020. Available at: <https://kz.kursiv.media/2020-09-02/uscherb-ot-ekonomicheskoy-prestupnosti-v-rk-prevysil-52-mlrd-tenge/> [Accessed 10.11.2023]. (In Russ.).

<sup>3</sup> According to international experts, the annual difference in the trade turnover of the SCO member states with other countries is about \$ 675 bln. It is possible that part of these cash flows goes to criminal purposes, including the financing of terrorism and extremism. The Prosecutor General's Office of the Republic of Kazakhstan press release "On the meeting of the Prosecutors General of the Shanghai Cooperation Organization member states" on 23 September 2022. Available at: <https://www.gov.kz/memleket/entities/prokuror/press/news/details/430268?lang=ru> [Accessed 10.11.2023]. (In Russ.).

## **II. Republic of Kazakhstan's Historical and International Legal Practices in Financial Crime Investigations**

### **II.1. Historical and Legal Prerequisites for the Institutional Development of Financial Investigations in the Republic of Kazakhstan**

At present, the Republic of Kazakhstan has all necessary legal instruments to develop practice of international cooperation in the field of financial investigations. These instruments should be understood as the international law principles and concepts supported by legislator and taken into account when introducing and amending laws that regulate treatment of relationships with cross-border elements. In 2011, Kazakhstan has ratified the Convention of 8 November 1990 “On Laundering, Search, Seizure and Confiscation of the Proceeds from Crime”<sup>4</sup> (1990 Convention), although another important document, namely the Council of Europe Convention of 16 May 2005 “Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism” remains unratified.

Despite the existence of strong prerequisites for endorsement of international norms and principles of law, it should be noted that at the moment there are unresolved local legislative problems that block the process of international conventions enactment and application.

For instance, in the process of ratification of Law No. 431-IV dated 2 May 2011, the Parliament of the Republic of Kazakhstan put forward two blocking clauses preventing application of norms of the designated 1990 Convention either directly or indirectly through other legal acts of the country.

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<sup>4</sup> Law of the Republic of Kazakhstan No. 431-IV dated 2 May 2011 “On ratification of Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.” Information and Legal System Adilet. Available at: <https://adilet.zan.kz/rus/docs/Z1100000431> [Accessed 10.11.2023]. (In Russ.).

Thus, according to the terms of ratification of the 1990 Convention, signed by the President of the Republic of Kazakhstan N.A. Nazarbayev on 2 May 2011:<sup>5</sup>

1. In accordance with Para. 2 Art. 2 and Para. 4 Art. 6 of the 1990 Convention, the Republic of Kazakhstan applies Para. 1 Art. 2 and Para. 1 Art. 6 of the Convention to only those offenses that lead to criminal liability in accordance with the laws of the Republic of Kazakhstan;

2. In accordance with Para. 3 Art. 14 of the 1990 Convention, the Republic of Kazakhstan applies Para. 2 Art. 14 of the Convention only in accordance with its constitutional principles and the basic concepts of its legal system.

Based on the above, the provisions of the 1990 Convention (international law act ratified by Kazakhstan), considered as not prevailing in the hierarchy of legislative acts of the Republic of Kazakhstan. This exemption from the general principle of superiority of international law leads to the abuse of law in the domestic jurisdiction, and hinders the possibility of international cooperation and information exchange in law enforcement mechanisms aimed at combating the laundering of proceeds from criminal activity, their identification, seizure and confiscation.

This circumstance leads to frequent situations where under the currently implemented legal framework as applied by the law enforcement agencies of the Republic of Kazakhstan involved into countering corruption crimes, financial fraud and money laundering, there is a certain lack of effective tools for investigation process if suspicious acts are committed by foreign entities.

In addition, one-sided and selective adoption of the norms of international law leads to complete defenselessness of a foreign investor doing business in the territory of the Republic of Kazakhstan, and reduces the possibility of interference in international disputes involving citizens of Kazakhstan (Nugmanov, 2019). Please note that in this article, we are not talking about absolute figures in the field of economic crimes, but trying to focus on qualitative characteristics of consequences for socially significant institutions of society and

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<sup>5</sup> Ibid.

business, since the damage from such a legal policy may significantly affect the country's economy.

However, the ongoing changes in country's economy require that the state recognize that the practice of international exchange in financial investigations and dispute resolution should also develop, even if the legislative framework does not provide for established mechanisms in this area.

In 2022, the market reacted sharply to the lack of effective regulation, as damages from crimes in the sector of investment management and marketing of financial instruments more than tripled from 2019 to 2020. Such dramatic increase could have led to a huge socio-economic crisis and required urgent action from the government, which responded with the adoption of The Concept of Financial Monitoring Development for 2022–2026 (Financial Monitoring Development Concept 2026) approved by Decree No. 1038 of the President of the Republic of Kazakhstan dated 6 October 2022 (Duisenbekova, 2019).

The Financial Monitoring Development Concept 2026 contains detailed outline for the country's past reforms and achievements in improving the mechanisms of cooperation with international bodies and defines prerequisites for significant development of these relations in the near future. It is noted that the regular improvement of national system for countering the laundering of criminal proceeds and financing of terrorism “is evidenced by the trend of improvement of Kazakhstan's indicators in the international index of the Basel Institute of Management for Combating Money Laundering: from 6.27 points in 2019 to 4.87 points in 2021.”<sup>6</sup>

Section 2.2 of the Financial Monitoring Development Concept 2026 highlights the main problems and trends in the field of countering money laundering and terrorist financing, among which are:

- a. imperfect information exchange and training system in the field of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT);
- b. deficiencies of the legal regulatory framework;

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<sup>6</sup> The President's Decree No. 1038 dated 6 October 2022. Information and Legal System Adilet. Available at: <https://adilet.zan.kz/rus/docs/U2200001038> [Accessed 10.11.2023]. (In Russ.).

