

# TACKLING CORRUPTION IN UZBEKISTAN: A WHITE PAPER



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Open Society Eurasia Program

June 2016

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## Glossary

ACN	OECD Anticorruption Network for Eastern Europe and Central Asia
ADB	Asian Development Bank
AML	Antimoney Laundering
CAREC	Central Asian Regional Economic Cooperation
DoJ	U.S. Department of Justice
EAG	Eurasian Group on combating money laundering and financing of terrorism
FCPA	Foreign Corrupt Practices Act
FATF	Financial Action Task Force
FRD	Fund for Reconstruction and Development (an off-budget fund holding export revenues)
Hokimiat	Local government body
ICSID	International Centre for Settlement of Investment Disputes
IGIHRD	Initiative Group of Independent Human Rights Defenders
KRU	Control and Revision Division
MTS	Mobile TeleSystems (Russian telecommunications company, and former owner of Uzdunrobita in Uzbekistan)
NIMFOGO	Independent Institute for Monitoring the Formation of Civil Society
NBU	National Bank of Uzbekistan
OECD ACAP	The Organisation for Economic Co-operation and Development's Istanbul Anti-Corruption Action Plan
OSCE	Organisation for Security and Co-operation in Europe
Selkhozfond	Fund for Payments for Agricultural Production Purchased for Public Use (State fund for revenues from cotton exports)
NSS	National Security Service (also known by its Russian acronym, SNB)
UNDP	United Nations Development Program

## EXECUTIVE SUMMARY

In February 2016, telecoms company Vimpelcom agreed to pay almost U.S.\$800 million in fines to U.S. and Dutch authorities to settle charges of paying bribes to officials in Uzbekistan. U.S. authorities are also aiming to seize more than U.S.\$850 million in European bank accounts that they claim are linked to corrupt payments to Uzbek officials. These international investigations have focused attention on the challenge of corrupt practices and poor governance in Uzbekistan. Widespread corruption in Uzbekistan is damaging the economy, reinforcing inequality, and undermining the effectiveness of state institutions.

This report provides an analysis of the functioning and impact of high-level corruption in Uzbekistan. It concludes that corrupt practices are endemic in politics and business, undermining the prospects for sustainable long-term economic development and inclusive growth. Recent anti-corruption drives largely reflect political maneuverings in the elite and do not address the systemic nature of corruption. International anticorruption assistance programs have failed to make an impact on policy.

Although Uzbekistan has recently improved its position in the World Bank's 'Doing Business' rankings, investors still face a complex licensing system, an opaque tax code, and highly restrictive cross-border trade and currency regulations. These bureaucratic structures provide opportunities for corruption and rent-seeking, which damage the prospects for foreign investment, stifle local entrepreneurship and worsen inequality. Corruption fuels social discontent and is a favored campaign topic for radical Islamist groups.

Corruption is used both for self-enrichment of elites and also as a means of maintaining political control through a hierarchical system of patron-client networks. As a result, conflict among rival groups over the distribution of resources can lead to political instability. Political and business decisions take place behind closed doors in an informal system of decision-making, where formal regulations and the rule of law are often overlooked. There is no independent oversight: the courts are highly politicized and also affected by corruption. Independent journalists and civil society activists who monitor and report on corruption have been harassed, persecuted and imprisoned.

Uzbekistan acceded to the UN Convention against Corruption in 2008. The government claims to have pursued an anticorruption campaign since 2010, but there have been no significant shifts in policy. Achieving substantive reform within the present political system is extremely difficult. Only genuine political and institutional reform can begin to address the systemic, high-level corruption that defines the current system.

International financial institutions, UN agencies, and the European Union have initiated programs on good governance, but the Uzbek government has resisted external pressure for reform. The international community can have more impact by tackling the ways in which the international financial system facilitates corruption within the country. Funds derived from corrupt practice inside Uzbekistan are often channeled through offshore companies and invested in the European Union and the United States. The most effective role for the international community is to pursue allegations of money-laundering in OECD countries more vigorously and to investigate thoroughly any involvement of international corporations in corruption.

## Introduction: Understanding Corruption

According to Transparency International’s Corruption Perceptions Index, Uzbekistan is one of the most corrupt states in the world, occupying 153rd position out of 168 countries and territories.<sup>1</sup> It is in the lowest 10 percent of countries in terms of corruption in the World Bank’s Worldwide Governance Indicators.<sup>2</sup> Freedom House gives Uzbekistan the worst possible rating for political and civil rights, noting that ‘corruption is pervasive’.<sup>3</sup> As these rankings suggest, corrupt practices and rent-seeking are encountered at every level of the state. Widespread corruption in the economy and in the state is accompanied by an extensive system of coercion and violence, including the use of torture and widespread human rights abuses.

There are multiple causes for this pattern of corrupt practices in Uzbekistan. Some scholars see the roots of corruption in particular social and cultural practices that are widespread within Uzbekistan. Certain customs have become more widespread in the post-independence period as part of a broader revival of many pre-Soviet traditions.<sup>4</sup> However, such cultural arguments have limited explanatory power in relation to high-level, systemic corruption in the state. Instead, this report emphasizes the political and institutional drivers of corruption, focusing on the central role played by systemic corruption in both political and economic development within the country. This research paper examines high-level corruption that has a systemic impact rather than everyday corrupt practices.

**Political context:** It is important to view corruption in the context of a wider system of political and economic power that has developed in Uzbekistan since independence. This system encompasses both the private and public sectors, with a very blurred distinction between business and politics. The most important political groupings are not political parties, but patron-client systems or networks, which compete for control over business and resources. It is the interaction among these power networks—presided over by an autocratic president—that decides fundamental questions about who has access to political and economic resources, and who ultimately wields power. Within this system, corrupt practice is not an aberration from the legal norm, but effectively becomes the norm, albeit covered by a façade of legality. Since corrupt practices are so deeply embedded in the system of political power, genuine reform that tackles systemic corruption is particularly difficult to achieve.

**Institutional analysis:** While politics explains many of the patterns of high-level corruption in Uzbekistan, state institutions, regulatory frameworks and legislation are important in providing the conditions for corruption to thrive. Opportunities for corruption emerge when public officials have discretionary powers over financial flows and where there are few constraints against taking advantage of these powers for private gain. Constraints on corruption are formed by a combination of social, cultural, and legal constraints and the oversight and monitoring activities of independent civil society organizations and media.<sup>5</sup> This report outlines both opportunities and constraints in relation to key sources of funding, notably in foreign investment, cross-border trade, and public finance.

<sup>1</sup> See: <http://www.transparency.org/cpi2015>

<sup>2</sup> See: <http://info.worldbank.org/governance/wgi/index.aspx#home>

<sup>3</sup> See: <https://freedomhouse.org/report/freedom-world/2015/uzbekistan>

<sup>4</sup> R. Urinboyev and M. Svensson, ‘Living law, legal pluralism, and corruption in post-Soviet Uzbekistan’, *The Journal of Legal Pluralism and Unofficial Law*, 45 (2013), pp. 372-390; R. Urinboyev and M. Svensson, ‘Corruption in a culture of money: Understanding social norms in post-Soviet Uzbekistan’, *Social and Legal Norms* (2013), pp. 267-284.

<sup>5</sup> This approach is taken from Alina Mungiu-Pippidi et al. *Contextual Choices in Fighting Corruption: Lessons Learned* (Oslo:

**Impact of Corruption:** In certain circumstances some forms of corruption may offer temporary mechanisms of stability in both politics and in business, particularly in cases of stable, long-standing patronage.<sup>6</sup> Corruption may also provide a means for many individuals and businesses to cope with the deleterious effects of state bureaucracy and state interference in the economy.

In most instances, however, the impact of systemic corruption is highly detrimental for both economic and political development, particularly over the long term. A political and economic system in Uzbekistan based on authoritarian control and systemic mechanisms of corruption is likely to prove increasingly unable to manage the challenges of globalization. Systemic corruption in such a system produces significant negative political, social, and economic impacts:

- Particularly in eras of political uncertainty, corrupt practices may fuel instability. In Uzbekistan, where President Islam Karimov has been in power for over 25 years, the lack of a clear mechanism for political succession raises concerns. Centralized corruption may begin to break down, as more potential centers of political and economic power emerge and officials begin to seek quick returns on investments in case of political upheaval. Corruption in Uzbekistan has undermined the development of sustainable political and state institutions that could help to manage such periods of political uncertainty.
- In economic terms, corruption has undermined foreign and domestic investment and negatively impacted on the business environment. High official figures for economic growth are probably exaggerated, and are not reflected in improving standards of living for most of the population. Small business elites have benefited from sectors such as cotton, oil and gas, but poverty remains widespread. A lack of opportunities at home has led to mass labor migration to Russia and Kazakhstan.<sup>7</sup>
- Rumors of high-level corruption and direct experience of low-level corruption fuel popular social discontent, which increases out-migration and threatens long-term stability. Corruption also fuels narratives promoted by radical Islamist groups: Hizb ut-Tahrir, for example, has regularly published condemnations of high-level corruption in Uzbekistan.<sup>8</sup>

## Measuring Corruption

Corruption is always difficult to measure and to analyze, but a closed state such as Uzbekistan

<sup>6</sup> See Lawrence P. Markowitz, *State Erosion: Unlootable Resources and Unruly Elites in Central Asia* (Cornell University Press, 2013); C. H. Stefes, 'Governance, the State and Systemic Corruption: Armenia and Georgia in Comparison', *Caucasian Review of International Affairs*, 2(2) (2008), pp. 73-83; Yuhua Wang, 'Institutions and Bribery in an Authoritarian State', *Studies in Comparative International Development*, 49(2) (2014), pp. 217-241.

<sup>7</sup> The numbers of Uzbek labor migrants in Russia has grown from around 550-600,000 in the early 2000s to between 2.2 million and 2.7 million in 2014-15. Unofficial estimates suggest higher figures. Kazakhstan and South Korea are also significant destinations for migrants. See: <http://www.uz.undp.org/content/uzbekistan/en/home/ourperspective/ourperspectivearticles/2015/03/05/who-is-behind-remittances--a-profile-of-uzbek-migrants.html>.

<sup>8</sup> 'The Corruption of Uzbekistan's Elite will only be removed by Khilafah', 22 February 2014, <http://www.khilafah.com/index.php/analysis/asia/18143-the-corruption-of-uzbekistans-elite-will-only-be-removed-by-khilafah>

poses particular problems. Typically, analysis of corruption relies on three main sources of data: surveys of public perceptions; analysis of institutional mechanisms that may provide opportunities or incentives for corruption; and case-studies or audits of specific projects.<sup>9</sup>

In Uzbekistan, public opinion surveys are rare; those that are conducted do not provide reliable information on sensitive topics. Although the government claims to have commissioned public opinion surveys on corruption from the state-controlled polling organization *Ijtimoiy Fikr* (Public Opinion),<sup>10</sup> it has refused to release the results.<sup>11</sup> In 2013, the government claimed that the Chamber of Commerce and Industry of Uzbekistan and the General Prosecutor's Office conducted an anonymous survey of more than 10,000 businesspeople on the business environment and corruption, but this poll has also not been made public.<sup>12</sup>

The main part of this report therefore focuses on the institutional structures and mechanisms that may give rise to corruption, supported by case-studies of corrupt practice. Reliable data is limited by the lack of independent reporting and investigation permitted in Uzbekistan and the absence of detailed public documents from auditing and oversight institutions. It is also very difficult to access court documents from trials of individuals accused of corruption.<sup>13</sup> It was not possible to conduct interviews inside Uzbekistan for this report. Researchers who have conducted roundtables and interviews in Uzbekistan note the reluctance of local business people to discuss sensitive topics.<sup>14</sup> As a result, much of the evidence of corruption stems from the experience of foreign companies, published as a result of government investigations in their home countries or as part of international arbitration proceedings. Where possible, official and domestic media reports have been referenced, but other details stem from journalists, activists, and businesspeople who operate primarily outside Uzbekistan.

## Defining Corruption

Corruption is a contested concept, and there are multiple definitions.<sup>15</sup> The World Bank uses a definition of corruption as **'the abuse of public office for private gain'**. In the context of Uzbekistan's neopatrimonial political-economic system, it is difficult to make clear-cut definitions of 'public office'. The strict distinction between the private and public sector is blurred and discretionary power to influence the decisions of state institutions can accrue to individuals with no clear public position. As a result, we use the definition of corruption developed in some EU institutions—**'the abuse of power for private gain'**—which covers both private and public sector corruption, and includes such problems as conflicts of interest, nepotistic appointments, and cronyism.<sup>16</sup>

<sup>9</sup> Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi, 'Measuring Corruption: Myths and Realities', The World Bank, 1 December 2006, <http://www.worldbank.org/publicsector/anticorrupt/corecourse2007/Myths.pdf>

<sup>10</sup> See their website at: <http://ijtimoiy-fikr.uz/>

<sup>11</sup> The government claims that the polls have been used internally. OECD Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, 'Uzbekistan: Assessment and Recommendations' (2012), p. 15.

<sup>12</sup> Istanbul Anti-Corruption Action Plan: Uzbekistan Progress Update, April 2014.

<sup>13</sup> See Wim Albert Timmermans, 'Independence of the Judiciary in the Central Asian States', European Union, October 2014, p. 85, para 559, <http://ruleoflaw.eu/wp-content/uploads/2014/04/Independence-of-the-judiciary-in-the-Central-Asian-States-EN-reduced.pdf>

<sup>14</sup> Roman Vakulchuk, Farrukh Irnazarov, Alexander Libman, 'Liberalization of Trade in Services in Kazakhstan and Uzbekistan: Analysis of Formal and Informal Barriers', Economics, Education and Research Consortium, Working paper No 12/06, pp. 13, 16.

<sup>15</sup> For more on the definition of corruption, see L. Holmes, *Corruption, Post-Communism and Neoliberalism* (Duke University Press, 2006), Ch. 2.

<sup>16</sup> PwC, 'Identifying and reducing corruption in Public Procurement in the EU', 30 June 2013.



This report identifies a wide range of corrupt practices, such as ‘bribery’, ‘kickbacks’ and ‘embezzlement’. Bribes are paid to win government contracts, to reduce or eliminate taxation; to receive licenses for particular economic activities; to accelerate bureaucratic processes; to avoid predatory practices by state institutions; or to achieve particular legal outcomes in the courts. In state procurement the most common form of corruption involves ‘kickbacks’, in which suppliers pay a percentage of a contract to the awarding government official. In the context of Uzbekistan, we also discuss a wide range of practices in which power is abused for private gain, but where bribery, kickbacks or embezzlement are inadequate characterizations. These are actions which may have political rather than economic goals, or are driven by other non-material motivations. These individual acts form part of a much wider pattern of corrupt practice that is the central dynamic in a broader system of political and economic power.

## Part I: Political Context: Intra-Elite Competition and High-Level Corruption

Corrupt practices in Uzbekistan only make sense in the context of the wider system of political and economic power. Recent reports of corruption scandals involving members of the presidential family are only the latest development in a particular mode of governance that has long historical roots.

### 1.1 Historical Background: Politics of Corruption

Uzbekistan has faced accusations of widespread corruption in the political system since at least the 1980s, when it was at the center of a major Soviet corruption scandal, involving the falsification of reports of cotton production.<sup>17</sup> In independent Uzbekistan, cotton remained a significant economic resource and continued to be linked to widespread corruption and other abuses.<sup>18</sup> Following independence, other economic resources, such as foreign investment and privatized business, also become important sources of rent-seeking, over which key political players struggled for control.

Following independence, President Islam Karimov insisted on a strong role for the state in the Uzbek economy, and resisted mass privatization and trade and currency liberalization.<sup>19</sup> In practice, the Uzbek som remained non-convertible, and officials and well-placed businesspeople manipulated a complex system of multiple exchange rates. The government maintained currency and exchange controls and limited foreign investment and cross-border trade. Almost inevitably, the continuing discretionary powers of officials ensured that public positions were largely viewed as sources of rent. Indeed, the whole politico-economic system became an all-embracing system of

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<sup>17</sup> David Lewis, ‘Sovereignty after Empire: The Colonial Roots of Central Asian Authoritarianism’, in S. Cummings and H. R. Hinnebusch, *Sovereignty after Empire: Comparing Central Asia and the Middle East* (Edinburgh University Press, 2011), pp. 188-191.

<sup>18</sup> Bakhodir Muradov and Alisher Ilkhamov, ‘Uzbekistan’s Cotton Sector: Financial Flows and Distribution of Resources’, Open Society Foundations, October 2014, <http://www.opensocietyfoundations.org/reports/uzbekistan-s-cotton-sector-financial-flows-and-distribution-resources>, pp. 43-44.

