



Expert meeting on the obstacles to repatriation of funds of illicit origin to the countries of origin and their impact on the enjoyment of human rights

Concept Note (as of 6 November 2023)

Date and venue: 13 February 2024, 10:00 – 12:00 pm, 3:00 pm – 5:00 pm (UTC+2)

Venue: Room XX Palais des Nations, Geneva, and online platform (Zoom)

Objectives: The expert meeting will:

- Identify the main obstacles to the repatriation of funds of illicit origin to the countries of origin, particularly the legal, factual, and institutional barriers to repatriating funds of illicit origin at the different stages of the process of repatriation.
- Discuss 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 a focus on economic, social and cultural rights.
- Identify the main challenges in overcoming the obstacles to the repatriation of funds of illicit origin to the countries of origin and discuss the obligations of the countries of origin and the recipient countries in this regard.
- Discuss the elements and benefits of a human rights-based approach to the asset recovery process to overcome existing obstacles and ensure the repatriation of funds to the country of origin.
- Exchange good practices of repatriation of funds of illicit origin to the countries of origin, including the use of repatriated funds.

Outcome: A report of the expert meeting will be prepared by OHCHR and submitted to the Human Rights Council at its fifty-sixth session.

Mandate: The Human Rights Council, in its resolution [52/21](#) of 3 April 2023, requested the United Nations High Commissioner for Human Rights to organize, before the fifty-fifth session of the Human Rights Council, a one-day intersessional expert meeting, on the obstacles to the repatriation of funds of illicit origin to the countries of origin and their impact on the enjoyment of human rights, to discuss challenges and best practices in this regard and to make recommendations, with the participation of States, the Advisory Committee and other stakeholders, and to present a report on the meeting, to the Council at its fifty-sixth session. Furthermore, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights to seek input from experts from diverse geographic regions when preparing the expert meeting and report, including from States, relevant intergovernmental organizations, United Nations agencies, funds and programmes, relevant special procedures of the Human Rights Council, the Advisory Committee, the treaty bodies, national human rights

institutions and civil society representatives, including relevant local government networks and non-governmental organizations.

Format: The panel discussion will be organized in a hybrid format and fully accessible to persons with disabilities, including with international sign language interpretation and a webcast open to the participants of States, relevant treaty bodies and mandate holders, academia, civil society and other relevant stakeholders. Interpretation will be provided in the six United Nations official languages (Arabic, Chinese, English, French, Russian and Spanish).

There will be two interactive sessions, limited to two hours each. The opening statements and initial presentations by the panellists will be followed by interventions by participants and concluding remarks from the panellists. A maximum of one hour will be set aside for the podium, which will cover the panellists' presentations and their responses to questions and concluding remarks. The remaining hour will be reserved for two segments of interventions from the floor, with each segment consisting of interventions from States, national human rights institutions, and non-governmental organizations. Each speaker will have two minutes to raise issues and to ask panellists questions.

10:00 – 10:15 **Opening Session**

10:15 – 12:00 **Session 1: Obstacles to the repatriation of funds of illicit origin to the countries of origin: challenges identified at the different stages of the process of repatriation**

This session will provide a general overview of the impact of the non-repatriation of illicit funds to the countries of origin, particularly on the enjoyment of economic, social and cultural rights. It will identify the main legal, practical and institutional barriers to the repatriation of illicit funds to the countries of origin, and the challenges encountered by the countries of origin and recipient countries to overcome these barriers. The session will also discuss the importance of measuring illicit financial flows to understand their impact and implement measures for prevention and eradication.

15:00 – 16:50 **Session 2: Elements and benefits of a human rights-based approach to eliminate existing barriers to the repatriation of illicit funds to countries of origin: Good Practices**

This session will discuss the main elements of a human rights-based approach to eliminate existing barriers to the repatriation of illicit funds to countries of origin including the use repatriated funds in the countries of origin. It will refer to key measures relevant to overcoming existent barriers, discuss good practices related to the repatriation of illicit funds from corruption associated illicit financial flows to countries of origin, and discuss opportunities for addressing and repatriating human and drug trafficking related illicit financial flows and make recommendations in this regard.

16:50 – 17:00 **Closing Session**

Background:

The resources available to States for investment and implementation of measures that contribute to the establishment of conditions for the realization of human rights, particularly economic, social and cultural rights, are often diminished due to illicit financial flows and the non-repatriation of those funds. The failure to repatriate illicit funds to the country-of-origin impacts access to basic health care, education, safe water and sanitation, adequate housing and infrastructure, all of which are basic conditions for the enjoyment of human rights. The imperative for countries of origin to ensure the recovery of illicit funds derives from the obligation of States to devote their maximum available resources to the fulfilment of economic, social and cultural rights. In this context, recipient countries have the duty to assist and facilitate repatriation of illicit funds as part of their obligation of international cooperation and assistance.

There are multiple legal, factual and institutional obstacles to the repatriation of funds of illicit origin such as inconsistent legal requirements across borders, absence of legislation or regulation in requested countries allowing the repatriation of funds, lack of legal expertise in requesting countries, and lack of coordination between national and international agencies. These obstacles can be identified at the different stages of the process of repatriation of illicit funds including during the prevention and detection of these funds, the tracing phase and the adoption of provisional measures to freeze, restrain and confiscate these funds. An important number of the barriers to the repatriation of illicit funds to the countries of origin are often a consequence of the insufficient understanding of the impact of the diversion of resources due to illicit financial outflows and the non-repatriation of those funds on the society affected. A human rights-based approach to the repatriation of illicit funds will contribute to overcoming some of these barriers by focusing on the population as rights-holders and on States as duty-bearers. Additionally, a human rights-based approach with a particular focus on key human rights principles including of non-discrimination, participation, transparency, accountability, and access to justice and remedy for victims is key to ensuring that repatriated funds are used in a manner that meets the needs of society and promotes human rights.

The Human Rights Council has considered in several resolutions adopted since 2011, 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 in this regard. Some of the resolutions have requested the Independent Expert on foreign debt and human rights to conduct studies and present reports on this thematic area. Furthermore, the Council requested the Advisory Committee to conduct a study on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development.

Background documents:

- Human Rights Council resolution [52/21](#) of 19 April 2023 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.
- Intersessional seminar on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights – Report of the United Nations High Commissioner for Human Rights ([A/HRC/51/12](#)) (2022).
- General Assembly resolution adopted on 14 December 2022 on the Promotion of international cooperation to combat illicit financial flows and strengthen good practices on assets return to foster sustainable development ([A/RES/77/154](#))
- [Financing for Sustainable Development Report](#), 2022.
- Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. Non-binding set of practical guidelines for efficient asset recovery (2022) ([A/HRC/52/45](#))
- Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. International financial obligations, digital systems and human rights (2022) ([A/HRC/52/34](#))
- Advisory Committee, Study on utilizing non-repatriated illicit funds with a view to supporting the achievement of the Sustainable Development Goals (2020) ([A/HRC/43/66](#)).
- Advisory Committee, Research-based study on the impact of flow of funds of illicit origin and the non-repatriation thereof to the countries of origin on the enjoyment of human rights, including economic, social and cultural rights (2017) ([A/HRC/36/52](#)).
- Independent Expert on foreign debt, Final report on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights, (2014) ([A/HRC/25/52](#)).
- Independent Expert on foreign debt, Interim report on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights (2013) ([A/HRC/22/42](#)).
- Comprehensive study on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, in particular economic, social and cultural rights (2011) ([A/HRC/19/42](#)).