- c. underdevelopment of analytical work approaches;
- d. insufficient automation of data analysis processes;
- e. risks of using digital assets in money laundering and terrorist financing;
- f. insufficient attention is given to the issues of discovery and return of the proceeds of crime.

The Financial Monitoring Development Concept 2026 aims to change the legislator's approach to the application of international principles and norms of law, as well as to reconsider the organization of international cooperation in the field of countering economic crimes.

It is also worth noting that the problem of return of assets located in foreign countries draws special attention. It is not uncommon that such assets recovery is required in cases of criminal prosecution, as well as in personal bankruptcies and situations involving secondary (vicarious) liabilities.

The fundamental document, the standards of which are recognized by most countries, is the Model Law on Cross-Border Insolvency of 1997, developed by the United Nations Commission on International Trade Law (UNCITRAL). In 2018, a new Model Law on Cross-Border Recognition and Enforcement of Decisions Taken in Connection with Insolvency Proceedings (UNCITRAL Model Law) was adopted. This Model Law belongs to the category of the so-called "soft law" since its development provides for advisory nature in order to implement its conceptual provisions within the system of national legislative acts.

It is important to point that current legislation of the Republic of Kazakhstan does not provide for norms regulating relations arising from the bankruptcy of foreign legal entities. The existing norms do not apply even if a branch, representative office or permanent establishment of a foreign company is located on the territory of the Republic, or all foreign company creditors are Kazakhstani entrepreneurs: it will not be possible to initiate a bankruptcy case on the territory of Kazakhstan. The same applies to the bankruptcy of Kazakhstani companies abroad, since the Republic does not recognize bankruptcy cases of its citizens and legal entities initiated in foreign jurisdictions.

The Guide to the Implementation of the UNCITRAL Model Law for Countries provides for the following recommendations in this respect:

“To the extent that there is a lack of communication and coordination among courts and administrators from concerned jurisdictions, it is more likely that assets would be dissipated, fraudulently concealed, or possibly liquidated without reference to other more advantageous solutions. As a result, not only is the ability of creditors to receive payment diminished, but so is the possibility of rescuing financially viable businesses and saving jobs.”<sup>7</sup>

Current Kazakhstan’s legislation does not provide for regulatory norms applicable to cases of cross-border bankruptcy or bankruptcy with a foreign element. At this stage, the Republic is in the beginning of the path of changes to its own legislation related to cross-border element in bankruptcy. Such changes could imply a global change of strategical directions defining the principles and norms of national law.

It is important to consider such direction as development of a Conceptual document at the state level, which would focus on those provisions of international conventions or model laws that would have an indisputably positive impact on the development of the legal system of Kazakhstan and at the same time would not undermine the principle of country’s sovereignty. When working on such conceptual document, it would be useful to engage leading experts of the Republic of Kazakhstan, as well as to call on for help of legal community interested in the synergy of the economies of Kazakhstan and other countries.

We also propose to consolidate such conceptual document with the Decree of the President of the Republic of Kazakhstan at the state level and consider it as a leading document for the development of the legal field of the country.

However, we should also take into account the tendency of the country’s pursuit for globalization of its society and economy. The rapidly developing national financial markets push for improvement of Kazakhstan’s legislative framework and escalate the need for regulation in the field of cross-border bankruptcy. Establishing of effective process for asset recovery from abroad is nearly impossible without appropriate

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<sup>7</sup> UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment and Interpretation. Available at: <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/1997-model-law-insol-2013-guide-enactment-e.pdf> [Accessed 10.11.2023].

implementation of main provisions of UNCITRAL Model Law and other principles of international law in Kazakhstan's legislation.

## **II.2. The Structure of Financial Investigations Based on the Current Implementation of International Law Principles in Legislative Framework of the Republic of Kazakhstan**

Since the Republic of Kazakhstan's current stage of development in the field of financial investigations could be characterized as transitional, it would be of worth to analyze in detail the advantages and disadvantages of the current structure of financial investigations and the new model proposed by the government under the Financial Monitoring Development Concept 2026.

First, we have to note that current legislation of Kazakhstan does not contain a clear definition for the term of "financial investigation." The Criminal Procedure Code of Kazakhstan (definitions set out in Art. 7, provisions of Chapter 8 and Special Part Chapters 23–24) describes more general process of "pre-trial investigation" that, under certain circumstances narrowing the scope of such investigation, coincide with definition of "financial investigation" as per Interpretive Note 2 to FATF Recommendation 30, namely:

"A 'financial investigation' means an enquiry into the financial affairs related to a criminal activity, with a view to:

- identifying the extent of criminal networks and/or the scale of criminality;
- identifying and tracing the proceeds of crime, terrorist funds or any other assets that are, or may become, subject to confiscation; and
- developing evidence which can be used in criminal proceedings."

Second, we also note that Section 4.11 of the Concept of the Legal Policy of the Republic of Kazakhstan until 2030 (Legal Policy Concept 2030), approved by Decree No. 674 of the President of the Republic of Kazakhstan dated 15 October 2021) lists introduction of financial investigation into national legislation as one of the tasks within general transition to a three-tier model of criminal proceedings, namely:

“[...] when the time required for full identification, tracking, initiation of freezing and seizure of located abroad money, valuables and property of criminal origin significantly exceeds the reasonable terms for pre-trial investigation, it is necessary to provide for the possibility of opening a separate court proceeding for confiscation – on the basis of verdict that has entered into force in the criminal case raised against crimes that created grounds for such confiscation (institution of ‘financial investigation’ by analogy with Chapter 16.1 of the Criminal Procedure Code of Estonia<sup>8</sup>).”