<sup>19</sup> See Islam Karimov, *Uzbekistan on the Threshold of the Twenty-First Century: Tradition and Survival* (London: Curzon, 1997); Neil Melvin, *Uzbekistan: Transition to Authoritarianism on the Silk Road* (London: Routledge, 2000).

rent-seeking and patronage.<sup>20</sup> The government promoted Uzbekistan as a developing state that welcomed foreign investment and was committed to economic reform, but in practice international business faced serious problems in developing sustainable investments in the country.

Investors and diplomats alike found it difficult to understand the decision-making process in a largely opaque political system. State institutions were little more than a façade, behind which the real powerbrokers engaged in informal decision-making. This system is best described as a neopatrimonial authoritarian political system, in which the familiar institutions of the modern state—government ministries, courts and judiciary, and a parliament—are combined with informal, behind-the-scenes dynamics of political power, based on patron-client relationships and regional networks.<sup>21</sup>

## 1.2 Networks and Clans

These informal politics are often described as revolving around ‘clans’, perhaps better characterized as ‘networks’, in which kinship, regional affiliation, and business links may all play a role in producing powerful informal groupings that control politics and business.<sup>22</sup> Networks may have originally been rooted in regional or family ties (analysts sometimes talk of Samarkand or Tashkent groupings, for example), but many power networks are maintained primarily through institutional ties and informal and formal business links. These networks of power are hierarchical and consist of pyramid-like structures characterized by vertical relations between a patron and client groups, which may be located in different business sectors, in state institutions, and in geographical regions.

Loyalty does not only depend on financial relations, but generally clients provide payments to a patron in exchange for political protection. In state structures, low-level officials extort bribes from individuals in exchange for services and pass a percentage of the take upwards along a chain of command. Widespread corruption provides powerful leverage for the political leadership, which is able to use selective prosecution as a mechanism of control, employing ‘compromising information’ about corruption to ensure loyalty from subordinates or to dismiss those who display disloyalty or become too much of a political threat.<sup>23</sup>

This informal system of power has been maintained over the past two decades in conjunction with an extensive system of coercion and repression. However, it has faced regular crises. From time to time, local patron-client structures emerge that use corruption and clientelism to develop a level of autonomy from the central state. Such local clientelistic networks have regularly appeared at the regional level in Uzbekistan.<sup>24</sup> Central political authorities attempt to control these semi-

<sup>20</sup> Markowitz, *State Erosion*; Alexander Cooley, *Great Games, Local Rules* (Oxford University Press, 2012).

<sup>21</sup> See Alisher Ilkhamov, ‘Neopatrimonialism, interest groups, and patronage networks: the impasses of the governance system in Uzbekistan’, *Central Asian Survey*, 26 (1), (2007), pp. 65–84.

<sup>22</sup> See Kathleen Collins, *The Logic of Clan Politics in Central Asia: The Impact on Regime Transformation* (Cambridge: Cambridge University Press, 2006); Idil Tuncer-Kilavuz, ‘Political and Social Networks in Tajikistan and Uzbekistan: ‘Clan’, Region and Beyond’, *Central Asian Survey*, 28(3) (2009), pp. 323–334.

<sup>23</sup> On a similar system in Ukraine, see Keith Darden, ‘The Integrity of Corrupt States: Graft as an Informal State Institution’, *Politics and Society* 36 (35) (2008), pp. 35–59.

<sup>24</sup> See L. P. Markowitz, ‘The Sub-National Roots of Authoritarianism: Neopatrimonialism and Territorial Administration in Uzbekistan’, *Demokratizatsiya: The Journal of Post-Soviet Democratization*, 20 (2012); Ilkhamov, ‘Neopatrimonialism, Patronage and Factionalism in post-Soviet Uzbekistan’.

independent economic networks through regular purges of local officials. At a national level, there are also regular purges of business leaders who have either begun to develop too much economic power or who have threatened the economic interests of more powerful figures. As a result, although this system of clientelistic control often appears stable from the outside, it frequently produces serious conflicts within the elite.

### 1.3 Use of Repression

This political and economic system relies heavily on the use of law enforcement agencies to suppress dissent and to constrain independent political activity. Uzbekistan regularly features at the bottom of international league tables of civil rights and democratic development. Freedom House rates it among the most repressive 10 countries in the world, awarding it the lowest possible score for both political and civil rights.<sup>25</sup> The Economist Democracy Index 2012 listed Uzbekistan as 161<sup>st</sup> out of 167 countries, with particularly low scores for political and civil rights.<sup>26</sup>

Law enforcement agencies used torture against detainees with apparent impunity.<sup>27</sup> Following Soviet traditions, the courts rely heavily on confessions, often produced using threats and torture. Independent lawyers are severely constrained, acquittals in court proceedings are extremely rare, and sentencing is punitive, involving long terms of detention in prisons, where conditions are extremely poor.<sup>28</sup> Law enforcement agencies are often used to prosecute business owners or their associates and employees, both in response to allegations of illegality and as effective ‘hostages’ in business disputes (see below). There is no freedom of assembly, and the police disrupt any attempt to mount antigovernment demonstrations. In May 2005, Uzbek interior forces used force to disperse what was described as an antigovernment uprising in the town of Andijan, during which hundreds of people were killed, most of them unarmed civilians.<sup>29</sup>

### 1.4 Contemporary Politics and the Struggle for Power

In Uzbekistan, political struggles take place behind the scenes and usually only become evident through reports of shifts in control over particular businesses or through news of the arrests of business figures or political rivals. President Karimov has attempted to control the emergence of rival centers of economic power, since such accumulations of wealth are perceived as undermining the central, authoritarian power of the state. In the 1990s and early 2000s, Karimov faced challenges from regional elites, but in recent years factional infighting has emerged between competing political-business elites, including those led by members of the presidential family.

Since late 2009 when President Karimov announced his opposition to the emergence of ‘oligarchs’ in the country, there have been regular purges of businesspeople across the country. In

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<sup>25</sup> <https://freedomhouse.org/country/uzbekistan>

<sup>26</sup> [http://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex12](http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex12)

<sup>27</sup> UN Special Rapporteur, ‘Report of the Special Rapporteur on the Question of Torture, Theo van Boven: Mission to Uzbekistan’, Geneva: UN Commission on Human Rights, 2003; Human Rights Watch, ‘No One Left to Witness: Torture, the Failure of Habeas Corpus, and the Silencing of Lawyers in Uzbekistan’, Human Rights Watch, 13 December 2011, <http://www.hrw.org/reports/2011/12/13/no-one-left-witness>

<sup>28</sup> Human Rights Watch, ‘“Until the Very End”: Politically Motivated Imprisonment in Uzbekistan’, September 2014.

<sup>29</sup> Human Rights Watch, ‘Bullets Were Falling Like Rain’ The Andijan Massacre, May 13, 2005’, June 2005.

2010 there were prosecutions against several well-known business leaders.<sup>30</sup> These prosecutions were selective and reflected power struggles within the elite, rather than necessarily being based on any evidence of corrupt activity by the businesspeople involved. During this campaign, the Zeromax company, which had been associated with Karimov's eldest daughter, Gulnara Karimova, was also disbanded.<sup>31</sup> Ms. Karimova herself—who denied that she had financial connections with Zeromax—appeared to remain untouched by the scandal, continuing to build up an international profile as Uzbek ambassador to UN institutions in Geneva and as ambassador to Spain, in addition to being a fashion designer and developing a wide-ranging portfolio of cultural and charity activities, through her Forum of Culture and Arts of Uzbekistan Foundation (the Fund Forum) organization.

#### 1.4.1 Telecoms and corruption

A second round of purges began in 2012, and this time ultimately resulted in the collapse of Gulnara Karimova's business empire. The first public signs of this conflict emerged in mid-2012, when a dispute emerged around a telecoms company, Uzdunrobita, owned by Russian company MTS. At first, this appeared to be yet another attempt by powerful vested interests to put pressure on a telecoms company, either as a form of extortion, or to persuade it to leave the market to allow another company to enter. Uzdunrobita's license to operate was suspended in July 2012; in August its licenses were formally revoked, and the Uzbek authorities began legal proceedings to seize its assets.<sup>32</sup>

In June 2012, as the campaign against Uzdunrobita intensified, its director, Bekhzod Akhmedov, who had previously been perceived as a close associate of Gulnara Karimova, fled the country. The Uzbek authorities persuaded Interpol to issue a Red Notice for his arrest.<sup>33</sup> On 30 July 2012 two managers of Coca-Cola Ichimligi Uzbekiston, Ltd, a company also linked in media reports to Ms. Karimova,<sup>34</sup> were arrested in Geneva, apparently while attempting to access a private bank account belonging to Mr. Akhmedov.<sup>35</sup> The Swiss authorities announced that they were investigating four Uzbek citizens on charges of money-laundering, and media reports claimed that the authorities had frozen several hundred million U.S. dollars in Swiss bank accounts in connection with the investigation.<sup>36</sup> (Subsequently, in 2014, the Swiss authorities announced that the money-laundering probe had been widened to investigate Gulnara Karimova herself.<sup>37</sup>)

There was further international attention towards Ms. Karimova's business affairs in September 2012, when an investigative program on Swedish television (SVT) alleged that

<sup>30</sup> Bruce Pannier, 'Big Business In Uzbekistan Targeted In Wave of Arrests', RFE/RL, 12 March 2010.

<sup>31</sup> See US Dept. of State, 'Uzbekistan: From A to Zeromax', 20 January 2010, Tashkent, <http://www.wikileaks.ch/cable/2010/01/10TASHKENT27.html>

<sup>32</sup> 'Uzbekistan economy: Plight of Russian firm illustrates investment risks', EIU ViewsWire, 7 September 2012, via ABI/Inform.

<sup>33</sup> 'Аресты в Швейцарии — начало конца «финансовой химчистки» Гульнаны Каримовой?', 16 August 2012, <http://www.fergananews.com/article.php?id=7451>; in 2007 internal TeliaSonera documents characterized Bekhzod Akhmedov as 'Chief Executive for Gulnara Karimov's investment group' (See Mannheimer Swartling, 'Rapport till styrelsen i TeliaSonera AB', Stockholm, 31 January 2013, [www.svd.se/multimedia/archive/.../Hela\\_utredning\\_kri\\_1006168a.pdf](http://www.svd.se/multimedia/archive/.../Hela_utredning_kri_1006168a.pdf), p. 3(9).

<sup>34</sup> Joanna Lillis, 'Uzbekistan's Coca-Cola Problem: Is It the Real Thing?', 27 February 2013, Eurasianet, <http://www.eurasianet.org/node/66608>.

<sup>35</sup> Courtney Weaver and Neil Buckley, 'Uzbekistan: The leading lady', *Financial Times* 7 March 2013, <http://www.ft.com/cms/s/0/e73db090-85b7-11e2-9ee3-00144feabdco.html>

<sup>36</sup> Ibid.

<sup>37</sup> 'Swiss Announce Karimova Money-Laundering Probe', RFE/RL, 12 March 2014, <http://www.rferl.org/content/switzerland-karimova-investigation-uzbekistan-money-laundering/25294326.html>

Swedish-Finnish telecoms company TeliaSonera had paid a Gibraltar-based company, Takilant, more than U.S.\$300 million to receive a 3G license and telephone numbers to operate in Uzbekistan.<sup>38</sup> Takilant was owned by Gayane Avakyan, reported to be a close associate of Gulnara Karimova, although Avakyan denied that there were any beneficial owners of Takilant besides herself.<sup>39</sup>

TeliaSonera admitted that the terms of its 2007 deal involved paying Takilant U.S.\$30 million and giving it 26 percent of the ownership of its local subsidiary, Ucell. It also confirmed that Takilant exercised a ‘put-option’ in February 2010, selling 20 percent of Ucell back to Telia-Sonera for approximately 1550 million SEK (U.S.\$213 million)<sup>40</sup> However, TeliaSonera denied all allegations of corruption, and claimed that it had conducted adequate due diligence on its partner.<sup>41</sup> It commissioned a report from law firm Mannheimer Swartling into the Uzbekistan investment, which was highly critical of the investment process, but concluded that ‘based on the information available to the investigation, it has not been established that any active bribery or money laundering has taken place’. However, the report also concluded that ‘the suspicions of crime expressed in the media and by the Swedish Prosecution Authority cannot be dismissed by this investigation’.<sup>42</sup> In January 2013, in response to the report’s criticism, Lars Nyberg resigned as CEO of TeliaSonera. A new board of directors, appointed in April 2013, announced an overhaul of TeliaSonera’s operations in states in Eurasia.<sup>43</sup> In March 2014, Swedish prosecutors initiated a criminal investigation, alleging that TeliaSonera representatives bribed the political elite in Uzbekistan ‘to gain necessary licenses and frequencies’.<sup>44</sup>

At least partially as a result of these widely reported developments in Europe, Gulnara Karimova’s business empire inside Uzbekistan had begun to unravel. In October 2013, the authorities closed three radio stations and four television channels reportedly controlled by Ms. Karimova, shortly followed by retail and entertainment outlets, and other related companies. In late November, the Central Bank of Uzbekistan suspended the license of Credit Standard Bank,

<sup>38</sup> SVT, ‘TeliaSonera in million dollar deal with dictatorship’, 19 September 2012, <http://www.svt.se/ug/teliasonera-i-miljardaffar-med-diktatur>; in November 2012 SVT claimed that TeliaSonera paid Takilant a further 370m SEK (U.S.\$55m) in 2010 to receive a 4G license (See: SVT, ‘Teliasonera i ytterligare storaffär med Takilant’, <http://www.svt.se/ug/ytterligare-storaffar-med-takilant>); for a list of alleged payments, see the reporting by the Organized Crime and Corruption Reporting Project at [https://www.occrp.org/corruptistan/uzbekistan/gulnara\\_karimova/the-prodigal-daughter/table.php](https://www.occrp.org/corruptistan/uzbekistan/gulnara_karimova/the-prodigal-daughter/table.php)

<sup>39</sup> Mannheimer Swartling, ‘Rapport till styrelsen i TeliaSonera AB’, Stockholm, 31 January 2013, [www.svd.se/multimedia/archive/.../Hela\\_utredning\\_kri\\_1006168a.pdf](http://www.svd.se/multimedia/archive/.../Hela_utredning_kri_1006168a.pdf), p. 3(9)

<sup>40</sup> ‘TeliaSonera comments on developments in Uzbekistan’, 19 September 2012, <http://www.teliasonera.com/en/newsroom/press-releases/2012/9/teliasonera-comments-on-developments-in-uzbekistan/>

<sup>41</sup> ‘TeliaSonera comments on developments in Uzbekistan’, Press-release, 19 September 2012 <http://www.teliasonera.com/en/newsroom/press-releases/2012/9/teliasonera-comments-on-developments-in-uzbekistan/>. The company claimed that it had carried out appropriate due diligence: ‘a background check on Takilant Limited was carried out, to ensure the company had all necessary permits and was the owner of the assets to be purchased. It was also ascertained that the persons representing the company had the mandate to do so. TeliaSonera has no insights into how Takilant has used the proceeds, or whether there are any connections to other persons in Uzbekistan.’

<sup>42</sup> Mannheimer Swartling, ‘Rapport till styrelsen i TeliaSonera AB’, Stockholm, 31 January 2013, [www.svd.se/multimedia/archive/.../Hela\\_utredning\\_kri\\_1006168a.pdf](http://www.svd.se/multimedia/archive/.../Hela_utredning_kri_1006168a.pdf), p. 9(9)

<sup>43</sup> According to a review conducted in 2013-14 of TeliaSonera’s investments in other Eurasian countries, the Board of Directors concluded that ‘TeliaSonera has conducted its business in Eurasia in a manner that was inconsistent with sound business practice and TeliaSonera’s ethical requirements. It cannot even be ruled out that certain conduct has been in violation of the law, something that will ultimately be decided by the judiciary.’ TeliaSonera, ‘Summary of the Board of Directors’ review of transactions in Eurasia and measures taken during the past year’, <http://www.teliasonera.com/en/investors/annual-general-meeting/2014/2/annual-general-meeting-2014/>

<sup>44</sup> ‘Swedish prosecutor names daughter of Uzbekistani leader in bribery probe’, *Dagens Nyheter* [in Swedish], via BBC monitoring, 24 March 2014; ‘Uzbek president’s daughter named in Swedish telecom bribery case’, Reuters, 24 March 2014, <http://www.reuters.com/article/2014/03/24/teliasonera-uzbekistan-idUSL5NoML2VL20140324>

which had been associated with her business network,<sup>45</sup> and her Fund Forum charity was reported to have been closed.<sup>46</sup>

On 17 February 2014, armed police stormed Gulnara Karimova's apartment in Tashkent and arrested three of her closest associates, Rustam Madumarov, Gayane Avakyan, and Yekaterina Klyueva.<sup>47</sup> In July 2014, the Uzbek authorities announced that a military tribunal held in May had sentenced Mr. Madumarov, Ms. Avakyan, and other associates to long terms of imprisonment, of at least six years, on a range of charges including 'legalization of criminal income', currency offences and tax evasion.<sup>48</sup> In an official statement to the media, the General Prosecutor alleged that the 'organized group of Madumarov, R., Avakyan G, Sodikov, H. and others...[were engaged] in obtaining state shares in companies at artificially low prices...and other financial-economic machinations'.<sup>49</sup> According to the statement, the total losses caused by their activities amounted to 457 billion soms (approximately U.S.\$191 million).<sup>50</sup> Many other associates of Ms. Karimova were reportedly prosecuted and sentenced to terms of imprisonment.<sup>51</sup> In September 2014, it was reported that Gulnara Karimova was under house arrest in Uzbekistan.<sup>52</sup> Through representatives outside Uzbekistan, Ms. Karimova continued to deny any allegations of involvement in corruption, fraud or other wrongdoing.<sup>53</sup>

In a subsequent letter to a U.S. court in December 2015, the Uzbek Ministry of Justice declared that Rustam Madumarov, Gayane Avakyan, and others had also been convicted by the Tashkent Regional Criminal Court on 20 July 2015 of 'misappropriation', 'concealment of foreign currency', and 'legalization of criminal incomes' and other crimes. According to the Uzbek justice ministry, that conviction also covered corrupt payments from telecoms companies to offshore companies, as cited by the complaint of the Department of Justice.<sup>54</sup> However, there were no more details of the court case, highlighting the lack of transparency in this case and in Uzbekistan's justice sector more generally.