It should be noted that from the formal point of view Chapter 16.1 of the Criminal Procedure Code of Estonia does not introduce the notion of financial investigation, but provides legal basis for separate court proceedings for confiscation. This position was also supported in commentaries on draft amendments proposal to Criminal Procedure Code approved by Scientific Advisory Council of National Bar Association of Kazakhstan on 9 February 2023. Therefore, we assess the general tendency in respect of institution of “financial investigation” under Kazakhstan legislation as not pursuing introduction of such notion per se as a new separate legal category, but having intention to modify already defined under Criminal Procedure Code of Kazakhstan pre-trial investigation process. This aims to improve national legal framework so that it becomes more prompt and transparent separate proceedings for seizure and confiscation of assets found abroad or proceeds obtained from the crimes that were tried and resulted in a sentence in line with Kazakhstan court proceedings.

To fully understand this structure, here we consider “financial investigation” as a set of measures normally defined within “pre-trial investigation” legal category under a criminal procedure. It is used by specially authorized state bodies to identify, disclose and investigate crimes in cases where such crimes are related to the receipt (acquisition) of funds and (or) other property by criminal means, legalization of funds and (or) assets obtained by criminal means, as well as possession of, the use and disposal of assets and (or) monetary funds for the purpose of

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<sup>8</sup> Kriminaalmenetluse seadustik [Code of Criminal Procedure]. Riigi Teataja. Transl. into Eng. Available at: <https://www.riigiteataja.ee/en/eli/530102013093/consolide> [Accessed 10.11.2023].

financing criminal and (or) terrorist activities, with the aim of further seizure and confiscation of such assets or proceeds obtained from the crime.

The structure of the financial investigation is characterized not only by its main stages, but also by its fundamental principles and objectives.

For instance, one of the main purposes of the financial investigation is to halt further operation of criminal schemes used for movement of assets or proceeds obtained from the predicate crime. Therefore, the tasks of financial investigations can be identified as:

- a. identification and disclosure of criminal schemes for obtaining assets;
- b. establishment of the circle of persons involved in these criminal schemes and (or) persons who committed certain criminal acts to obtain income (proceeds) in the course of criminal activity;
- c. confiscation of such assets and seeking ways for possible restitution of related participants.

It is customary also to consider above tasks as the main stages of financial investigation activities. The leading role in the fight against financial fraud and corruption in Kazakhstan is assigned with the national Financial Monitoring Agency of the Republic of Kazakhstan (FMA), directly subordinated and accountable to the President of the Republic of Kazakhstan. The main activities of the Agency are countering the legalization (laundering) of proceeds from crime and the financing of terrorism, prevention, detection, suppression, disclosure and investigation of economic and financial offenses.<sup>9</sup> The state plans to develop the Agency into the main investigative body for combating economic crimes. For example, due to the Agency's expert efforts, it was possible to complete a complex investigation of controversial monopoly and tax evasion activities in cargo transportation from China to Kazakhstan. The Agency revealed illegal financial activities of the enterprise and setting unjustifiably overstated prices for its services.<sup>10</sup>

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<sup>9</sup> The President's Decree No. 515 dated 20 February 2021. Some issues of the Financial Monitoring Agency of the Republic of Kazakhstan. Electronic Reference Test Bank of Legal acts of the Republic of Kazakhstan, as of 26 February 2021. (In Russ.).

<sup>10</sup> Cargo transportation from China: The investigation into the monopolist has been completed. *Zakon.kz*. 2 February 2023. Available at: <https://www.zakon.kz>

In addition, in order to ensure proper monitoring and conduct of financial investigations in regulated financial markets, the Agency for Regulation and Development of the Financial Market of the Republic of Kazakhstan (ARDFM) was established in Kazakhstan in 2019. It aims at ensuring an appropriate level of protection of the rights and legitimate interests of consumers of financial services, contributing to the stability of the financial system and the development of the financial market, as well as compliance with state regulation, control and supervision of the financial market and financial organizations.<sup>11</sup>

With the aim to establish a centralized body for judicial control over interagency cooperation and separation of scope in financial investigations, a special Asset Recovery Committee (ARC) of the Prosecutor General's Office of the Republic of Kazakhstan was established in 2023. It is engaged in the prosecution of perpetrators of economic crimes under the adopted in 2023 Law of the Republic of Kazakhstan No. 21-VIII "On the return of illegally acquired assets to the State", as well as attempts to evade compensation for damages caused. This Committee (and its preceding interagency Commission) was one of the responses of the President of the Republic of Kazakhstan Kassym-Jomart K. Tokayev to the tragic events in January 2022.<sup>12</sup>

Historically, the legal basis for financial investigations in Kazakhstan in the meaning of FATF Recommendations was established in 2009 with adoption of the law No. 191-IV "On Countering the legalization (laundering) of proceeds from crime and the financing of Terrorism." The corresponding part of subordinated normative acts regulates the powers, rights and obligations of governmental bodies, financial

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kz/6383198-perevozka-gruzov-iz-kitaya-rassledovanie-v-otnoshenii-monopolista-zaversheno.html [Accessed 10.11.2023]. (In Russ.).

<sup>11</sup> Para. 1 of Chapter 1 of the Regulations on the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market, approved by the Decree of the President No. 203 dated 11 November 2019 "On further improvement of the public administration system of the Republic of Kazakhstan." Information and Legal System Adilet. Available at: <https://adilet.zan.kz/eng/docs/U1900000203> [Accessed 10.11.2023].

<sup>12</sup> Return of illegally withdrawn funds to Kazakhstan: how the interdepartmental commission works. Zakon.kz. 22 April 2022. Available at: <https://www.zakon.kz/6012610-vozvrat-nezakonno-vyvedennykh-sredstv-v-kazakhstan-kak-rabotaet-mezhvedomstvennaia-komissii.html> [Accessed 10.11.2023]. (In Russ.).

organizations and persons involved into monitoring of money transfers in Kazakhstan banking system, whereas FMA was assigned with a role of leading agency responsible for ad hoc international search and discovery of information related to suspicious transactions. Being the designated hub for exchange and analysis of information related to financial data and requests for international assistance within FATF network, FMA has also accumulated a high level of national expertise in carrying financial investigations for purposes of ensuring the protection of the rights of persons affected by the relevant crimes. However, it is worth emphasizing that the regulation framework in the field of economic crimes in the modern world should respond quickly to exponential growth of various non-fiat means of settlement. Moreover, regulatory acts should allow for more flexibility in terms of timely confiscation and return of fraudulently acquired assets to the normal economic circulation under the due process controlled by judicial system of Kazakhstan.