<sup>45</sup> Press-release, 'On ceasing the activity of Open Joint-Stock Commercial Bank "Credit-Standard"', 27 November 2013, <http://www.cbu.uz/eng/node/42253>; 'Uzbekistan: The country's "best bank in 2011" has stopped VISA credit cards operations', Fergana.ru, 23 January 2012, <http://enews.fergananews.com/news.php?id=2176>

<sup>46</sup> 'Gulnara Karimova announces Forum Fund closure', Fergana.news, 25 November 2013, <http://enews.fergananews.com/news.php?id=2763>

<sup>47</sup> 'Uzbek President's Daughter's Apartment Searched, Associates Detained', RFE/RL, 18 February 2014, <http://www.rferl.org/content/uzbekistan-karimova-search-arrests/25267536.html>; UzDaily, 'Prosecutor General's Office: Madumarov and Avakyan were sentenced', 18 July 2014, <http://www.uzdaily.com/articles-id-28564.htm>

<sup>48</sup> Press-release, Prosecutor-General, Uzbekistan, 'Вынесен обвинительный приговор', [www.prokuratura.uz](http://www.prokuratura.uz) (archived at Wayback Machine: <http://bit.ly/1qtLO40>); see also: 'Associates Of Uzbekistan's Gulnara Karimova Reportedly Sentenced', RFE/RL, 14 July 2014, <http://www.rferl.org/content/karimova-avakian-uzbekistan-madumarov-trial-sentence-reportedly/25455961.html>; Anna Smolchenko, 'Uzbek first daughter probed as jockeying for power intensifies', 11 Sept 2014, <http://www.dawn.com/news/1131150>

<sup>49</sup> This report took the form of a published interview with an anonymous journalist. See, 'Пресс-служба генеральной прокуратуры ответила на вопросы представителей сми', 22 September 2014, [www.prokuratura.uz](http://www.prokuratura.uz) (Archived at Wayback Machine: [bit.ly/1RDLRnU](http://bit.ly/1RDLRnU))

<sup>50</sup> Ibid.

<sup>51</sup> 'Dozens With Alleged Ties to Uzbek President's Daughter Are Sentenced', RFE/RL, 13 January 2015, <http://www.rferl.org/content/dozens-with-alleged-ties-iwth-karimova-sentenced/26791684.html>

<sup>52</sup> 'Uzbek Authorities Acknowledge Karimova Under House Arrest', RFE/RL, 23 September 2014, <http://www.rferl.org/content/uzbekistan-gulnara/26601995.html>

<sup>53</sup> Joanna Lillis, 'Uzbekistan: Karimova Spokesman Denies Corruption Charges; Associates Reportedly Jailed', Eurasianet, 14 July 2014, <http://www.eurasianet.org/node/68991>

<sup>54</sup> Letter from Uzbek Minister of Justice M Ikramov to Andrew L Carter Jr, US District Judge, Southern District of New York, 16 December 2015 (Case 1:15-cv-05063-ALC, Document 16-1, filed 4 Jan 2016).

## 1.4.2 International investigations

In March 2014, the Swiss authorities confirmed that the Attorney General's Office had opened a criminal investigation into Ms. Karimova's financial dealings.<sup>55</sup> More than 800 million Swiss francs were frozen in associated bank accounts, a record sum for a money-laundering investigation in Switzerland.<sup>56</sup> In the same month the U.S. Department of Justice (DoJ) also opened investigations into the TeliaSonera case.<sup>57</sup> The Dutch authorities began investigating two Netherlands-registered companies that were involved in the complex business structures around the telecoms deals.<sup>58</sup> In March 2014, investigations by U.S. and Dutch authorities also targeted Vimpelcom, which was part-owned by Norwegian company Telenor, and which also had business dealings with Takilant.<sup>59</sup> Subsequent U.S. investigations widened to include Russia's MTS, former owner of Uzdonrobita in Uzbekistan.

In March 2015, in a request to the Swedish authorities to freeze U.S.\$30 million in a bank account at Nordea bank, the U.S. Department of Justice (DoJ) announced that:

The U.S. investigation has revealed that VimpelCom, MTS, and TeliaSonera paid bribes to Uzbek officials to obtain mobile telecommunications business in Uzbekistan and that funds involved in the scheme were laundered through shell companies and financial accounts around the world, including accounts held in Sweden, to conceal the true nature of these illegal payments.<sup>60</sup>

In a subsequent court case, the DoJ outlined the schemes involving the three companies in Uzbekistan in some detail, with reference only to an unnamed 'government official A':

from in or about 2004 through in or around 2012, three international telecommunications companies [MTS, VimpelCom and TeliaSonera...] made more than U.S.\$800 million in corrupt payments to shell companies [...] in exchange for, among other things, inducing GOVERNMENT OFFICIAL A to use his/her influence in the government of Uzbekistan and instrumentalities thereof to affect or influence acts and decisions of Uzbek government officials or instrumentalities in order to assist the [telecom companies] in entering and operating in the Uzbek telecommunications market, including by influencing government officials at the Uzbek Agency for Communications and Information ("UzACI").<sup>61</sup>

In one of the largest settlements of a foreign bribery case in the United States, VimpelCom admitted in February 2016 that it had paid U.S.\$114 million in bribes to a government official in

<sup>55</sup> Press-release, 'La fille du président ouzbek dans la ligne de mire de la justice suisse', Berne, 12 March 2014 <https://www.news.admin.ch/dokumentation/00002/00015/index.html?lang=fr&msg-id=52278>

<sup>56</sup> 'UPDATE 1-Swiss investigating Uzbek president's daughter over money laundering', Reuters, 12 March 2014, <http://www.reuters.com/article/2014/03/12/switzerland-karimova-idUSL6NoM9iMF20140312>

<sup>57</sup> Sven Grundberg, U.S. Justice Department Probes TeliaSonera; U.S. Authorities Request Documents Relating to TeliaSonera's Uzbekistan License', Reuters, 17 March 2014.

<sup>58</sup> Ibid.

<sup>59</sup> Jack Farchy and Courtner Weaver, 'Uzbek telecoms corruption probe widens to include VimpelCom', *Financial Times*, 12 March 2014.

<sup>60</sup> U.S. Department of Justice to The Central Authority of Sweden, 'Third Supplemental Request for Assistance in the Investigation of VimpelCom, Ltd. ("VimpelCom"), Mobile TeleSystems OJSC ("MTS"), and TeliaSonera AB ("TeliaSonera")', 20 March 2015; see also 'U.S. Asks Sweden To Freeze Funds In Uzbek Bribery Probe', RFE/RL, 1 April 2015, <http://www.rferl.org/content/us-asks-sweden-to-freeze-funds-in-uzbek-bribery-probe/26932459.html>

<sup>61</sup> Filed in District Court, US Southern District of New York, Case 1:16-cv-01257-UA Document 1 Filed 02/18/16

Uzbekistan between 2006 and 2012, and agreed to pay combined fines and penalties of U.S.\$795 million to the U.S. Securities and Exchange Commission (SEC) and the Public Prosecution Service of the Netherlands (Openbaar Ministerie, OM).<sup>62</sup>

The DoJ also filed two civil complaints in U.S. courts to seize funds that it alleged were the proceeds of corruption. In the first case, in November 2015, the DoJ requested forfeiture of some U.S.\$300 million, held in bank accounts in Ireland, Belgium, Luxembourg, and Switzerland by companies associated with the telecoms deals in Uzbekistan, such as Expoline (Hong Kong), Swisdorn and Takilant (Gibraltar), and First Global Investments (Cayman Islands).<sup>63</sup> In a second case, filed in February 2016, the DoJ sought forfeiture of a further U.S.\$550 million in funds held in Swiss bank accounts belonging to Takilant and other companies related to the telecoms deals.

The forfeiture cases immediately opened up a potentially complex dispute between the U.S. authorities and the Uzbek government. In a letter to the U.S. court, the Uzbek Justice Ministry claimed that the assets rightfully belonged to the government of Uzbekistan, following a conviction by a Tashkent court in July 2015 of Mr. Madumarov, Ms. Avakyan, and their associates on charges related to these funds.<sup>64</sup>

### 1.4.3 Domestic political implications

Many aspects of these events remain unclear and there are multiple interpretations, particularly with regard to their political significance. The Uzbek authorities provided very little information about the cases, or about associated criminal trials. However, available evidence suggested that these arrests should be understood as one element in a broader political struggle among different networks for control of business and political power. Other powerful groups were also reportedly disbanded at the same time, including an extensive business network run by Akbarali Abdullaev, President Karimov's nephew, who had reportedly built up a business empire centered on enterprises in the Fergana valley. According to media reports, Abdullaev was arrested in October 2013,<sup>65</sup> and many of his associates were apparently convicted in trials in January 2015.<sup>66</sup> In August 2014, there were also unconfirmed reports that some senior National Security Service (NSS) officials, who had extensive business interests, had also been arrested, while others had reportedly fled abroad.<sup>67</sup> In July 2015, General Hayot Sharifhojaev, former first deputy of the National Security Service, who had been involved in the investigation of Karimova's business

<sup>62</sup> U.S. Department of Justice Press-Release, 'VimpelCom Limited and Unitel LLC Enter into Global Foreign Bribery Resolution of More Than \$795 Million; United States Seeks \$850 Million Forfeiture in Corrupt Proceeds of Bribery Scheme', 18 February 2016, <https://www.justice.gov/opa/pr/vimpelcom-limited-and-unitel-llc-enter-global-foreign-bribery-resolution-more-795-million>

<sup>63</sup> Case 1:16-cv-01257-UA Document 1 Filed 02/18/16

<sup>64</sup> Letter from Uzbek Minister of Justice M Ikramov to Andrew L Carter Jr, US District Judge, Southern District of New York, 16 December 2015 (Case 1:15-cv-05063-ALC, Document 16-1, filed 4 Jan 2016).

<sup>65</sup> 'Arrest of Uzbek Presidential Nephew Appears Confirmed', RFE/RL, 17 October 2013, <http://www.rferl.org/content/uzbekistan-karimova-arrest-abdullaev/25139823.html>

<sup>66</sup> Aleksei Volosevich, 'В Узбекистане осудили 60 руководителей крупных предприятий, входивших в группировку Акбарали Абдуллаева', AsiaTerra, 14 January 2015, <http://www.asiaterra.info/m/protsessy/v-fergane-osudili-60-rukovoditelej-kрупnykh-predpriyatij-vkhodivshikh-v-gruppirovku-akbarali-abdullaeva>

<sup>67</sup> 'Около 40 сотрудников безопасности Узбекистана уволены или взяты под стражу', Radio Azattyk, 3 July 2014, <http://rus.azattyk.mobi/a/25444133.html>



empire, was reportedly arrested.<sup>68</sup> There were also reports of further arrests of associates of Ms. Karimova in August 2015.<sup>69</sup>

This pattern of purges in the business and political elite does not indicate any fundamental change to the way the overall system works. However, these events highlighted the extent of high-level corrupt practice in the system, and also demonstrated the political instability that such a system can provoke. The arrests from 2013 to 2015 most likely point to a recentralization of power around the presidential administration. Despite these campaigns, there is no evidence of substantive attempts to tackle systemic corruption in the political and economic system. Instead, the government has used heavy-handed security responses to assert central control and close down rival centers of potential economic and political power.

## Part II: Key Resource Flows and Corruption

Corrupt practices arise around significant flows of economic resources where officials or their associates have discretionary powers to influence or control such resources through state regulation, licensing, or the control of taxation, customs or other state organs. This section analyses corrupt practices in relation to three major areas of economic activity: foreign investment and the private sector; state funding and budgets; and cross-border trade and international financial transactions.

### 2.1 Foreign Investment and the Private Sector

Foreign investors and domestic businesses have faced serious challenges in developing successful businesses in Uzbekistan, despite the country's energy and mineral resources, an effective workforce, an industrial base, and relatively good infrastructure. While some domestic and international businesses have succeeded in maintaining successful business operations without becoming involved in corruption, many investors have struggled to maintain business operations in the country. According to U.S. officials, foreign investors face 'challenges caused by fervent and non-transparent state involvement and corruption'.<sup>70</sup> In the Heritage Foundation's ranking of economic freedom, Uzbekistan is rated 163<sup>rd</sup> out of 178 listed countries.<sup>71</sup> Foreign investment remains low, averaging under U.S.\$800 million per year.<sup>72</sup>

#### 2.1.1 Corrupt practice and market entry

Companies seeking to invest in Uzbekistan have faced a range of informal demands for payments by officials with discretionary powers over market entry conditions, such as licensing or

<sup>68</sup> 'Former Uzbek Security Official Involved In Karimova Investigations Arrested', RFE/RL, 21 July 2015, <http://www.rferl.org/content/uzbekistan-security-service-general-karimova-case-arrested-corruption/27140965.html>

<sup>69</sup> 'More Former Karimova Associates Arrested In Uzbekistan', RFE/RL, 19 August 2015, <http://www.rferl.org/content/uzbekistan-karimova-associates-arrested/27197757.html>

<sup>70</sup> U.S. Department of State, '2014 Investment Climate Statement – Uzbekistan', June 2014, <http://www.state.gov/e/eb/rls/othr/ics/2014/229091.htm>

<sup>71</sup> <http://www.heritage.org/index/ranking>

<sup>72</sup> IMF figures, cited in U.S. Department of State, '2014 Investment Climate Statement – Uzbekistan', June 2014, <http://www.state.gov/e/eb/rls/othr/ics/2014/229091.htm>

procurement commissions. While some companies have dealt with such demands on a case-by-case basis, other foreign investors have sought agents who will manage relations with the government and bureaucracy and therefore distance the foreign company from direct dealings with government officials. Many foreign investors—willingly or otherwise—have worked with partners who have close links to the political elite, enabling them to navigate the complexities and corruption of Uzbekistan’s bureaucracy. Not all such deals involve violations of anti-corruption legislation, but in several subsequent cases, investigations have uncovered business activities considered illegal or at least unethical.

Such market entry strategies often go beyond attempts to develop an effective government relations policy. Instead, these strategies develop protection mechanisms that locate the investor within the clientelist system of a well-placed political figure. In cases where details have come to light, negotiations have not been conducted directly by companies with such political leaders, but through a network of consultants and brokers. Key political figures who facilitate these networks are not listed in relevant paperwork or as the owners of companies that benefit from these processes. Typically, payments are made to offshore companies, with no clear evidence that a political power broker is a beneficial owner.

### *Case-Study: Metal-Tech*

In the case of Metal-Tech, an Israeli company that began investing in molybdenum mining in 1998, the market entry strategy involved the employment of three consultants, who had limited qualifications for work in the molybdenum mining sector, but apparently had connections with powerful politicians and officials. According to the judgment of an arbitration court, payments to consultants totaled more than U.S.\$ 4 million, an amount that ‘exceeded [Metal-Tech’s] initial cash contribution to the venture and amounted to nearly 20 percent of the entire project cost’.<sup>73</sup> Payments continued until the consultants’ main political contact lost his government position as deputy prime minister.

Subsequently, Metal-Tech encountered numerous problems with government authorities, resulting in the effective loss of their investment. Metal-Tech denied that the payments violated Uzbekistani laws against bribery, but the arbitration court concluded that ‘corruption is established to an extent sufficient to violate Uzbekistan law in connection with the establishment of the Claimant’s investment in Uzbekistan’.<sup>74</sup>

## 2.1.2 Government resolutions and licensing regimes

Investors seeking to do business in Uzbekistan often face problems in two key areas, where officials have particular discretionary powers over decision-making.

Firstly, joint ventures and other major investment decisions, particularly, in the extractive sectors, often require the promulgation of a special government resolution, approving details of a contract or investment agreement.

<sup>73</sup> *Metal-Tech Ltd. v The Republic of Uzbekistan*, ICSID Case No. ARB/10/3, Award, 4 October 2013, para199.

<sup>74</sup> *Metal-Tech*, para 372.

Secondly, the opaque nature of the systems for awarding licenses makes corrupt practice much more likely. According to the U.S. Department of State, ‘The [Uzbek] government ... uses licensing as a tool to control enterprises in sectors such as energy, telecommunications, retail sales, and tourism. Often licenses for business operations in these sectors are issued by agencies that themselves have commercial interests in the sector.’<sup>75</sup> As a result, the licensing regime is both extensive and also complex and opaque.

Since the decision to award a license is essentially discretionary, a license can also be rescinded at any time. Although this decision might take the form of a formal court order, in practice such decisions are usually the result of political or business disputes and corrupt practice.

### 2.1.3 Corrupt practice and business maintenance

Successful market entry through government permissions or licensing is only the beginning of investors’ experiences with widespread corruption in Uzbekistan. The second stage is the more complex process of maintaining market presence in a system of widespread corruption. Many corporations face a range of corrupt demands. In the simplest cases, companies are targeted by officials demanding bribes to meet complex legal or bureaucratic requirements, such as renewing licenses, currency exchange in order to buy imports or to repatriate profits, or completing customs procedures. According to U.S. officials, ‘Several major incidents of bribe solicitations have been reported to U.S. Embassy officers, and foreign investors who refuse to pay bribes have experienced difficulties.’<sup>76</sup>

In the TeliaSonera case, investigative journalists claimed that leaked documents represented a negotiation between the ‘Karimova team’ and representatives of TeliaSonera.<sup>77</sup> One memo suggested that payments of U.S.\$15 million would be required to provide what the document terms ‘accompaniment’ through government agencies, notably the Antimonopoly Committee, the Foreign Ministry, the Tax Authority, the Customs Committee, and Uztelecom/the Communications and Information Agency of Uzbekistan.<sup>78</sup> TeliaSonera denied that it accepted this deal, and there was no independent corroboration of the documents. The experience of other companies suggests that these and other government agencies have sufficient discretionary powers to suspend a company’s operations or at least to make operating extremely difficult and costly.

The memo also suggested that TeliaSonera was requested to make significant payments to charities and events, including an annual fashion week, Style.uz.<sup>79</sup> Providing funds to charities or supporting pet causes of leading political figures is a common way to attempt to develop a close relationship with leading political figures. Both international and local companies may also face a

<sup>75</sup> U.S. Department of State, ‘2014 Investment Climate Statement – Uzbekistan’, June 2014, <http://www.state.gov/e/eb/rls/othr/ics/2014/229091.htm>

<sup>76</sup> U.S. Department of State, ‘2013 Investment Climate Statement - Uzbekistan’, February 2013, <http://www.state.gov/e/eb/rls/othr/ics/2013/204758.htm>

<sup>77</sup> SVT, ‘Regimens maffiaupplägg med Telia Sonera’, <http://www.svt.se/ug/dokument-avslojar-regimens-maffiaupplagg-med-telia-sonera>. Handwriting experts claimed that there was a 75% probability that annotations on the documents had been penned by Gulnara Karimova. See ‘Swedish, Uzbek journalists to announce purported proof of Gulnara Karimova-TeliaSonera links’, Ferghana.news, 23 May 2015, <http://enews.ferghananews.com/news.php?id=260623>; ‘Leak shows Telecom Negotiated bribes with Dictator’s Daughter’, OCCRP, 22 May 2013, <https://www.occrp.org/en/investigations/1958-leak-shows-telecom-negotiated-bribes-with-dictators-daughter>

<sup>78</sup> Daisy Sindelar and Farruh Yusupov ‘New Documents Suggest Fresh Evidence Of TeliaSonera Ties To Karimova’, RFE/RL, 22 May 2013, <http://www.rferl.org/content/sweden-teliasonera-uzbekistan-karimova/24993135.html>

<sup>79</sup> Ibid.

range of what are effectively informal taxation demands from local authorities, including demands for the workforce to take part in Uzbekistan's exploitative cotton harvesting campaign or cash contributions to avoid their workers having to take part.<sup>80</sup>

#### 2.1.4 Tax regulations

According to Gulnara Karimova, speaking after her own companies came under pressure from the authorities, 'when there is no wrongdoing in Uzbekistan, the prosecutor's office usually finds "miracle" tax violations, and this is reason enough to close a company and put an owner in prison'.<sup>81</sup> Indeed, the use of the tax authorities remains the most powerful weapon used by unscrupulous officials against companies, nongovernmental organizations and individuals. Tax regulations are complex and rates can be punitive. According to the U.S. Department of State, 'The current system of taxation is complicated and ambiguous, leading to widespread corruption and rent seeking'.<sup>82</sup> In 2008, a survey of businesses in Uzbekistan rated the country as second only to Kyrgyzstan in the frequency of bribe payments to tax officials. Unlike most other CIS states, the situation had worsened since 2005.<sup>83</sup>

The complexity of the tax regime encourages corrupt practice, since full compliance with the tax regime can be very difficult to achieve. Since 2012 there have been attempts to reform the tax filing system, reducing the level of inspections, and using electronic methods for filing. However, previous e-filing systems in Uzbekistan were reportedly unsuccessful in reducing bribe frequency, since many businesses found the software unreliable and continued with face-to-face visits.<sup>84</sup> Such innovations primarily have an impact on petty corruption, but do not affect the ability of political figures to order tax audits into business rivals or foreign companies to suit their own personal interests.

A frequent tactic has been to permit foreign investors a variety of tax holidays or exemptions for an initial period of time during an investment program. At a certain point, these exemptions are cancelled arbitrarily, and the authorities demand tax payments not only for ongoing production and activity, but also retrospective payments for the period when the exemptions were in place. In October 2006, U.S. mining company, Newmont Mining, had its operations suspended in Muruntau goldfield after it had refused to pay new charges related to the unexpected revocation of tax privileges that it had enjoyed.<sup>85</sup> Indian investor Spentex complained that 'Harassment by tax authorities and prosecutors was another reason which never allowed [the joint venture] ... to function normally as arbitrary penalties were imposed and pressure from the prosecutor was a common feature'.<sup>86</sup>

<sup>80</sup> "The Government's Riches, the People's Burden: Human Rights Violations in Uzbekistan's 2014 Cotton Harvest", The Uzbek-German Forum for Human Rights", April 2015, [www.uzbekgermanforum.org](http://www.uzbekgermanforum.org)

<sup>81</sup> Aslı Barış, 'Uzbek first daughter Gulnara Karimova strikes back at recent claims', *Hürriyet*, 8 December 2013, <http://www.hurriyetdailynews.com/uzbek-first-daughter-gulnara-karimova-strikes-back-at-recent-claims.aspx?PageID=238&NID=59227&NewsCatID=353>

<sup>82</sup> U.S. Department of State, '2012 Investment Climate Statement – Uzbekistan', June 2012, <http://www.state.gov/e/eb/rls/othr/ics/2012/191261.htm>

<sup>83</sup> Trends in Corruption and Regulatory Burden in Eastern Europe and Central Asia, A World Bank Study', The World Bank, Washington, D.C., 2011, p. 40.

<sup>84</sup> The World Bank, 'Trends in Corruption and Regulatory Burden', p. 44.

<sup>85</sup> See Crisis Group Briefing, *Europe's Sanctions Matter*, Asia Briefing N°54 (Bishkek/Brussels, 6 November 2006), p. 9.

<sup>86</sup> 'Uzbekistan: Indian investor lodges U.S.\$100 Million complaint against the Uzbek Government', *Fergana.ru*, 31 May 2012.

### 2.1.5 Expropriation through corrupt practice

When businesses refuse to meet requests for corrupt payments or demands for concessions by business rivals, they often face threats to their business operations. In such cases, fines or tax liabilities may be imposed on a company until it is forced into bankruptcy, or its licenses are suspended, making it impossible to continue operations. Such actions have seriously damaged the investment environment. Examples of harassment, prosecution or expropriation of foreign investors include the following cases. There is no suggestion that any of the companies in the following list have themselves been involved in corrupt practices.

- Newmont Mining lost control of its investments in Uzbekistan in 2006, after being accused of tax evasion. The case went to ICSID arbitration but the two sides settled the dispute in July 2007. Newmont gained U.S.\$80 million compensation, but detailed findings were not released.<sup>87</sup>
- Turkish energy company Federal Elektrik Yatirim ve Ticaret A.Ş also initiated an ICSID arbitration against Uzbekistan, seeking millions of dollars of compensation after being ousted from investments in the gas sector.<sup>88</sup> Güneş Tekstil Konfeksiyon Sanayive Ticaret Ltd also sought an ICSID arbitration award after losing its own investments in the textile sector.<sup>89</sup>
- Turkuaz, a Turkish retail group, claims that its business was effectively expropriated in 2012 after its executives faced criminal charges of tax evasion and customs violations. Many other Turkish companies were forced to leave Uzbekistan in 2010-2012.<sup>90</sup>
- Spentex, a major Indian textile company, protested after its Uzbek subsidiary was declared bankrupt in May 2012. Spentex claims that the bankruptcy was forced after the Uzbek authorities changed the terms of an investment contract.<sup>91</sup> Spentex sought U.S.\$100 million in compensation through international arbitration at the ICSID.<sup>92</sup>
- United Cement Group (UCG): A Kazakh investment in Bekabad Cement plant collapsed in 2011, when the company faced criminal charges of tax evasion, ultimately leading to a loss of control over their factory. In March 2013, UCG Chairman Vladislav Kim launched an ICSID arbitration against the Republic of Uzbekistan.<sup>93</sup>

<sup>87</sup> Newmont Mining, 'Annual Report', 2007.

<sup>88</sup> ICSID, 'List of Pending Cases',

<https://icsid.worldbank.org/ICSID/FrontServlet?requestType=GenCaseDtlsRH&actionVal=ListPending>;

<http://www.jonesday.com/experiencepractices/ExperienceDetail.aspx?experienceid=31089>

<sup>89</sup> ICSID, 'List of Pending Cases',

<https://icsid.worldbank.org/ICSID/FrontServlet?requestType=GenCaseDtlsRH&actionVal=ListPending>

<sup>90</sup> 'Uzbekistan: Tashkent Takes Hardline Approach on Containing Turkish Soft Power', Eurasianet, 3 April 2012,

<http://www.eurasianet.org/node/65217>

<sup>91</sup> According to a Spentex press release: "in the midst of term of the Investment Agreement certain changes in legal provisions, economic and business conditions and policies were adversely changed by the authorities in Uzbekistan. These changes being contrary to the provisions of Investment Agreement jeopardized the legal stability of its project company and its business became completely unviable. Spentex made many representations to Uzbek authorities and its financiers for rectifying the situation but the same went unheard and ultimately project company was forced to shut down all its factories in Uzbekistan and bankruptcy was thrust upon it. 'Uzbekistan: Indian investor lodges U.S.\$ 100 Million complaint against the Uzbek Government', Fergana.ru, 31 May 2012, <http://enews.fergananews.com/news.php?id=2294>

<sup>92</sup> Spentex, Annual Report, 2013, <http://economictimes.indiatimes.com/spentex-industries-ltd/directorsreport/companyid-10307.cms>; see also: 'Spentex Arbitration and BIT Review', <http://blog.athirtyeight.com/2013/10/spentex-arbitration-and-bit-review.html>

<sup>93</sup> 'Kazakh investors initiate ICSID arbitration against Uzbekistan', March 2013,

<http://www.jonesday.com/experiencepractices/experiencedetail.aspx?experienceid=29613>

- Wimm-Bill-Dann: Russia's Wimm-Bill-Dann, now part of PepsiCo, lost control of its business in Uzbekistan in 2010, after facing a familiar mixture of harassment and tax demands. Media reports cited conflicts with the NSS as provoking the dispute. Russian diplomatic intervention did not resolve the conflict.<sup>94</sup>

Other foreign companies have faced repeated problems with inspections, tax demands and with currency conversion. Although the World Bank has reported improvements in the 'Doing Business' ratings for Uzbekistan in recent years,<sup>95</sup> these fundamental problems with the investment environment have not been adequately addressed.

### 2.1.6 Repression and corruption

Corruption is often seen as a 'victimless' crime, but in Uzbekistan it has sometimes been accompanied by detention on falsified charges, torture and ill-treatment of detainees, and in some cases, long prison sentences. Local representatives and managers of foreign companies are particularly vulnerable to being detained on charges that are often highly contested, and appear to reflect wider business disputes rather than objective prosecutions.

- When full-scale audits began against the Turkuaz shopping center in 2011, eight employees of the shopping center, including the director, were detained on charges of tax evasion. The director, Vahit Güneş, reported that he was tortured while in detention. After more than nine months in detention, the employees were released under an amnesty in February 2012.<sup>96</sup>
- On 13 May 2014, Alexander Pozdeev, head of the Russian company, Zapadno-Uralsky Machine-Building Concern (ZUMK), was detained in Tashkent, and held in prison while an investigation was instigated regarding the company's involvement in the Dehkanabadsky potash fertilizer factory. In a press-release ZUMK argued that 'the only reason for the arrest of Pozdeev A. A. is to place pressure on him (including through physical means) to achieve economic gains for businesses of the Republic of Uzbekistan'.<sup>97</sup> Pozdeev was released in late May 2014, after strong pressure from the Russian government.
- Said Ashurov, the chief metallurgist at Oxus Gold, a UK-based mining company, was imprisoned on charges of espionage in 2011. The company claimed that his detention was without basis and was connected to disputes over its operations in Uzbekistan.<sup>98</sup> (In December 2015, a UNCITRAL arbitration tribunal rejected a U.S.\$400 million claim by

<sup>94</sup> 'Uzbekistan nationalizes business from Russia's WBD', RIA-Novosti, 21 September 2010, <http://en.ria.ru/business/20100921/160664693.html>; Erica Marat, 'Doing Business in Uzbekistan: Formal Institutions and Informal Practices', March 2014, Uzbekistan Initiative Papers, No. 11, p. 5.

<sup>95</sup> Uzbekistan improved in the ratings from 103 to 87 out of 189 countries in 2015-16. <http://www.doingbusiness.org/data/exploreeconomies/uzbekistan>

<sup>96</sup> 'Turkish businessman files torture case against Uzbekistan', CA-NEWS (UZ), 4 May 2012, [http://www.turkofamerica.com/index.php?option=com\\_content&task=view&id=1057&Itemid=47](http://www.turkofamerica.com/index.php?option=com_content&task=view&id=1057&Itemid=47).

<sup>97</sup> 'ЗУМК заявляет о вопиющем нарушении прав арестованного в Ташкенте российского бизнесмена', *Fergana.news*, 22 May 2014, <http://www.fergananews.com/news/22209>

<sup>98</sup> 'British Gold Company Says Uzbekistan Trying To Seize Its Assets', *RFE/RL*, 12 July 2011, [www.rferl.org/content/british\\_gold\\_company\\_says\\_uzbekistan\\_trying\\_to\\_seize\\_its\\_assets/24262883.html](http://www.rferl.org/content/british_gold_company_says_uzbekistan_trying_to_seize_its_assets/24262883.html); 'Notice of Arbitration' between Oxus Gold and the Government of Uzbekistan, para 76-77.

Oxus that its investment in the Amantaytau Goldfields Joint Venture (AGF) and the Khandiza deposit had been expropriated by the Uzbek authorities.)<sup>99</sup>

- Five MTS managers were detained in July 2012, including Uzdurobita General Director Radik Dautov, a Russian citizen, who was released in August and left the country.<sup>100</sup>
- In January 2012, several Bekabad Cement employees, including Director General Sergey Nikitin, received long prison sentences and had their property and assets confiscated.<sup>101</sup>

Such practices appear to have been used during the course of business disputes as a means to put pressure on companies. Often police investigations and detentions of businesspeople are presented by the government as part of an anticorruption drive, but in reality they reflect disputes among elites rather than representing any systemic change.<sup>102</sup> These patterns of serious human rights abuses in business disputes are often overlooked in international reporting on Uzbekistan. Detentions and imprisonments of company employees highlight the direct abuses of human rights that arise from corrupt practices in Uzbekistan.