Despite the fact that the provisions of the Law No. 191-IV support fundamental aspects for combating legalization (laundering) of criminally obtained funds and financing of terrorism in Kazakhstan, in practice it is not always possible to respond promptly and efficiently to emerging challenges arising due to more sophisticated schemes of fraudulent or illegal activities.

In their turn, the President and the Government of the Republic of Kazakhstan are rapidly responding to the needs of the market. On 26 January 2021, the President of the Republic of Kazakhstan Kassym-Jomart K. Tokayev made a speech at an expanded meeting of the Government. The question was raised that the fight against the “shadow” economy is not being conducted as intensively as modern realities require, therefore, a policy was announced to reduce the level of the “shadow” sector to 15 % by 2025.<sup>13</sup> In connection with this statement, it was decided to reorganize the work of several governmental agencies

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<sup>13</sup> The Speech by President Kassym-Jomart Tokayev at the enlarged meeting of the Government (26 January 2021). Official website of the President of the Republic of Kazakhstan. Available at: [https://www.akorda.kz/ru/speeches/internal\\_political\\_affairs/in\\_speeches\\_and\\_addresses/vystuplenie-prezidenta-kasym-zhomarta-tokaeva-na-rasshirennom-zasedanii-pravitelstva](https://www.akorda.kz/ru/speeches/internal_political_affairs/in_speeches_and_addresses/vystuplenie-prezidenta-kasym-zhomarta-tokaeva-na-rasshirennom-zasedanii-pravitelstva) [Accessed 11.12.2023]. (In Russ.).

involved in countering economic crimes around FMA and ARC, thus creating a special body for monitoring financial crimes, accountable personally to the head of state.

Based on the above analysis of legal norms and reforms, it can be argued that Kazakhstan is striving to resolve the issue of combating economic crimes at both the national and transnational levels.

In the framework of financial investigations, the most problematic stage is the search and confiscation of assets obtained by criminal means. In modern economic environment, in order to search for and then return assets from foreign countries, it is necessary to have legal agreements between the participating countries or other legal mechanisms of cooperation.

This process is usually divided into two aspects:

- a. the search for assets obtained by criminal means directly;
- b. asset recovery.

When tracing for assets of companies or beneficiaries of businesses, official national registries containing information about property and rights of control are one of the primary sources of information. For example, France provides information about the property of individuals at official request of financial investigation state bodies or state-owned companies when it comes to large amounts of theft. Also, some countries of the Balkan peninsula provide access to their archives and registers for a fee, and in some cases — if supported by a court or court bailiff's order.<sup>14</sup>

However, many island countries and other “gray” jurisdictions could pose a big problem. Thus, even on an official request about the state of the debtor's or an unscrupulous beneficiary money or other account, it takes months for the inquiring side to get an answer. And sometimes the issue could be resolved only after a personal visit to the relevant authority that has the required information in archives kept

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<sup>14</sup> Fight against corruption in Eastern Europe and Central Asia. Anti-corruption reforms in Eastern Europe and Central Asia Achievements and challenges 2013–2015, OECD 2016. Available at: <https://www.oecd.org/corruption/acn/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-2013-2015-ENG.pdf> [Accessed 11.11.2023].

on the territory of foreign country.<sup>15</sup> As a result, the process of assets search is often time-consuming, ineffective or difficult due to the lack of assistance from the authorities of another jurisdiction or low levels of technical preparedness of their archives.

The problem of assets search frequently could be solved via informal and legally non-binding gentlemen's agreements, especially when the impact of investigated crimes amounts to risk levels comparable to economic security of the entire country or its key industry. As the ability to evaluate future default and recovery rates on debt or more complex financing instruments is crucial for risk management in banking and insurance, many global financial groups tend to conclude information exchange agreements. This aims at receiving industry-wide assistance in monitoring the assets of their clients and borrowers in order to curb corruption, fraud and intentional bankruptcy schemes.

To facilitate gathering information that might be important in investigating corruption crimes, Anti-Corruption Agency (ACA) has adopted the "Rules for encouraging persons who have reported a corruption offense or otherwise provided assistance in combating corruption" approved by ACA Order No. 270 dated 29 August 2023. These Rules are envisaged in Section 3 Art. 24 of the Republic of Kazakhstan Law No. 410-V dated 18 November 2015 "On Countering Corruption" and regulate national practice of rewarding whistle-blowers first introduced in 2015. However, these normative acts are of local nature and do not apply to foreign citizens and branches of legal entities.

Activities related to gathering and systematizing information on assets traced abroad under financial investigation might bring high costs due to the fees of locally outsourced investigation, litigation or other representatives. In case of bankruptcy proceedings, such expenses are effectively covered by creditors via the bankruptcy estate reduction, whereas in criminal proceedings there is no such evident "sponsor" that would bear the burden of compensation of investigation costs.

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<sup>15</sup> Resolution of the Board of the National Bank of the Republic of Kazakhstan No. 64 dated 10 April 2019. Registered with the Ministry of Justice of the Republic of Kazakhstan No. 18544 dated 18 April 2019. (In Russ.).