## 2.2 State Procurement and Public Finance

Public finance provides an even more lucrative area than foreign investment for rent-seeking and corruption for many members of the political elite. There is only limited available information on the size and scope of government revenue and expenditure.<sup>103</sup> IMF figures suggest that the annual budget amounted to approximately 31,715 billion soms in 2012 (approximately U.S.\$13.3 billion). A further 5,564 billion soms (U.S.\$2.3 billion) was allocated to the Fund for Reconstruction and Development (FRD), an opaque investment fund that acts as a repository for revenue from raw materials exports.<sup>104</sup> All export revenues go into extra-budgetary accounts, including the Fund for Payments for Agricultural Production Purchased for Public Use (*Selkhozfond*), an off-budgetary mechanism, about which there is very little public information and over which there is no public oversight.<sup>105</sup> A report on the cotton sector calls it a ‘totally non-transparent entity accountable to only a narrow circle within the leadership’.<sup>106</sup> None of these funds are accountable to the public or to parliament, and there is very little available evidence on the ways in which they function. Their structures and accountability mechanisms do not take any account of international best practice on revenue management from the extractive sector.

<sup>99</sup> ‘Oxus Gold loses out in long running legal battle’, <http://www.proactiveinvestors.co.uk/companies/news/120773/oxus-gold-loses-out-in-long-running-legal-battle-120773.html>, 23 December 2015.

<sup>100</sup> Rachel Nielsen, ‘MTS to Protest Uzbek Arrests, Raiding’, *The Moscow Times*, 15 August 2012, <http://www.themoscowtimes.com/business/article/mts-to-protest-uzbek-arrests-raiding/466575.html>

<sup>101</sup> D. Azizov, ‘Kazakh UCG Holding loses control over Uzbek Bekabadcement’, *Trend News Agency/ McClatchy Tribune Business News*, 6 July 2012, via ABI/Inform.

<sup>102</sup> Bruce Pannier, ‘Big Business In Uzbekistan Targeted In Wave Of Arrests’, *RFE/RL*, 12 March 2010, [http://www.rferl.org/content/Big\\_Business\\_In\\_Uzbekistan\\_Targeted\\_In\\_Wave\\_Of\\_Arrests/1981882.html](http://www.rferl.org/content/Big_Business_In_Uzbekistan_Targeted_In_Wave_Of_Arrests/1981882.html)

<sup>103</sup> There is a summary of the budget on the site of the Ministry of Finance, but little further detail available.

<sup>104</sup> IMF, ‘Staff report for the 2012 Article IV consultation - informational annex’, 1 February 2013, p. 10.

<sup>105</sup> Bakhodir Muradov and Alisher Ilkhamov, ‘Uzbekistan’s Cotton Sector: Financial Flows and Distribution of Resources’, Open Society Foundations, October 2014, <http://www.opensocietyfoundations.org/reports/uzbekistan-s-cotton-sector-financial-flows-and-distribution-resources>, p. 43-44.

<sup>106</sup> Ibid.

## 2.2.1 State procurement and tenders

In a research report on corruption in state procurement, Transparency International concludes that ‘few activities create greater temptations or offer more opportunities for corruption than public sector procurement’.<sup>107</sup> Three important corruption mechanisms are evident in this area:

- the procurement of goods using state funds to make purchases from allied businesses, belonging to relatives, friends or business partners;
- collaboration with providers of goods and services to fix inflated prices and to provide ‘kickbacks’ to public officials
- the fixing of tenders (by ensuring tenders are closed, refusing bids from rival companies, or leaking information about rival bids) in exchange for illegal payments to officials involved in the tender process and officials overseeing the legality of tenders.

State procurement is not properly regulated and is open to widespread abuse. Typical examples include the procurement of services from favored construction companies to carry out major infrastructure works, including sports stadiums, schools, road building or urban improvements. Major capital expenditure—on vehicles, IT infrastructure, etc.—is also particularly vulnerable to corruption.

There is no law on state procurement in Uzbekistan (see below). Instead, the process is regulated by several resolutions and decrees of the president and prime minister, and a whole range of instructions and regulations at the level of ministries and state agencies. In 2011, a government Commission on Public Procurement under the Cabinet of Ministers was established. It includes 16 officials at the level of deputy minister or agency head, but its functions remain unclear. The Ministry of Finance also established an additional unit to oversee procurement in 2011. Other innovations include an electronic tender system which allows all procurement from U.S.\$300 to \$100,000 to be conducted through electronic auctions.<sup>108</sup> In theory, the electronic system should select the cheapest offer automatically, but it is not clear how effective this procedure has been in practice. There are also some closed procurement processes, as decided by the government procurement committee, but the criteria for whether tenders should be open or closed are not transparent.<sup>109</sup>

Anecdotal evidence suggests that corruption is common in tendering processes. A U.S. government report claims: ‘Many investors note a lack of transparency at the final stage of the bidding process, when the government negotiates directly with bidders before announcing the results. In some cases, the bidders have been foreign-registered companies associated with influential Uzbek families who have tenuous foreign addresses.’<sup>110</sup> In a leaked U.S. embassy cable, diplomats claimed that ‘Corruption is rampant in the GOU [government of Uzbekistan]. Tenders and government positions can be fairly easily secured by paying the right amount of money to the appropriate individual.’<sup>111</sup>

<sup>107</sup> Transparency International, ‘Curbing Corruption in Public Procurement’, p. 13.

<sup>108</sup> OECD, 2012, p.48. Previously competitive bidding procedures were only required for procuring raw materials, supplies, components and equipment with a value of over US\$100,000.

<sup>109</sup> Ibid., p. 50.

<sup>110</sup> U.S. Department of State, ‘2014 Investment Climate Statement - Uzbekistan’, June 2014.  
<http://www.state.gov/e/eb/rls/othr/ics/2014/229091.htm>

<sup>111</sup> U.S. Department of State, Embassy Cable, ‘Mafia boss fixes GOU tenders and jobs’, 5 May 2006, via Wikileaks,  
[http://www.wikileaks.org/plusd/cables/06TASHKENT902\\_a.html](http://www.wikileaks.org/plusd/cables/06TASHKENT902_a.html)



There are several different modalities of corruption in relation to state procurement mechanisms.

**Fake companies/bankruptcy:** According to figures released by the Uzbek President's Institute for Monitoring Current Legislation, in 2009-2012 companies that went bankrupt owed the state budget about 3,500 billion Uzbek som (U.S.\$1.47 billion) The state only collected about 15.5 billion Uzbek som (U.S.\$6.5 million) of these debts, leaving a significant black hole in the accounts. According to one analysis, these figures are at least partially explained by the establishment of phony companies, which win contracts to supply goods and services to government agencies, but go bankrupt after they receive payments and never deliver the promised goods. The report claimed that the money earned is divided between state officials and those involved in the bankrupt company, but there has been no detailed examination of such claims.<sup>112</sup>

**Kickbacks:** The most common type of corruption with regard to state procurement involves payments to officials to ensure that they choose particular suppliers. This is achieved in different ways. In some cases, companies deal directly with officials. In other schemes, agents are paid a commission, a 'finder's fee', or similar reward out of proportion to any services rendered, which allows for improper payments to government officials. Kickbacks are widely used in exchanges between business and state organizations, but also occur among private companies and other non-state entities.

### *Case-Study: Daimler*

In 2011, Daimler AG and its subsidiaries agreed with the U.S. Department of Justice to pay U.S.\$93.6 million in criminal fines and penalties in relation to 'hundreds of improper payments worth tens of millions of dollars [paid] to foreign officials in at least 22 countries...to procure Daimler vehicles', including in Uzbekistan.<sup>113</sup> According to a Complaint submitted to court by the U.S. Securities and Exchange Commission (SEC), in Uzbekistan Daimler's Evobus subsidiary paid approximately €3.5m in 'improper payments' to shell companies set up by government officials to secure a contract worth €37,415,070 to sell 302 buses and 4 vans to an Uzbek government agency. The payments were allegedly made by setting up 'phony consulting agreements' with shell companies about one month before the sales contract was finalized. According to the SEC, Daimler paid these funds to bank accounts in the United Kingdom and Switzerland held by companies registered in the British Virgin Islands.<sup>114</sup>

**Corrupted tenders:** The use of kickbacks is more difficult when competitive tenders are used to select suppliers, removing discretionary powers from officials. In such tenders, the bidder that meets bid conditions and offers the lowest prices wins the contract. There are various mechanisms to circumvent such rules, such as excluding bidders on arbitrary grounds, or collusion among bidders to divide up contracts at inflated prices. A case revealed in U.S. Foreign Corrupt Practices Act (FCPA) proceedings demonstrated how such tenders can be subverted in favor of a particular bidder by paying to receive confidential information about other bids.

<sup>112</sup> Doniyor Asilbekov, 'Corruption: The Cancer of Uzbekistan', Silk Road Reporters, <http://www.silkroadreporters.com/2014/10/21/corruption-cancer-uzbekistan/>

<sup>113</sup> U.S. District Court, District of Columbia, 'USA vs. Daimler AG, Sentencing Memorandum', p. 4.

<sup>114</sup> U.S. District Court, District of Columbia, 'SEC vs. Daimler AG, Complaint', Para 96-99, p. 20.

*Case-Study: Tenaris*

In a 2011 agreement with the U.S. Department of Justice, Tenaris, a global pipe supplier to the oil and gas industries, ‘admitted that its employees and agents offered and made improper payments to officials of OJSC O’ztashqineftgaz (OAO), an Uzbekistan state-controlled oil and gas production company, and failed to record such payments accurately in Tenaris’s books and records’.<sup>115</sup> In four multi-million dollar bids in 2006-07 to supply pipes to the oil industry in Uzbekistan, Tenaris employed an agent to discover competitors’ bid information and then to replace their original bid with a second, more competitive bid, once they knew the details of the rival bids.

Internal emails in the company explained how the system worked:

‘So dirty game is when . . . people from the [OAO] tender department ... can carefully open required bids and check the prices and deliveries of competitors and advise you where you need to be lower and where you need to be higher ... And if you decide to revise your prices and delivery, it can be done and physically your commercial offer will be replaced by a revised offer and envelope will be sealed again. But this is very risky for them also, because if people are caught while doing this they will go automatically to jail. So as [OAO Agent] said, that's why this dirty service is expensive .....’<sup>116</sup>

The agent was apparently promised 3-3.5 percent of the value of four contracts. In the ruling, Tenaris admitted that it was ‘aware or substantially certain that the agent would pay all or a portion of the money to one or more OAO employees’.<sup>117</sup> Other companies taking part in the tender complained that the process had been corrupted and appealed to an oversight body, Uzbekexpertiza. The agent recommended a further payment, claiming that ‘Uzbekexpertiza officials had agreed to “close their eyes” in exchange for the proposed payment’.<sup>118</sup> There was no evidence uncovered that such a payment was made.<sup>119</sup> Tenaris agreed to pay U.S.\$9 million in penalties to resolve the allegations and to avoid prosecution.

There is no evidence so far that the new initiatives in the area of state procurement announced in 2011-2012 have significantly reduced corrupt practices in relation to public tenders, but this is an area where substantial progress could be made through institutional and legislative reform.

## 2.2.2 Land sales and leasing

For local government, one of the most lucrative forms of rent-seeking comes through the corrupt

<sup>115</sup> U.S. Department of Justice, ‘Re: Tenaris’, Letter, 14 March 2011, [www.justice.gov/criminal/fraud/fcpa/cases/tenaris-sa/2011-03-14-tenaris.pdf](http://www.justice.gov/criminal/fraud/fcpa/cases/tenaris-sa/2011-03-14-tenaris.pdf)

<sup>116</sup> U.S. Department of Justice, ‘Re: Tenaris’, p. A2.

<sup>117</sup> U.S. Department of Justice, Press Release, ‘Tenaris S.A. Agrees to Pay \$3.5 Million Criminal Penalty to Resolve Violations of the Foreign Corrupt Practices Act’, 17 May 2011.

<sup>118</sup> U.S. Department of Justice, ‘Re: Tenaris’, p. A4.

<sup>119</sup> See U.S. Department of Justice, Press Release, ‘Tenaris S.A. Agrees to Pay \$3.5 Million Criminal Penalty to Resolve Violations of the Foreign Corrupt Practices Act’, 17 May 2011 <http://www.justice.gov/opa/pr/2011/May/11-crm-629.html> ; and

<http://www.foley.com/fighting-bribery-in-the-post-soviet-space-tenaris-sa-settles-fcpa-charges-in-uzbekistan-05-24-2011/>

manipulation of the distribution and rent of agricultural and building land. There is no private ownership of land, but a life-long lease of land is possible for farmers, who are often described as ‘private farmers’, although their rights to use the land in the ways that they wish are severely constrained by local government. Local authorities (the *hokimiat*) have considerable discretionary powers to influence farming, including powers over inputs, provision of machinery, especially tractors, and over plans that agree what crops a farmer may grow.<sup>120</sup> This excessive state intervention in agriculture inevitably results in corrupt practices, as farmers attempt to grow the best remunerated crops, while the state insists on maximizing the cotton harvest. The structure of the cotton sector, in particular, gives rise to numerous rent-seeking opportunities.<sup>121</sup>

Privately leased lands are allocated from the formerly communal lands held by state-controlled collective farms, or ‘*shirkat*’. According to a report on the cotton industry in Uzbekistan: ‘The local administration of the region in which the *shirkat* is located decides on applications for private farms in a process plagued with corruption, cronyism, and lack of transparency. Often the best lands go to former *shirkat* bosses.’<sup>122</sup> Alongside the local administration are several other agencies that also require payment of bribes to permit farms to function or expand. Experts on the cotton sector note that ‘farmers often face additional expenses in the form of bribes demanded by *hokimiats* and inspection commissions, including mandatory “charitable” donations to support sporting and other public events’.<sup>123</sup>

An official newspaper provides a typical tale of petty corruption. A farmer in Rishtan, in the Fergana region, decided to expand his poultry farm and applied for more land. To receive it, he needed the appropriate documents from the Rishtan environmental inspectorate, but was told he would only receive the documentation if he paid a bribe of 1.5 million som (U.S. \$750). In this account, the official was arrested, as part of the government’s anticorruption campaign.<sup>124</sup> Such incidents involve minor sums, but local officials involved in land allocation are often involved in much larger corrupt deals. In November 2013, Utkan Hidirov, the *hokim* of Shakhrisabz district, in Qashqadaryo province, was sentenced to 11 years in prison on charges of receiving over U.S. \$200,000 in bribes. Reports of the court proceedings claimed that Hidirov received illicit payments in exchange for distributing state-owned land to farmers and businesspeople.<sup>125</sup>

While some farmers have managed to prosper despite this widespread corruption, in many cases farmers have lost their lands or been forced to pay bribes because of such corrupt practices. Human rights activists have frequently uncovered cases where local officials have seized land illegally and resold it to other farmers, or distributed it to associates or relatives. In June 2009, Oyazimhon Hidirova, a human rights activist in Jizzakh region, was arrested, after she alleged that local officials were involved in corrupt practices involving land. She was later released under an amnesty provision.<sup>126</sup>

<sup>120</sup> Trevisani, Tommaso, ‘The reshaping of inequality in Uzbekistan: reforms, land and rural incomes’, In Max Spoor (ed.) *The Political Economy of Rural Livelihoods in Transition Economies, Land, peasants and rural poverty in transition* (2009), pp. 123-37.

<sup>121</sup> Muradov and Ilkhamov, ‘Uzbekistan’s Cotton Sector’.

<sup>122</sup> International Crisis Group, *The Curse of Cotton: Central Asia’s Destructive Monoculture*, Crisis Group Asia Report N°93, 28 February 2005, p. 3.

<sup>123</sup> Muradov and Ilkhamov, ‘Uzbekistan’s Cotton Sector’, p. 21.

<sup>124</sup> ‘Корыстный умысел’, *Pravda vostoka*, 7 July 2012.

<sup>125</sup> ‘Глава Шахрисабзского района Узбекистана получил 11 лет за коррупцию’, *Ozodlik (RFE/RL)*, 26 November 2012, <http://www.ozodlik.org/content/article/24781797.html>

<sup>126</sup> ‘Uzbekistan: Rights Activist Arrested’, Human Rights Watch, 18 August 2009, <http://www.hrw.org/news/2009/08/18/uzbekistan-rights-activist-arrested>

## 2.3. Cross-Border Trade and Financial Transactions

Since the late 1990s, Uzbekistan has developed an increasingly isolated economy, with strong border controls, high tariffs, and non-tariff barriers to movement of goods across frontiers. The Uzbek authorities have relied on hard security on borders to ensure defense against a perceived threat from Islamist militants. At times, borders have been physically closed for long periods, under various pretexts. The strict controls on trans-border commercial operations combined with complex regulations relating to customs, currency and other trans-border operations have produced significant opportunities for corruption.

### 2.3.1 Currency conversion

In 2003, Uzbekistan agreed with the IMF that there would be full convertibility of the Uzbek currency, the *som*, but convertibility has been accompanied by so many restrictions that it can be considered to be non-functioning in practice. The system is designed to suppress imports and support Uzbekistan's import-substitution and export promotion policies. It also creates a range of mechanisms for corrupt practice among officials in the banking and financial sectors, provides extensive levers for officials and powerful individuals to suppress legitimate business activity, and acts as one of the main obstacles to foreign investment and economic growth.

Officially, there are two main exchange rates: the official rate set by the Central Bank of Uzbekistan (CBU); and one established by 'trades' on the Republican Currency Exchange of Uzbekistan. Access to foreign currency is not managed through market mechanisms in either case. Distribution of foreign currency at the official or Currency Exchange rate is only possible with the permission of the CBU. The experience of foreign and domestic businesspeople suggests that access to currency is determined by unclear rules and opaque decision-making. The government reportedly prioritizes particular businesses in confidential instructions to the CBU.<sup>127</sup> Many foreign investors experience frequent problems, although in theory they are guaranteed access to foreign currency to pay for necessary imports and to repatriate profits, and should be able to access foreign currency within two weeks. In practice, according to the IMF, there are 'undue delays (of up to and exceeding 12 months) in the availability of foreign exchange for payments and transfers'.<sup>128</sup> Moreover, the funds of those who apply for foreign currency are frozen while awaiting permission for foreign currency exchange.<sup>129</sup>

At times this selective approach to currency exchange appears to target competitors to domestic business. For example, in 2009 Russian car dealers complained that 'conversion of currency has been completely halted for companies representing [...] Russian automobile factories', with the government instead favoring Uzbekistan's own domestic car factory.<sup>130</sup> In 2011, Russian airlines built up over U.S.\$50 million dollars in Uzbek som that they were unable to convert to Russian rubles. The Uzbek government responded by forcing would-be passengers to buy tickets

<sup>127</sup> U.S. Department of State, '2014 Investment Climate Statement – Uzbekistan', June 2014, <http://www.state.gov/e/eb/rls/othr/ics/2014/229091.htm>

<sup>128</sup> IMF, 'Staff report for the 2012 Article IV consultation - informational annex', 1 February 2013.

<sup>129</sup> Ibid, p. 3.

<sup>130</sup> 'Теперь АвтоВАЗу мешают узбеки', RBK, 19 November 2009, <http://www.rbcdaily.ru/industry/562949978995952>

in hard currency, despite the fact that this appeared to contradict other currency regulations.<sup>131</sup>

Not surprisingly, allegations of corrupt practice are frequently made in relation to the currency exchange process. Well-connected companies allegedly use connections with government officials to try to gain preferential treatment in the allocation of foreign currency. Some companies have resorted to informal, or corrupt, mechanisms to access currency to buy raw materials or other inputs. Other entrepreneurs resort to exchanging money on the black market, which offers a 30 percent mark-up on official rates, but is illegal.

There has been consistent pressure from international business and Uzbekistan's trade partners to begin to liberalize the exchange regime. However, far from liberalizing the process, in 2013 the government introduced new restrictions on exchange of currency for individuals and clamped down on black market trading.<sup>132</sup>

### 2.3.2 Transit and customs

According to the World Bank, Uzbekistan is one of the most difficult countries in the world for cross-border trade, achieving 159<sup>th</sup> place in the 'Trading Across Borders' index in 2015 (although that rank marks some improvement from previous years).<sup>133</sup> Every level of cross-border trade involves significant bureaucracy.<sup>134</sup> Travelers—whether personal or commercial—are often subject to what one report terms 'stringent and sometimes bizarre customs procedures'.<sup>135</sup> In theory, Uzbekistan has been seeking to improve cross-border trade, introducing a single window for customs clearance, ending the requirement to register import contracts with customs, reducing the paperwork for exports and imports and allowing for electronic filing of documents. In practice, these changes do not yet seem to have had a significant impact on the everyday experience of businesses involved in trade.

Complex and opaque regulations on cross-border trade inevitably produce high levels of systemic corruption. According to monitoring commissioned by the Central Asian Regional Economic Cooperation (CAREC) program, the probability of informal payments during customs checks in the Central Asian region as a whole was 28 percent, while during border and security procedures it was 46 percent.<sup>136</sup> Business-hostile trade procedures, together with low salaries and high official tariffs all make rent-seeking likely. The CAREC data cover the whole region, but accurate, up-to-date data for Uzbekistan's border crossings are scarce. In a World Bank study on the frequency of bribes paid to customs, Uzbekistan fared worst of all CIS and Eastern European states, as measured in 2008. While other states in the region largely improved on this measure, Uzbekistan's position had worsened markedly in 2005-2008.<sup>137</sup>

The reported arrests of several highly-placed officials in the Central Customs Committee in 2014 highlighted the mechanisms by which bribery was allegedly used to facilitate cross-border

<sup>131</sup> 'Россия: Ассоциация авиакомпаний обратилась в правительство по «узбекским проблемам»', Fergana.ru, 27 March 2013, <http://www.fergananeews.com/news/20410>

<sup>132</sup> On 30 January 2013, a presidential resolution, 'On measures for the further liberalization of the order of sale of foreign currency to individuals' made it effectively illegal to sell or buy foreign currency except through electronic purchases made through a bank account. See <http://www.asiaterra.info/economy/konvertatsiya-uzbeks-kogo-suma-zabytaya-reforma>

<sup>133</sup> See <http://www.doingbusiness.org/data/exploretopics/trading-across-borders>

<sup>134</sup> See Cooley, *Great Games*, pp. 154-157.

<sup>135</sup> Graham Lee, *The New Silk Road and the Northern Distribution Network: A Golden Road to Central Asian Trade Reform?*, Open Society Foundations, October 2012, p. 25.

<sup>136</sup> CAREC, 'CPMM Annual Report', 2013, p. 20.

<sup>137</sup> The World Bank, *Trends in Corruption and Regulatory Burden in Eastern Europe and Central Asia: A World Bank Study*, The World Bank, Washington, D.C., 2011, p. 47.

trade.<sup>138</sup> In September 2014 a group of Customs officials was arrested and charged under Article 31 ('receiving bribes'). Colonel Sirojiddin Gulamov, head of the State Customs Committee for Tashkent region, was arrested, along with his deputy, a captain, who was senior inspector at a border and customs post in Gishtkuprik, on the Uzbek-Kazakh border and two officials who ran the 'Oibek' customs and border post, on the border with Tajikistan. They were accused of 'extortion of bribes from individuals and businessmen crossing the state frontier, appointments to posts after receiving a bribe, the organization of a criminal grouping to collect money'.<sup>139</sup> The accusations outlined a typical vertical corruption structure in which, it was alleged, Gulamov headed a system which collected money from subordinates and appointed his own people to management posts. The figures involved were allegedly 'four or five-figure sums in U.S. dollars'.<sup>140</sup> There has been no reporting of any subsequent trial in this case.

These pyramids of corruption begin with low-level corruption at the border involving ordinary border guards, truck drivers, and petty traders. At the local level, many small cross-border traders are either prohibited from trading across certain border posts—particularly on the Kyrgyz and Tajik borders—or are only able to do so by paying bribes. The problem of cross border trade is particularly acute along historical trade routes through the Fergana valley. Such restrictions severely damage small and medium-sized enterprises but reportedly permit some well-connected individuals to establish informal monopolies on cross-border trade.

Imports are subject to particularly high tariffs as part of Uzbekistan's import-substitution policy, which is designed to encourage local industry and reduce the use of hard currency for imports. Import operations are also accompanied by a hugely complex range of rules and regulations. The costs and red tape have inevitably given rise to corruption schemes to avoid excessive taxes. The most common mechanism is under-invoicing to reduce the impact of onerous taxes on imports. According to ADB experts, 'Under-invoicing is an effective mechanism in which two contracting parties agree to put a smaller transaction amount in the contract order than the actual price of delivered goods or services in order to pay less taxes.'<sup>141</sup>

Other businesses use false labelling or false reporting as a way around restrictive import/export rules. In one corruption investigation, police arrested businessmen in Samarkand after such a scheme was uncovered. The company allegedly imported fully-constructed refrigerators, but paid taxes at the lower rate applicable as if they were refrigerator components designed to be assembled inside Uzbekistan.<sup>142</sup>

Tackling corruption in customs and border regimes is complex and challenging, and requires a holistic approach. According to the CAREC project:

<sup>138</sup> An earlier report referenced two highly-placed officials from the Central Customs Committee, whose business was said to be worth tens of millions of dollars, who were reportedly arrested in June 2014. The report claimed that they were arrested while on a visit to the southern city of Termez to avoid them being able to call for assistance from political leaders in Tashkent, implying a high level of political protection. It is not clear if there have been further developments in this case. See 'Два Азиза и одно дело', *Uzmetronom*, 16 June 2014, [http://www.uzmetronom.com/2014/06/16/dva\\_aziza\\_i\\_odno\\_delo.html](http://www.uzmetronom.com/2014/06/16/dva_aziza_i_odno_delo.html)

<sup>139</sup> Akobir Ziinatonov, 'Ўзбекские силовики задержали высокопоставленных сотрудников таможи за взятки', *Podrobno.uz*, 30 September 2014, <http://podrobno.uz/cat/obchestvo/uzbekskie-siloviki-zaderjali-tamojennikov/>

<sup>140</sup> Ibid. See also: Joanna Lillis, 'Uzbekistan: Turf War in Tashkent?', *Eurasianet*, 1 October 2014, <http://www.eurasianet.org/node/70246>

<sup>141</sup> Roman Vakulchuk and Farrukh Irnazarov, 'Analysis of Informal Obstacles to Cross-Border Economic Activity in Kazakhstan and Uzbekistan', ADB Working paper Series on Regional Economic Integration, No. 130, May 2014.

<sup>142</sup> Sanjar Iskandar, 'Темур и его команда', *Uzmetronom*, 3 May 2008, [http://www.uzmetronom.com/2008/05/03/temur\\_i\\_ego\\_komanda.html](http://www.uzmetronom.com/2008/05/03/temur_i_ego_komanda.html)

Sustainable improvements require a comprehensive effort combining political will, increased staff salaries, the review and reduction of official tariffs and fees, and the adoption of more efficient procedures and systems such as electronic single windows to streamline cargo movement.<sup>143</sup>

Recent initiatives by the Uzbek authorities only partially address some of the technical aspects of the customs regime. Further progress will require a concerted political initiative to produce systemic change through improved institutions and liberalization of cross border trade.

### 2.3.3 The Northern Distribution Network (NDN)

One particular aspect of cross-border trade that raised concerns about corruption was the transport of military and related goods for NATO forces in Afghanistan, through the Northern Distribution Network (NDN). One of the laudable aims of the NDN was to support local enterprise in transit countries, and some U.S. officials hoped that a new transport network through the region would force Central Asian countries to stem the problems associated with graft and corruption. One analyst argued that '[a]s the region begins to achieve its transport potential, political leaders come to realize that their greatest benefit will come only from further expansion, and that this requires practical controls on speculation and graft'.<sup>144</sup> These hopes were always naive. It was inevitable that these contracts would favor a small number of transit companies closely associated with the political and business elite, or those able to develop good relationships with government agencies.<sup>145</sup>

Far from the NDN having a positive impact on corruption, one report suggested that informal payments for transit in Uzbekistan increased: interviewees claimed that informal fees levied by the traffic police doubled in 2009-2011, while for rail transit informal fees jumped from U.S.\$20 per ton to an average of U.S.\$40 per ton.<sup>146</sup> One bidder for a U.S. government tender, Afghan Management Group (AMG), claimed that rail transport from Bukhara, Uzbekistan, to Hayraton can take up to 35 days, but that with 'payment of informal fees, the time can be reduced to 7 to 18 days, (depending on amount of money paid)'.<sup>147</sup> AMG also noted that 'AMG is very reluctant to pay bribes, but manages issues through established, good relationships'.<sup>148</sup> Evidence of widespread corruption in Uzbekistan raised concerns in the U.S. Senate. A statement in the foreign aid bill noted:

The Committee is concerned with reports of pervasive corruption in Uzbekistan and therefore expects to be informed of public and private entities that receive support, directly or indirectly, from United States Government funds used to pay the costs of

<sup>143</sup> Ibid.

<sup>144</sup> A comment in a report by the CACI think-tank, cited in Graham Lee, 'The New Silk Road and the Northern Distribution Network: A Golden Road to Central Asian Trade Reform?', Open Society Foundations, October 2012.

<sup>145</sup> Cooley, *Great Games*, p.p. 46-49.

<sup>146</sup> Lee, 'New Silk Road', p. 25.

<sup>147</sup> Deirdre Tynan, 'Documents Highlight Problems with Uzbek Corridor of Afghan Supply Route', 28 June 2010, *Eurasianet*, 28 June 2010, <http://www.eurasianet.org/node/61427>

<sup>148</sup> Ibid.

Northern Distribution Network supply routes through that country. The Committee requires a report that itemizes those costs to the extent practicable to ensure that no U.S. funds are being diverted in support of corrupt practices.<sup>149</sup>

As a result of these concerns, annual reports on corruption arising from NDN-contracting are provided to the U.S. Congress, but are classified.<sup>150</sup>

### 2.3.4 Money-laundering and financial crime

Uzbekistan's banking sector operates in a very non-transparent environment and lacks independent oversight; it is therefore vulnerable to illicit financial transactions and money-laundering. The country's banks are small, locally managed financial institutions, under close state control. Most have links with banks in the European Union and the United States to enable international transactions to take place. Although technical and legal mechanisms are in place against money-laundering (based on a 2006 law 'On countering legalization of proceeds from crimes and financing of terrorism'), these pose only limited obstacles to the misuse of banks and financial institutions by well-connected individuals, or 'Politically-Exposed Persons' (PEPs).

Uzbekistan is a member of the Eurasian Group on combating money laundering and financing of terrorism (EAG), which is an associate member of the Financial Action Task Force (FATF), a body set up by the G-7 countries in 1989 to tackle international money-laundering.<sup>151</sup> The EAG focused primarily on technical and legal aspects of government initiatives in the areas of Anti-Money Laundering and Countering the Financing of Terrorism (AML-CFT). An evaluation of Uzbekistan was completed in 2010, but it primarily highlighted technical areas in which Uzbekistan was already largely compliant.<sup>152</sup> The framework of the EAG and other FATF-type approaches to money-laundering are arguably inappropriate for a closed economy such as that of Uzbekistan, where there are no independent state institutions able to implement AML mechanisms against powerful businesspeople and officials.

The authorities have sometimes acted to close down financial institutions, but such actions are normally the result of internal political struggles rather than genuine efforts to improve transparency and probity in the financial sector. In late November 2013, the Central Bank of Uzbekistan revoked the license of Credit Standard Bank 'for violating the banking legislation'.<sup>153</sup> The bank had long been associated with the business activities of Gulnara Karimova.<sup>154</sup>

## 2.4 Offshore and Foreign Bank Accounts

In most investigations of high-level corruption in Uzbekistan, the schemes uncovered have involved complex networks of bank accounts and corporate structures outside Uzbekistan, often

<sup>150</sup> Joshua Kucera, 'Why won't the U.S. say whom it pays on the NDN?', *Eurasianet*, 29 August 2012.

<sup>151</sup> See [http://eurasiangroup.org/ru/restricted/EAG\\_ME\\_2010\\_1\\_eng\\_amended.doc](http://eurasiangroup.org/ru/restricted/EAG_ME_2010_1_eng_amended.doc) for the latest EAG report.

<sup>152</sup> <http://www.eurasiangroup.org/Uzbekistan.php>

<sup>153</sup> Press-release, 'On ceasing the activity of Open Joint-Stock Commercial Bank "Credit-Standard"'.  
<http://www.cbu.uz/eng/node/42253>

<sup>154</sup> Press-release, 'On ceasing the activity of Open Joint-Stock Commercial Bank "Credit-Standard"', 27 November 2013. <http://www.cbu.uz/eng/node/42253>; 'Uzbekistan: The country's "best bank in 2011" has stopped VISA credit cards operations', *Fergana.ru*, 23 January 2012, <http://enews.fergananews.com/news.php?id=2176>



involving shell companies in offshore jurisdictions. Similar networks may be used legitimately by some companies investing in Uzbekistan, but such a combination of offshore companies and bank accounts in multiple jurisdictions also facilitates non-transparent and unethical or corrupt behavior.