To expedite international search and return of assets obtained by crime, international community ceaselessly develops various forms of cooperation among all countries. There is a number of common ways of joint international activity for assets search and recovery. These also include informal assistance that is similar to the aforementioned information exchange arrangements between large banks. Other forms include obligatory or discretionary disclosure of information at the initiative of the state where the criminal assets are located, joint work of investigative teams, sending legal requests from state bodies for mutual legal assistance, adoption of national legislation that allows for the direct or indirect enforcement of foreign court judgements and orders for compulsory transfer of assets to the territory of confiscating state, issuance, international registration and enforcement of prohibition, freeze, confiscation and extradition orders.<sup>16</sup>

However, comprehensive assistance may have a downside too. For example, in Liechtenstein, Luxembourg and Switzerland, the law requires that law enforcement agencies must notify the persons under investigation that a request was received from another state regarding the availability of assets. After receiving this information, persons under investigation have right to appeal the decision to disclose information about their assets to another state. Most notably, this applies to requests for information on transaction records, statements of bank accounts, or on the presence of arrests of property, liens, collateral and other interim protection claims of third parties. As a result, such requests may lead to investigated person's actions of deliberate withdrawal of assets with the aim to hinder the possibility of establishing their further location (for example, movement of funds to third country), and also greatly increases the time required for financial investigation.

As law enforcement agencies of the Republic of Kazakhstan are currently at the beginning of the development path in matters of organization of international cooperation in the field of countering economic crimes, our international experience implies that factor of informal relationships is positively affecting overall effectiveness and thus should be taken into account when planning and carrying out financial investigations.

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<sup>16</sup> Asset Recovery Handbook: A Guide for Practitioners. The International Bank for Reconstruction and Development. The World Bank, 2011.

Although the Republic of Kazakhstan has ratified an impressive number of international treaties, in practice they might be not sufficient in themselves for effective use of international assistance in investigation of economic crimes and financial fraud. The Republic of Kazakhstan currently has a strong momentum of striving for international cooperation, and this suggests that mechanisms of informal assistance in investigation of economic crimes between Kazakhstan and a number of other countries may add even more effectiveness and build a strong foundation for positive practice in this area.

Informal assistance usually consists of any actions taken by official bodies outside the scope of a request for mutual legal assistance (MLA). In some states, provision of such assistance could be considered official as the MLA concept itself is codified into the norms of national legislation related to it, and thus enforced by designated authorities, organizations or administrative bodies.<sup>15</sup> Several UN Conventions, such as Convention against Corruption (UNCAC), Convention Against Transnational Organized Crime (UNTOC) and Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, specifically emphasize the importance of informal cooperation.

However, evidence received during financial investigations via informal international assistance may face obstacles in their legalization for presenting before courts, caused by specifics of foreign national regulations. At the same time, establishment of such informal relations itself may positively affect course of further investigation (e.g., by cutting off the “unfruitful” branches of analysis) and lead to improvement of relations between countries at international level.

In this article, we focus on the model of informal assistance, as the official interaction approach involves agreements and other legal arrangements regulating information exchange at state, supranational and international levels, which could be a slow and bureaucratic process. When planning the investigation strategy, it is worth considering that even if the relevant bilateral or multilateral agreements are in force, preparing and sending official inquiries and responses normally takes significant time and might be costly in terms of investigation specialists’ workload. The negative effect from such extension of the timeline at assets search stage may also increase risks of assets transfers toward

jurisdictions that are untransparent, practice poor cooperation or having “not good standing parties” status to the international agreements. This may result in emergence of new cycles of fraud or corruption schemes and further deterioration of value of discovered assets for the purposes of their return or confiscation. Establishing a system of informal interactions and trust between the Republic of Kazakhstan and other countries should be a top priority in the field of financial investigation and asset search.

### **III. Regulation of Fraudulently Acquired Assets Tracing, Discovery and Claiming for Confiscation in the Republic of Kazakhstan and Abroad**

#### **III.1. Mechanisms of Legal Regulation of Issues Related to Asset Tracing in the Country and Abroad in the Republic of Kazakhstan**

In this article, mechanisms of legal regulation are understood as a system of international treaties, agreements, laws and other normative acts, which could be relied upon in the task of returning of assets acquired in bad faith to their rightful owners.

Taking into account the peculiarities of legal regulation in this area in all countries of the former Soviet Union, we can conclude the following. The period when an unscrupulous entrepreneur tries to withdraw assets or transfer them to another material form is a period of financial difficulties that have already begun, but when investors, shareholders and creditors do not yet know the real state of affairs. This specific period is typically scrutinized if there is a bankruptcy proceeding launched against the company in the future. As it is widely accepted that there is already duly legal regulation of the sphere of bankruptcy, such approach makes it possible to carryout financial investigations with greatest results. However, it is much more difficult to track the period of asset withdrawal in situations when ordinary financial activities are used to masquerade the buildup of fraudulent activities.

Often fraudulent actions can be committed for years, during which the company is seriously damaged. There is also often a criminal

conspiracy or suspicion of it. When investigating the withdrawal of assets by one party, a criminal element in the counterparty's activities may also become clear.<sup>17</sup> "The Republic of Kazakhstan was able to prove fraud by submitting correspondence between Stati and their auditor KPMG, which shows that the financial statements referred to by Stati during the arbitration proceedings were significantly distorted and that KPMG subsequently actually withdrew the audit of these reports," the Ministry of Justice of Kazakhstan stated in its press release on 10 January 2023. The case has become more than significant for the legal world, exposing fraud on the plaintiff's side on a large scale on the withdrawal of assets from parallel arbitration disputes.

The *Stati vs Kazakhstan* case has greatly encouraged Kazakh legislators to ensure transparency of arbitration processes both within the country and abroad in the issue of the return and proof of dishonestly withdrawn assets.

In July 2022, negotiations were held between the Prosecutor General's Office of the Republic of Kazakhstan, the leadership of the US Department of Justice, representatives of the FBI and the World Bank. The result of negotiations of the working group was statement of the First Deputy Prosecutor General of the Republic of Kazakhstan Timur Tashimbayev on establishment of interdepartmental commission for combating illegal concentration of economic resources, one of the main objectives of which is the return of funds illegally withdrawn from the country. In turn, the World Bank's StAR Initiative, whose main mission is engagement in the worldwide initiatives for the return of stolen assets, announced its support for the project with Kazakhstan and intensified work on the issue of finding and returning assets to the territory of the country.