Most of these offshore transactions take place in major international financial centers, including in the United States and the European Union. Several investigations are ongoing in EU states into allegations of money-laundering involving Uzbek citizens, including in France, Sweden, and Switzerland.<sup>155</sup> As discussed above, the U.S. authorities are investigating allegations of money-laundering in relation to allegations of bribery of an Uzbek government official by international telecoms companies. According to the Department of Justice, ‘the official’s associates laundered the corruption proceeds through accounts held in Latvia, the United Kingdom, Hong Kong, Ireland, Belgium, Luxembourg and Switzerland. The illicit funds were transmitted through financial institutions in the United States before they were deposited into accounts in these countries’.<sup>156</sup>

While the Department of Justice has targeted the telecoms companies involved in corrupt payments, there has been rather less attention paid to the numerous banks involved in related financial transactions. One exception has been in Norway. In April 2013, the Norwegian financial regulator issued a written warning and a fine of 30 million SEK (U.S.\$3.6 million) to Nordea Bank for failing to carry out adequate due diligence on an account opened on behalf of Takilant. Takilant paid 200 million SEK [U.S.\$30million] to this account in a series of six transactions. The bank carried out no further due diligence after the account was opened, despite the large sums being transferred from a Gibraltar-registered offshore company by a national of a ‘high-risk’ country for money-laundering.<sup>157</sup> In March 2015, the Department of Justice requested that the Swedish authorities seize U.S.\$30,450,000 held in an account in Nordea bank, of which the beneficiary was Takilant. The U.S. authorities claimed that they had ‘probable cause to believe that the assets constitute the proceeds of crime or are assets involved in illegal money laundering’.<sup>158</sup>

## 2.4.1 Property investments

A popular mechanism for investing financial gains from inside Uzbekistan has been purchase of international property. Gulnara Karimova or her associates were reported to have bought luxury properties in France, Hong Kong, and Switzerland.<sup>159</sup> Money-laundering regulations in relation to

<sup>155</sup> In Switzerland, see: <https://www.news.admin.ch/message/index.html?lang=fr&msg-id=52278>; in France: <http://www.english.rfi.fr/asia-pacific/20130802-france-investigates-uzbekistan-presidents-daughter-money-laundering>; for an in-depth account, see the reporting by OCCPR (Miranda Patrucic, ‘Following Gulnara’s Money’, OCCPR, 21 March 2015, [https://occrp.org/corruptistan/uzbekistan/gulnara\\_karimova/the-prodigal-daughter/following-gulnaras-money.php](https://occrp.org/corruptistan/uzbekistan/gulnara_karimova/the-prodigal-daughter/following-gulnaras-money.php))

<sup>156</sup> U.S. Department of Justice press-release, ‘VimpelCom Limited and Unitel LLC Enter into Global Foreign Bribery Resolution of More Than \$795 Million; United States Seeks \$850 Million Forfeiture in Corrupt Proceeds of Bribery Scheme’, 18 February 2016,

<https://www.justice.gov/opa/pr/vimpelcom-limited-and-unitel-llc-enter-global-foreign-bribery-resolution-more-795-million> <sup>157</sup> Finansinspektionen, 15 April 2013, ‘Decision: Remark and Administrative Fine: Nordea Bank’, available at: ‘Nordea receives remark and administrative fine of SEK 30 million’, Press-release, 16 April 2014, <http://www.fi.se/Folder-EN/Startpage/Press/Press-releases/Listan/Nordea-receives-remark-and-administrative-fine-of-SEK-30-million/>

<sup>158</sup> U.S. Department of Justice, ‘Letter to The Central Authority of Sweden’, 20 March 2015. See Mike Eckel, ‘U.S. Asks Sweden to Freeze \$30M Linked to Uzbek Corruption Case’, *Voice of America*, 1 April 2015, <http://www.voanews.com/content/us-uzbekistan-telecom-corruption/2702600.html>

<sup>159</sup> See Julie Zaugg, ‘Les Ouzbeks lavent leur argent à Genève’, *Hebdo*, 14 August 2012, [http://www.hebdo.ch/les\\_ouzbeks\\_lavent\\_leur\\_argent\\_a\\_geneve\\_163215\\_.html](http://www.hebdo.ch/les_ouzbeks_lavent_leur_argent_a_geneve_163215_.html); on allegations of property deals involving Gulnara Karimova in France and Hong Kong, see Miranda Patrucic, ‘Following Gulnara’s Money’, OCCPR, 21 March 2015, [https://occrp.org/corruptistan/uzbekistan/gulnara\\_karimova/the-prodigal-daughter/following-gulnaras-money.php](https://occrp.org/corruptistan/uzbekistan/gulnara_karimova/the-prodigal-daughter/following-gulnaras-money.php)

property purchases in many EU states are weakly implemented; as a result, overseas investors are often able to purchase expensive property with only very limited checks on the sources of funds.<sup>160</sup> Property purchases in some EU states may also allow foreign citizens to obtain residency or long-term visas.<sup>161</sup>

## Part III: Constraints on Corrupt Practices

The endemic nature of corruption in the Uzbek politico-economic system stems not only from the multiple opportunities for corrupt practice produced by unreformed economic regulations, but also from the lack of significant constraints on corrupt practice. There are inadequate legal and institutional constraints, and an almost complete absence of independent civil society groups, independent media and free academic research in Uzbekistan. The lack of political and civil freedoms has permitted corruption to continue with virtual impunity for its perpetrators. Formal constraints on corruption and improved accountability for state agencies will not automatically have a positive impact on endemic corruption, but they are necessary elements in a broader process of systemic change.

### 3.1 Government Policy

In public speeches, President Karimov and other government officials have often emphasized the importance of combating corruption. Uzbekistan acceded to the UN Convention against Corruption in 2008, and in 2010 it adopted the Istanbul Action Plan on Combating Corruption of the Organization for Economic Co-operation and Development (OECD). In 2010, a draft National Plan for Fighting Corruption was reportedly begun but it is not clear whether it was ever completed.<sup>162</sup> Discussions of this plan reoccur from time to time. A presidential resolution of 29 October 2012 set up a commission to draft a law 'On Combating Corruption'. This draft law has also not yet been enacted. A law on state procurement is also still in the draft stage.<sup>163</sup> In early February 2014 it was reported that such a law was being developed, but progress has been extremely slow.<sup>164</sup>

Government officials claim that new anticorruption initiatives also stem from a speech made to parliament on 12 November 2010, entitled 'Concept On Further Intensification of Democratic

<sup>160</sup> Cynthia O'Murchu, 'Alarm bells ring as 'dirty cash' floods UK property market', *Financial Times*, 16 September 2015; Louise Story and Stephanie Saul, 'Stream of Foreign Wealth Flows to Elite New York Real Estate', *New York Times*, 7 February 2015; Alexi Mostrous, 'Crackdown on offshore owners of UK property', *The Times*, 21 April 2016.

<sup>161</sup> Sanita Jemberga and Inga Sprinġ, "Russians Moving to Latvia: Dream or Nightmare?", OCCRP 12 March 2015, <https://www.occrp.org/en/investigations/3754-russians-moving-to-latvia-dream-or-nightmare>

<sup>162</sup> In 2011, a visiting monitoring team from the OECD attempted to clarify the stage of drafting. They commented that: 'It remains a challenging task to assess the progress achieved in the process of drafting. Many stakeholders are involved and a number of activities have been carried out in this direction, however, the monitoring team could not get a clear idea on specific stages and schedule of the process.' OECD Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, 'Uzbekistan: Assessment and Recommendations' (2012), p. 14.

<sup>163</sup> UzDaily.uz, 'В Узбекистане разрабатывают проект закона «О государственных закупках», UzDaily, 20 February 2014, <http://www.uzdaily.uz/articles-id-19278.htm>. See also Abu-Ali Niyazmatov, 'Президент Узбекистана распорядился подготовить законопроект "О противодействии коррупции"', RIA Novosti, 7 November 2012.

<sup>164</sup> 'В Узбекистане разрабатывают проект закона «О государственных закупках», UzDaily, 20 February 2014', <http://www.uzdaily.uz/articles-id-19278.htm>

Reforms and Development of Civil Society'.<sup>165</sup> However, this kind of political rhetoric has been repeatedly used by senior political figures in Uzbekistan in the past two decades but has never resulted in any democratic reform or increased space for the development of civil society. There is no genuine internal discussion of anticorruption mechanisms in public media or in parliament. The national parliament, the Oliy Majlis, does not function as a normal legislative body, which would discuss, develop, and approve new laws, but simply approves legislative acts developed by the government or the presidential administration. Work to develop new legislation on state procurement has been limited to occasional round-table events in parliament.<sup>166</sup>

The Uzbek government has been slow to adopt new anticorruption laws. Other states in the region, many of which also suffer from high levels of corruption, have enacted relevant legislation. Laws on state procurement were adopted in Kazakhstan in 2007, in Kyrgyzstan in 2004, and in Tajikistan in March 2006.<sup>167</sup> In Kazakhstan, the government adopted a series of legislative acts, including a law 'On Combating Corruption' and the government also has a 'Sectoral anti-corruption program' for 2011-2015.<sup>168</sup>

Such laws, of course, may not have an immediate impact on corrupt practice. Indeed, research suggests that there is no correlation between the level of bribery in a country and the stringency of anticorruption legislation.<sup>169</sup> However, the failure to promulgate a legislative framework in Uzbekistan suggests that genuine commitment to tackling corruption on a systemic level is lacking. The government has also refused to adopt international recommendations to release details of assets held by leading political figures and public officials.<sup>170</sup> In other post-Soviet states such mechanisms have been frequently ineffective, but the failure to take even this symbolic step suggests that the government has little serious commitment to transparency.

### 3.1.2 Liberalization

Although regulatory liberalization does not necessarily reduce corruption overall, any move that reduces the discretionary powers of Uzbek officials with regard to business is a useful first step toward wider reforms. Since 2010, the government has embarked on some sensible but minor liberalization measures in the business environment. In 2011, the government abolished 62 permits and three internal regulations relevant to doing business.<sup>171</sup> In July 2012, President Karimov signed a new resolution on liberalizing and improving the business environment, including cutting some bureaucratic procedures and introducing more electronic measures.<sup>172</sup> Some of these new measures rely on electronic governance measures: a government resolution

<sup>165</sup> OECD, 2012, p. 13.

<sup>166</sup> On 18 May 2012 the Committee on Industry, Construction and Trade held a 'Round Table' on the theme of 'Legislative bases for ensuring transparency in state purchases: contemporary situation and perspectives'; on 12 October 2012 a further round table discussed 'Perfecting legislation in the sphere of state procurement: legal aspects and international experience'

<sup>167</sup> Pulat Akhunov, 'Куда исчезают 15 миллиардов долларов в год из бюджета Узбекистана?', Fergana.ru, 11 July 2014, <http://www.fergananews.com/articles/8197>

<sup>168</sup> Alemgul S. Kumatova, 'Corruption Crimes in Public Procurement in the Republic of Kazakhstan', *Middle-East Journal of Scientific Research*, 17 (10) (2013), pp.1419-1424.

<sup>169</sup> The World Bank, 'Trends in Corruption and Regulatory Burden in Eastern Europe and Central Asia', A World Bank Study', The World Bank, Washington DC, 2011, p. 33.

<sup>170</sup> OECD, 2012, p. 40.

<sup>171</sup> OECD, 2012, p. 5.

<sup>172</sup> Приняты меры по обеспечению свободы предпринимательской деятельности', *Uzbekistan Daily*, 20 July 2012, UzDaily.com

from November 2013 made it possible to complete business registration online, to avoid the personal contacts with officials that appear to give rise to corruption. These and similar measures enabled Uzbekistan to rise up the World Bank’s ‘Doing Business’ rankings by eight places in 2014–2015.<sup>173</sup> As noted above, Uzbekistan has also made some liberalizing amendments to cross-border trade, introducing a single window for customs clearance and allowing for electronic filing of documents. In other areas, however, particularly in terms of currency regulations, Uzbekistan has been moving in the other direction.

### 3.1.3 Civil service recruitment and appointments

There has been no substantive reform of civil service and state recruitment, which is frequently achieved through informal processes rather than through transparent competition. The OECD has also highlighted the lack of a competitive, unified approach to civil service recruitment as a significant problem by the OECD.<sup>174</sup> There are anecdotal reports that positions in public life are bought and sold, confirming the extent to which public office is viewed primarily as a source of rent. According to a leaked U.S. embassy cable, public positions, such as those of regional *hokim*, or positions in the Interior Ministry, may be traded through the assistance of influential middlemen.<sup>175</sup>

### 3.1.4 Anticorruption campaigns

Most mechanisms used by the government to tackle corruption are heavy-handed and ineffective. In 2010, the government closed private notary offices, ostensibly because of concerns about corruption, leaving only state notaries to meet public demand. Inevitably, this has led to allegations of continued corruption, but now concentrated in the state sector.<sup>176</sup> In 2011, the government ordered the closure of hundreds of private driving schools, again citing corruption as the motivation, and ordered a branch of the Ministry of Defense to conduct all driving lessons and tests. Analysts suggested that learners might now have to pay bribes to speed up the inevitable delays.<sup>177</sup> On the morning of 1 August 2012, in order to prevent cheating in national examinations, the authorities reportedly forced mobile phone operators to turn off SMS and messaging services on the entire mobile telephone network.<sup>178</sup> Such short-lived punitive measures have little lasting impact in the absence of measures to tackle systemic sources of corrupt practice.

Since 2010, the government has used repressive methods in an anticorruption campaign that has targeted both public officials and businesspeople. The campaign may have led to the

<sup>173</sup> <http://www.doingbusiness.org/data/exploreeconomies/uzbekistan#starting-a-business>

<sup>174</sup> OECD Anti-corruption Network for Eastern Europe and Central Asia, ‘Istanbul Anti-Corruption Action Plan’, Uzbekistan: Monitoring Report (2010).

<sup>175</sup> U.S. Department of State, Embassy Cable, ‘Mafia boss fixes GOU tenders and jobs’, 5 May 2006, via Wikileaks, [http://www.wikileaks.org/plusd/cables/o6TASHKENT902\\_a.html](http://www.wikileaks.org/plusd/cables/o6TASHKENT902_a.html)

<sup>176</sup> ‘Uzbek President Orders Closure Of Private Notary Offices’, RFE/RL, [http://www.rferl.org/content/Uzbek\\_President\\_Orders\\_Closure\\_Of\\_Private\\_Notary\\_Offices\\_/2036883.html](http://www.rferl.org/content/Uzbek_President_Orders_Closure_Of_Private_Notary_Offices_/2036883.html)

<sup>177</sup> ‘Uzbek Government Orders Closure Of Driving Schools’, RFE/RL, 9 January 2011, [http://www.rferl.org/content/uzbekistan\\_driving\\_schools/2270893.html](http://www.rferl.org/content/uzbekistan_driving_schools/2270893.html)

<sup>178</sup> Asia-Plus, ‘В Узбекистане из-за экзаменов на подня блокировали SMS’, 1 August 2012, ASIA-Plus Information Agency [via Factiva]; ‘Узбекистан: 1 августа все абоненты мобильных операторов будут на подня отключены от SMS и интернета’, *Fergana.ru*, 31 July 2012.

punishment of some individuals involved in corrupt practice, but prosecutions have been selective and often reflect political power struggles rather than genuine attempts to challenge the wider system of corruption. This anticorruption campaign has involved extensive use of violence against individuals, abuse of human rights and due process, and has undoubtedly involved miscarriages of justice. Courts often sentence those found guilty of even minor corruption to long periods of imprisonment, in conditions that are reported by independent human rights groups to be inhumane. Statistics are scarce and probably unreliable. Moreover, as noted above, many of these arrests may be prompted by political or business disputes, rather than even-handed investigations and prosecutions. Figures provided to the OECD indicated a rising trend in corruption prosecutions between 2009 and 2011, rising from 4,338 (2009), 4,845 (2010), to 2,247 (first 6 months of 2011). The majority of prosecutions were under Article 167 (appropriation or misuse of state funds).<sup>179</sup> The anticorruption campaign has targeted a wide range of individuals, from the lowest official to powerful officials and businesspeople.

Since 2012, hundreds of officials in the law enforcement and judicial sectors have been arrested in corruption probes. In February 2012, the NSS arrested a judge of the Tashkent city criminal court for allegedly taking a bribe of 1 million som (U.S.\$549).<sup>180</sup> In late August 2014, NSS officials arrested the chairman of the city court, the prosecutor, and a lawyer during a court session in Gulistan. All were suspected of being involved in corruption.<sup>181</sup>

Many government officials have also been arrested and often sentenced to significant terms of imprisonment. In February 2012, a former presidential state advisor and justice minister Ravshan Mukhitdinov, was sentenced to 15 years in prison for corruption.<sup>182</sup> In June 2012, the hokim of Bukhara, Hayit Komilov, was arrested, on charges of embezzling state funds.<sup>183</sup>

Many other arrests were of officials or businesspeople linked in some way to the business network of Gulnara Karimova. However, the fact that there has been so little systemic reform suggests that the arrests may have been primarily concerned with a recentralization of power and a redistribution of resources among rival groups in the elite rather than a genuine anticorruption campaign.