To date, negotiations between the Prosecutor General's Office of the Republic of Kazakhstan and Basel Institute on Governance in Switzerland are actively being discussed. The Institute's International Centre for Asset Recovery (ICAR) is one of the prominent international centers for asset recovery that assist law enforcement agencies in

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<sup>17</sup> *Stati and others v. Kazakhstan*. Ascom Group, S.A., Anatolie Stati, Gabriel Stati and Terra Raf Trans Traiding Ltd. v. Republic of Kazakhstan (SCC Case No. 116/2010).

various countries in search for assets and investigation of economic crimes. A cooperation agreement was signed at the meeting in April 2023, where the parties agreed on the following:

- a. “Analysis and recommendations on improving regulatory legal acts regulating asset recovery issues;
- b. Legal and consulting assistance in conducting international investigations and preparing requests for criminal cases related to the return of assets from abroad;
- c. Conducting training sessions and seminars on financial investigations and asset recovery, including on obtaining online information from the registers of beneficial owners of companies and real estate owners around the world.”<sup>18</sup>

Another important step towards international cooperation was the open statement by France on assistance to the Prosecutor General’s Office of the Republic of Kazakhstan in the investigation of criminal cases, the arrest and return of assets of unscrupulous beneficiaries to the territory of the Republic of Kazakhstan. The result of the joint activity of representatives of the Prosecutor General’s Office of the Republic of Kazakhstan and their French colleagues was a number of jointly developed procedural norms aimed at proving the guilt of suspects and accused of committing crimes.

It should be kept in mind that in absence of working procedural norms on asset recovery at the international level, the parties agreed that Kazakhstan has legal mechanisms for comprehensive accomplishment of financial investigations in cases where suspects of fraudulent actions are located on the territory of the Republic. Thus, this recognition of Kazakhstan’s capabilities provides grounds for temporary transfer of persons from the territory of France for investigative actions and further effective fulfillment of restraint measures appointed by the court under the laws of the Republic of Kazakhstan.

In 2023, Kazakhstan had taken further steps in development of mechanisms of legal regulation for asset search and investigation of financial crimes. On 12 July 2023, the President of the Republic of Kazakhstan Kassym-Jomart K. Tokayev signed the Law “On the return

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<sup>18</sup> Swiss experts will help Kazakhstan to return illegally withdrawn assets. Orda.kz. 7 April 2023. Available at: <https://orda.kz/shvejczarskie-eksperty-pomogut-kazahstanu-vernut-nezakonno-vyvedennye-aktivy/> [Accessed 11.11.2023]. (In Russ.).

of illegally acquired assets to the state.”<sup>19</sup> The purpose of this law is to stimulate return of assets obtained in course of illegal economic activity to the state budget, with the following return of such assets to economic circulation in Kazakhstan. It is important to note that the law aims to eliminate the causes and conditions of illegal asset withdrawal in the future and creates mechanisms to restore social justice in society. One of its main proponents, Deputy Prosecutor General of the Republic of Kazakhstan Ulan Bayzhanov, points out that the key task of the law is for asset owners to realize that they have an option to disclose and return everything voluntarily. Only upon full compliance with this condition, will they enjoy indemnity from all types of liabilities.<sup>20</sup>

Based on the course of developing relations between the Republic of Kazakhstan and other countries, we can conclude that the legislators have chosen the right and weighted approach in this area. Particular agreements concluded between Kazakhstan and countries with the highest concentration of ill-gotten assets will bring more benefits in the practice of asset recovery than participation in general international agreements. However, it is worth emphasizing that despite the chosen approach in favor of separate agreements between Kazakhstan and other countries in the field of financial investigations, decisions on such investigations still need to be enforced.

### **III.2. Problematic Issues in Cases of Asset Recovery from Abroad**

In the course of financial investigations, foreign consultants and law enforcement agencies face difficulties in recovering established assets.

The asset recovery process can be divided into several main stages:

a. tracking;

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<sup>19</sup> Tokayev signed a law on the return of illegally acquired assets to the state. Forbes.kz. 12 July 2023. Available at: [https://forbes.kz/actual/officially/tokaev\\_podpisal\\_zakon\\_o\\_vozvrate\\_gosudarstvu\\_nezakonno\\_priobretennyih\\_aktivov/](https://forbes.kz/actual/officially/tokaev_podpisal_zakon_o_vozvrate_gosudarstvu_nezakonno_priobretennyih_aktivov/) [Accessed 11.11.2023]. (In Russ.).

<sup>20</sup> We are told surnames: “Why don’t you take it?” How will assets be returned to Kazakhstan. Tengri News. 13 June 2023. Available at: <https://tengrinews.kz/article/nam-nazyivayut-familii-pochemu-ne-berete-budut-vozvrashchat-2083/> [Accessed 11.11.2023]. (In Russ.).

- b. freezing/arrest;
- c. seizure and confiscation.

During the tracking stage, the location and other characteristics of the fraudulently acquired assets is discovered, and a full-fledged financial investigation is carried out to provide the duly recognizable evidence to court proceedings. The main tool at this stage is the establishment of a “paper trail.” Most often, a paper trail means documentary confirmation of chains of transactions with assets, first of all movement of funds on bank accounts on the basis of bank statements and payment systems electronic reports, agreements (contracts), minutes of meetings of management bodies of legal entities and other evidence confirming that these actions were undertaken with a criminal intent. Also at this stage, written requests are sent to foreign countries in order to confirm the presence of assets in the possession of suspects.

However, this process is quite time-consuming as processing and preparing responses on written requests may take months. Often there are negligent postponements and unreasonable delays in expected deadlines. But the main problem remains the assessment of the size of the withdrawn assets.

Most often, fraudulently acquired capital is sought in well-known offshore zones, since the search for assets in such zones is well understood and has a clear algorithm. Lawyers specializing in the field of financial crimes are looking for assets in reconstructed accounting records of operational legal entities, holding companies, trusts and the accounts of beneficiaries, but the lion’s share of assets can be hidden in property owned through offshore jurisdictions via numerous shell entities incorporated there.

At this point, the stage of freezing and seizure of assets begins. Assets are frozen only by contacting the law enforcement agencies and courts of the relevant state. Many banks meet the law enforcement authorities of foreign countries halfway and agree to freeze financial assets if there are suspicions of the implementation or financing of fraudulent actions under AML regulations, but it is far more difficult to arrest physical assets in the form of real estate objects or luxury movable property. The stage of arrest presupposes, first of all, the impossibility of transferring

such assets in favor of third parties (Izutina, 2018). Strategically, it is frequently more effective to view the arrest and freezing of assets as aggressively sought interim measures, because if it is reasonable to believe that there is a good basis for suspicion of fraud, then it is important to stop further transactions with assets under suspicion at the very beginning and until the formal end of investigation.

In most cases, the seizure of assets requires initiation of criminal proceedings or prosecution in the territory of the country where these assets are located. For instance, in the case of the arrest of the Khrapunov and Ryskaliev bank accounts in Switzerland,<sup>21</sup> it was necessary to organize close interaction of law enforcement agencies of several foreign countries (USA, Switzerland, and Kazakhstan) in order to initiate criminal proceedings on corresponding fraud offences in multiple jurisdictions. The Kazakh side claimed that Viktor Khrapunov and his family participated in a criminal scheme, which resulted in damages inflicted to City of Almaty (Viktor Khrapunov served as Mayor of Almaty from 1997 to 2004). After the family fled with the fraudulently acquired money to Switzerland, they started laundering them through the purchase of real estate ownership and participation in other investment schemes in the United States.

This case is extremely resonant and has a political element, because the embezzlement resulted from the fraudulent sales of City of Almaty property amounted to several hundred million dollars. However, at the moment, investigative actions are still ongoing, which points on difficulties in moving from the stage of property arrest to its seizure and confiscation in multijurisdictional situation.

The third stage of seizure and confiscation of assets is aimed at compensation for damage caused in the course of criminal activities.

It should be emphasized that the return of assets typically viewed as a civil claim. Thus, normally a private lawsuit is initiated against assets in the territory of a foreign state for the assets acquired through corruption. Claims of this kind are often used, including bankruptcy proceedings where case is complicated with fraud offence. In the

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<sup>21</sup> *City of Almaty v. Khrapunov*, 956 F. 3d 1129 — Court of Appeals, 9th Circuit, 2020.

framework of criminal proceedings, the refund will be carried out according to the claim of “civil action for damages.” which in turn is intended to compensate victims of criminal offenses, accelerate the process and award monetary compensation.

In addition to choosing the claimant’s strategy for proceedings, there is also another significant problem at the asset recovery stage. In most cases, law enforcement officers are faced with the fact that the amount of money spent on the use of asset search mechanisms and the implementation of all previous stages is several times higher than the amount by which the seized property (or expected proceeds from its sale on court order) is estimated. Such situation is especially frequent in cases where the claimed property or accounts have been under arrest for many years, which leads to the depreciation of such property and (or) complete loss of its value in principle. Also, the costs of actual asset re-possession may also be estimated in large amounts, especially when it comes to the transportation of property. In some cases, logistics expenses can exceed the value of the property by 2–3 times.

Our analysis shows, firstly, that there are difficulties in establishing the ultimate beneficiary for the assets. In this regard, there is an age-old problem of removal of the corporate veil where disclosure requirements under corporate law are insufficient. This may be due to the use of various companies and structures with the intention to conceal and dis-attach the beneficiary from controlled assets, e.g., for tax avoidance or evasion purposes. In addition, some countries may not cooperate or contact the law enforcement agencies of the Republic of Kazakhstan on the return of assets and (or) provision of information necessary for their identification, or have no interest in such cooperation.

Secondly, there are problems of different legal systems in different countries. Some countries might have their own strict laws and procedures aimed to protect confidentiality or privacy that create obstacles to asset recovery. It is important to understand beforehand what strategy of legal proceedings choice (civil or criminal) would be more advisable to return the assets. In addition, there may be problems with the enforcement of property rights protection in countries where the legal system is not reliable.

Thirdly, the asset recovery process can be delayed in time and become very expensive as a result. This is due to the legal and administrative costs associated with proceedings and asset recovery.

To solve these problems, it is necessary to further improve the legal system of the Republic of Kazakhstan and strengthen international cooperation in asset recovery. In addition, ensuring a proper and sufficient level of transparency of investigations and openness of processes (criminal, civil, arbitration) will help prevent corruption schemes. It is also important to increase awareness and accessibility of information for the public in order to increase civic engagement and support in order to combat fraud and corruption.

### **III.3. Mechanisms of Interaction between States and International Bodies as to Recovery of Assets Found Abroad, Safeguards for the Rights of Participants in Financial Investigations**

It is worth referring to the methodological basis for processing the return of stolen assets. In most countries, there are mechanisms for assistance from state and international bodies in the field of asset recovery and ensuring the rights of participants in financial investigations, the most important of which is cooperation between states, within which mechanisms for interaction and exchange of information between authorities are established.

Special attention should be paid to the main international agreements in this area:

- The UN Convention on Combating Corruption (UNCAC).
- The StAR Initiative of the World Bank (initiative for the return of stolen assets).

All other agreements and mutual assistance agreements are usually based on the main principles set out in these two documents.

According to the UN Convention on Combating Corruption, the global community has developed the following mechanisms for asset recovery:

- a. Measures to control financial institutions for suspicious transactions with bank accounts of officials and their family members (UNCAC, Art. 52);

b. Procedures necessary for a State party, as a private person, to be able to appear before the courts of another State party (UNCAC, Art. 53);

c. Domestic legislation that makes it possible for a State to recognize a confiscation order issued by a court of another State. After that, to conduct an investigation, as a result of which to freeze and confiscate property acquired using corruption mechanisms in another state (UNCAC, Art. 54).

d. Measures that may be required to allow the confiscation of property outside of criminal proceedings, especially in the event of the death or flight of a criminal, etc. (UNCAC, Art. 55).

Important mechanisms of the StAR Initiative are to promote the creation of mechanisms at the domestic level to assist the requesting States in the search, freezing and recovery of assets.

However, in order for all of the above mechanisms to work, it is necessary that the UN Convention on Combating Corruption be ratified by the State party.

It is important to understand that practice requires more radical actions, so States take various measures to freeze and return assets related to illegal activities. For example, if money received as a result of fraud or other criminal activity is found, the state can freeze it and begin the process of returning it through the court. However, this can be a rather complicated process, since it is necessary to ensure, on the one hand, respect for the rights of participants in a financial investigation, and on the other hand not to violate the law.

Another important measure taken by States in the fight against financial crimes is the creation of specialized law enforcement departments to investigate them. Such units contribute to more effective work on asset freezing, investigation, detection of violations of the law and prosecution of criminals.

In addition, international organizations such as the World Bank, the IMF, the Organization for Economic Cooperation and Development (OECD) and others also provide support in combating financial crimes. These organizations provide loans and grants to improve the financial control system and improve the standards of good practice in the banking sector and other industries where financial fraud can

be detected (Brun and Silver, 2020). Moreover, such organizations can also provide expertise and advice in the field of financial investigation.

The most common mechanism in the matter of asset recovery and ensuring the rights of third party participants, namely the injured party, is the confiscation mechanism. It is necessary to have a transparent process of asset confiscation, as unified as possible for most countries. It is proposed to make this a condition for any State that wants to have at its disposal the full range of methods for the return of criminal assets, cooperate with other countries on their issues in investigations and fight corruption at an effective level.<sup>22</sup> Confiscation means the deprivation of property on the basis of a court decision or a decision of other competent authorities. After the confiscation of the property right (we believe that in this case, for the purity of legal forms, it is worth talking about title ownership), the assets become the property of the state without compensation to the previous owner of the assets.

The international community emphasizes the importance of having a confiscation mechanism in the legal order of each country, at least so that participants have a criminal confiscation system as a means of combating corruption, money laundering and other serious crimes.<sup>23</sup> The UN Convention against Corruption, as well as the FATF recommendations, support the seizure of assets outside the criminal case, the opening of parallel civil proceedings, as well as the creation of a “hybrid”<sup>24</sup> form of claim.

In addition to well-known legal mechanisms and international organizations involved in the development of law, assistance in financial investigations and promotion of initiatives at the international level, it is also necessary to mention the trend towards the creation of such organizations at the regional level. Their mission can be called one of the most important — they promote judicial cooperation between national authorities, providing direct personal contact and information exchange (Brun et al., 2011).

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<sup>22</sup> Art. 2 UN Convention against Corruption (UNCAC), Art. 2; UN Convention against Transnational Organized Crime (UNTOC).

<sup>23</sup> UN Convention against Corruption (UNCAC), Art. 2, 31, 54, 55.

<sup>24</sup> The “civil action for damages” lawsuit is commonly called hybrid, since it implies compensation for damages in the framework of criminal proceedings.

The most known such organizations are:

- a. Interagency Asset Recovery Network in Western and Central Asia;
- b. Interagency Asset Recovery Network (KARIN);
- c. European Judicial Network (ECN) — promotes the expansion of cooperation between the judicial authorities of the EU countries in criminal matters;
- d. SkyNet is a Chinese network for tracking major corrupt officials around the world;
- e. Organization of American States (Organization of American states);
- f. Ibero-American Legal Aid Network.

It is extremely important that on the basis of these organizations, highly specialized specialists are trained to search for assets, negotiate, return and make effective arrests.

However, the main problem remains the inability, sometimes, to use all the above-mentioned mechanisms of legal assistance, since often countries do not have a source of funding for this.

The absence of legal norms aimed at rehabilitation is also important. It seems reasonable to propose this initiative for a more effective process of ensuring the rights of participants in the financial investigation, public order. A person who has been withdrawing assets for a long period, destroying not only the rule of law of his own country, but also causing damage to the world community, should be obliged to compensate for the damage. Often, the States that have seized the real estate of unscrupulous persons do not have funds for the maintenance of such property for the period of the criminal process. The accelerated development of the structures of contracts and principles of civil law may allow in the future the use of property under arrest to eliminate damage caused to society and the rule of law.

#### **IV. Conclusion**

Financial investigations in the Republic of Kazakhstan are conducted quite successfully, but there are problems in organizing the search and return of assets located abroad. At the moment, the

legislator is actively moving towards international cooperation in this area, supports initiatives for mutual assistance and cooperation with key countries, and is engaged in reforms in the field of financial investigations at the domestic level.

In order to effectively combat international financial crime, it is necessary to improve the legal framework and international cooperation. The general norms of the Conventions are not enough for the successful search and return of assets, and the cumbersome principles of international agreements do not have time to react quickly to changes in criminal mechanisms and technologies.

A compromise solution seems to be the creation of a Concept document that will include the main articles from the Conventions that could be directly applied on the territory of the Republic. It seems that this legal initiative could facilitate the use of international instruments for conflict resolution, ensure transparency of the legal system of Kazakhstan in the presence of an international element in legal relations. It is proposed to consolidate this Concept at the legal level by Presidential Decree.

Kazakhstan should continue to develop tools in the field of financial investigations and improve their work within the framework of international standards. This will make it possible to fight financial crime more effectively and improve the efficiency of the justice system.

It is important to develop the practice of freezing and returning assets in a more flexible way, take into account the high cost of the process of searching and returning assets, and strive to protect participants in these legal relations. It is necessary to develop human resources in the field of financial investigations, providing special training and advanced training of law enforcement officers and other specialists, exchange experience with foreign colleagues, strive to create supranational initiative groups on the search and recovery of assets.

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