## 3.2 Legal and Judicial System

### 3.2.1 Legal aspects

The Uzbek Criminal Code criminalizes most acts that are considered corrupt practice internationally, including embezzlement, abuse of public office, and receipt and giving of a bribe.<sup>184</sup> There are, however, some potentially important omissions from the Criminal Code, such as a specific charge of bribery of foreign public officials or providing gifts to public officials. Other

<sup>179</sup> OECD Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, 'Uzbekistan: Assessment and Recommendations' (2012), p. 35.

<sup>180</sup> 'В Узбекистане при получении взятки "с поличным" задержан судья Ташгорсуда', IA REGNUM, 21 February 2012.

<sup>181</sup> "Встать! Не двигаться! ШБ идет!", *Radio Ozodi*, 3 September 2014, <http://rus.ozodi.org/content/article/26564239.html>

<sup>182</sup> 'Former adviser to President of Uzbekistan sentenced to 15 years in prison', Aki-Press, 17 February 2012, <http://www.akipress.com/news:447821/>

<sup>183</sup> 'Узбекистан: Мэр Бухары арестован по обвинению в коррупции', Fergana.ru, 15 June 2012, <http://www.fergananews.com/news.php?id=18875>

<sup>184</sup> Notably, Article 167 on Theft by appropriation or misuse; Article 205 on Misuse of authority or office; Article 206 on Abuse of power or functions; Article 207 on Negligence in office; Article 208 on Failure to act in office; Article 209 on Forgery in office; Article 210 on Receiving a bribe; Article 211 on Giving a bribe; and Article 212 on Intermediation in bribery.

gaps include specific offences of bribery for nonmaterial gain; bribery in favor of third persons; promise or offer of a bribe (as opposed to actually giving or receiving a bribe). It is also notable that Uzbekistan's legislation does not follow OECD practice in distinguishing between private sector and public sector bribery. Although this does not contradict international conventions, according to the OECD, it 'may give rise to concern as to proportionality of criminal sanctions for private sector offences'.<sup>185</sup>

There is very limited regulation of conflicts of interest. According to the OECD, 'there seems to be a quite narrow understanding of the term "conflict of interests" and lack of regulation in this area in Uzbekistan'.<sup>186</sup> In particular, there is no legal constraint on employment after public service, even in enterprises previously regulated by an office which he/she directed. There are no provisions for the disclosure of assets by public officials, nor any systematic procedure for assessing conflicts of interest in public procurement processes.

There is no legal protection for whistle-blowers in relation to corruption allegations.

### 3.2.2 Judiciary

Despite constitutional provisions, the judiciary in Uzbekistan is not independent. Judges usually act together with prosecutors and the police to produce convictions. Courts follow a Soviet-era tradition of seeking confessions from the accused and very seldom acquit, except where political instructions or significant bribery is involved. In some cases, the accused may pay bribes to avoid conviction, although this is unlikely to be applicable in cases of political significance. There are no courts that are likely to produce independent judgments in major business disputes. Businesspeople do not view the Higher Economic Court as a reliable forum for dispute resolution; indeed, it has been involved in most of the controversial expropriations and adverse judgments against foreign investors outlined in the earlier section of this report. Independent lawyers have faced harassment and pressure from the state for many years, and it is difficult for most accused to receive adequate defense counsel.<sup>187</sup>

The situation has further worsened since January 2009, when a new law came into force, abolishing previously independent lawyers' associations and replacing them with a body subordinate to the Ministry of Justice. According to a report by Human Rights Watch, 'the law has seriously weakened the criminal defense bar, silencing outspoken advocates who had taken on politically sensitive cases and were willing to raise allegations of torture in court [ ... and] had a chilling effect on the entire legal practice'.<sup>188</sup> In effect, the new regulations have dismantled any independent status for lawyers in Uzbekistan, and made them dependent on the executive branch of government.

There are regular media reports of judges in both civil and criminal cases accepting bribes. In a survey of businesses, more than 20 percent admitted that companies 'frequently', 'usually', or 'always' pay bribes in court processes.<sup>189</sup> Such incidents might be distinguished, however, from cases where powerful political or business figures are involved. In such cases, judges have little

<sup>185</sup> OECD, 2012, p. 26.

<sup>186</sup> OECD, 2012, p. 39.

<sup>187</sup> See Human Rights Watch, 'No One Left to Witness', 13 December 2011, <http://www.hrw.org/reports/2011/12/13/no-one-left-witness>

<sup>188</sup> Ibid., p. 81.

<sup>189</sup> 'Trends in Corruption and Regulatory Burden in Eastern Europe and Central Asia', A World Bank Study', The World Bank, Washington, D.C., 2011, p. 50.

choice but to comply with whatever decision is demanded.

### 3.3 Anticorruption Bodies

#### 3.3.1 State agencies

There is no agency responsible for the ‘coordination of public anti-corruption policy and preventative measures’, as required by the UN Convention against Corruption.<sup>190</sup> The most powerful anti-corruption body is the Department for the Fight against Economic Crime and Corruption under the Office of the Prosecutor General, which is tasked with combating, investigating and prosecuting corruption-related offences. The two most important bodies outside law enforcement are the Accounts Chamber - an independent auditing body - and the main Control and Revision Division (KRU) of the Ministry of Finance, which has the power to suspend or halt public procurement tenders and initiate financial investigations of budgetary bodies. There are also KRUs in the defense and interior ministries and in the NSS.<sup>191</sup>

#### 3.3.2 Law enforcement

The system of law enforcement plays a critical role in the broader system of state and elite corruption in the country. In theory, the National Security Service (NSS) and the Department for Combating Corruption, Extortion, and Racketeering in the Ministry of the Interior both have mandates to deal with economic crimes and corruption. In reality, media, and human rights reports suggest that state law enforcement authorities have been used to implement corrupt schemes, to undermine political and business rivals, or to detain and prosecute business executives as an integral part of extortion or expropriation mechanisms.

The NSS is the most powerful agency in conducting the anticorruption campaign and also itself—according to opposition activists and independent reports—involved in a variety of informal business and economic networks.<sup>192</sup> The NSS has been reportedly involved in raids on businesses, particularly since they took over the mandate for tackling ‘economic crimes’. In 2012, one journalist claimed that: ‘The NSS has allocated or newly built a whole set of buildings for torturing and intimidating businessmen at the former Konnogvardeyskaya street, which looks more like a fortress. The inner court-yard is filled with impounded luxury vehicles that belonged to former businessmen and prominent investors, serving as a reminder of the frailty of any fortune made in Uzbekistan’.<sup>193</sup> NSS officers have also been targeted in recent anticorruption campaigns. According to media reports, dozens of senior NSS officers were dismissed or arrested in 2014.<sup>194</sup>

Investigations of companies accused of wrong-doing have typically been accompanied by aggressive raids on companies by the NSS or other law enforcement agencies. Employees are often arrested and forced to give testimony against themselves or colleagues. One report detailed the actions of law enforcement officers in a campaign against Uzdunrobita in 2012: ‘Uzdunrobita staff and the company’s other employees were threatened and underwent strong psychological pressure

<sup>190</sup> OECD, 2012, p. 4.

<sup>191</sup> OECD, 2012, p. 41.

<sup>192</sup> See, for example Nadejda Atayeva, ‘Corrupt National Security Service agents bankrupted a successful business’, 9 September 2014, <http://nadejda-atayeva-en.blogspot.co.uk/>

<sup>193</sup> ‘Loss of time, business and freedom: that’s all foreign investors get in Uzbekistan’, *Fergana.ru*, 23 May 2012, <http://enews.fergananews.com/article.php?id=2757>

<sup>194</sup> Radio Azattyk, ‘Около 40 сотрудников безопасности Узбекистана уволены или взяты под стражу’, 3 July 2014, <http://rus.azattyk.mobi/a/25444133.html>

which was aimed to get them to give self-incriminating testimony... questioning sessions often took place at night, defense lawyers did not always have access to their clients, and investigators threatened one of the company's staff that they will "search his home and find drugs".<sup>195</sup>

Raids on companies are typically carried out by armed men in masks, using aggressive tactics against staff. In one raid on outlets of a German bakery company, it was claimed that 'employees were assaulted [and] company equipment destroyed'. German ambassador Wolfgang Neuen was even caught up in a raid at the company's offices in Tashkent.<sup>196</sup>

Corruption is widespread within the law enforcement agencies. While the NSS is often involved in business disputes, the ordinary police tend to extort money in less sophisticated ways, such as demanding bribes from drivers. The police are frequently accused of extorting money from criminal suspects, including many who are convicted of religious radicalism. As in other parts of the state system, bribes are reportedly passed up the system to senior officers, forming a pyramidal system of control and corruption.

### 3.4 Independent Constraints: Media and Civil Society

In most states, civil society organizations and the media play a critical role in uncovering corruption and promoting anticorruption policies. In Uzbekistan, however, any investigations into corruption inside the country pose a serious danger to activists or journalists. Instead, many reporters and human rights defenders have been harassed, detained and prosecuted for investigating corruption.

#### 3.4.1 Civil society

According to the Uzbek government, 'Civil society institutions actively cooperate with the state authorities in the field of corruption researches'.<sup>197</sup> In reality, this means that government-sponsored organizations occasionally are involved in training sessions or roundtables with government agencies. In 2013, for example, the Independent Institute for Monitoring the Formation of Civil Society (NIMFOGO) and the National Association of Non-State Non-Commercial Organizations of Uzbekistan (which are both effectively government-run associations) together with the Center for Public Opinion Surveys 'Ijtimoiy Fikr', met with the National Human Rights Center of Uzbekistan (the government's main 'human rights' body) and the General Prosecutor's Office to participate in a series of roundtables on the topic 'Role of Institutions of the Civil Society in Fight with Corruption'.<sup>198</sup> No independent civil society organizations were invited to these discussions.

In a speech in December 2010, President Karimov called for greater support for civil society. Government officials claim that there were over 6,500 NGOs active in Uzbekistan.<sup>199</sup> In reality, over

<sup>195</sup> 'Uzdunrobita managers convicted, MTS subsidiary now owned by government', Fergana.ru, 18 September 2012, <http://enews.fergananews.com/news.php?id=2353>

<sup>196</sup> 'Uzbek Authorities Squeeze German Firm', *IWPR News Briefing Central Asia*, 23 September 2011, <http://iwpr.net/report-news/uzbek-authorities-squeeze-german-firm>

<sup>197</sup> OECD Anti-corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan: Uzbekistan Progress Update, April 2014, p.4.

<sup>198</sup> Ibid.

<sup>199</sup> 'Briefing note on civil society development and freedom of expression, association and assembly in Uzbekistan', International Partnership for Human Rights/International Human Rights Association, Fiery Hearts Club, March 2014, p. 1.



the past decade, the Uzbek authorities have closed most independent civil society organizations and persecuted and prosecuted many civil society activists. Human rights and civil society activists who have investigated cases of corruption have often faced arrest and imprisonment on charges that are widely suspected to be falsified. These include the following cases:

- **Nematjon Siddikov**, an activist in the Fergana region, was arrested in 2012 and sentenced to six years in prison. According to human rights groups, he was targeted because of his investigation into local corruption in the police. He was subsequently released under amnesty in 2013.<sup>200</sup>
- **Gulnaza Yuldasheva**, an activist with the Initiative Group of Independent Human Rights Defenders (IGIHRD), investigated corruption among Uzbek government officials who were allegedly involved in human trafficking. In July 2012, she was sentenced to seven years in prison on apparently false charges of extortion. She was released in 2013 after international pressure.<sup>201</sup>
- **Turaboy Jurabaev**, a 75-year old activist who had campaigned against corruption in local government, was sentenced to five years in prison on extortion charges in August 2013. He was released under amnesty in December 2013, but the conviction was not overturned.<sup>202</sup>
- **Abdurasul Khudoinazarov**, a former head of the Angren branch of the human rights group Ezgulik, was also reportedly investigating cases of corruption among local officials when he was arrested. In January 2006, he was sentenced to nine-and-a-half years in prison on charges of extortion and fraud that human rights groups claim were fabricated.<sup>203</sup> He was released in May 2014 on medical grounds, and died within a month of his release.

### 3.4.2 Media and information

There are no independent media outlets accessible inside Uzbekistan. Opposition or independent websites are routinely blocked by the government, which also restricts access to critical news about Uzbekistan on foreign news agencies including the BBC, VOA, Radio Free Europe/Radio Liberty, and Deutsche Welle. The government seldom provides accreditation for journalists from major foreign news outlets. There are a few independent journalists who continue to work in the country for international agencies, but they do so at great risk to themselves: journalists face harassment, police detention, or conviction on trumped-up charges. Two independent reporters, Muhammad Bekjanov and Yusuf Ruzimuradov, are the two longest-imprisoned journalists worldwide according to the Committee to Protect Journalists, having been held in prison since 1999.<sup>204</sup>

In particular, it has become extremely dangerous for journalists or activists to report on corruption issues. According to the U.S. State Department, ‘There were reports that police arrested persons on false charges of extortion, drug possession, or tax evasion as an intimidation

<sup>200</sup> Human Rights Watch, ‘“Until the Very End”: Politically Motivated Imprisonment in Uzbekistan’, 26 September 2014, p. 86.

<sup>201</sup> Human Rights Watch, ‘“Until the Very End”’, p. 89.

<sup>202</sup> ‘Briefing note on civil society development’, p. 2.

<sup>203</sup> ‘Briefing note on civil society development’, p. 4.

<sup>204</sup> <https://cpj.org/imprisoned/2012.php#uzbekistan>

tactic to prevent them or their family members from exposing corruption or interfering in local criminal activities.<sup>205</sup> A number of journalists and human rights activists are currently imprisoned as a result of their activities in uncovering corruption and abuse of power, including:

- **Salijon Abdurakhmanov**, a reporter for the independent news agency, *Uznews*, was sentenced to 10 years in prison in 2008 on charges of drugs possession, which were widely believed to be fabricated. According to the Committee to Protect Journalists, Abdurakhmanov 'frequently reported on corruption in Uzbek law enforcement agencies, including the traffic police'.<sup>206</sup>
- **Dilmurod Sayid** (Saidov) was sentenced to twelve-and-a-half years in prison in 2009 on extortion and bribery charges that were widely considered to be falsified. An international human rights group argued that his imprisonment was 'a direct response to his legitimate and peaceful activities in defense of human rights in Uzbekistan, in particular his efforts to expose local officials' abuse of power and corruption and his willingness to fight for the rights of farmers in the Samarkand region'.<sup>207</sup>

Formally, access to information is regulated by two laws: the 1997 Law on Guarantees and Freedom of Access to Information and the 2002 Law on Principles and Guarantees of Freedom of Information. In practice, the state is reluctant to provide public information on many aspects of state activity. In 2014, a new law was adopted ('On the Openness of the Activities of Organs of State Power and Management'), which in theory could make it easier for journalists to obtain information from public agencies. In practice, it is unlikely to have a major impact on the availability of data. As the U.S. State Department noted in 2013, 'The government seldom reported information normally considered in the public domain'.<sup>208</sup>

## Part IV: International Programs and Systemic Reforms

Since 2008, there has been some engagement with external partners in the sphere of anti-corruption policy. Progress has been very limited, even in implementation of these modest, carefully negotiated programs. So far there is no evidence that these programs are having any discernible impact on systemic corruption inside the country.

<sup>205</sup> U.S. Department of State, Country Report on Human Rights: Uzbekistan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220410>

<sup>206</sup> CPJ, 'Karimov should uphold media pledge by freeing journalists', <https://cpj.org/2013/06/karimov-should-uphold-media-pledge-by-freing-jour.php#more>

<sup>207</sup> Frontline, 'Uzbekistan: Human rights defender Dilmurod Sayid sentenced to 12.5 years of imprisonment', 21 September 2010 <http://www.frontlinedefenders.org/node/2114>; United States Mission to the OSCE, 'Statement on Rule of Law in Uzbekistan as delivered by Deputy Chief of Mission Gary Robbins to the Permanent Council', Vienna, 9 February 2012.

<sup>208</sup> U.S. Department of State, 'Country Report on Human Rights: Uzbekistan', <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220410>

## 4.1 International Programs with an Anticorruption Element

### *OECD Anticorruption Networks for Eastern Europe and Central Asia: Istanbul Anticorruption Action Plan*

In March 2010, Uzbekistan joined the Istanbul Anticorruption Action Plan (ACAP), which is a sub-regional initiative of the OECD Anticorruption Network for Eastern Europe and Central Asia (ACN). The ACAP has twice (in 2010 and 2012) issued reports assessing Uzbekistan's anti-corruption legal and institutional framework. The reports set out a range of legal and technical recommendations to improve anticorruption policies in Uzbekistan and bring the country into line with international standards.

Since the focus is only on technical and legal aspects of corruption, the ACAP is unlikely to have a major impact on systemic corruption, at least in the short term. Within the parameters of the program, recent reports have highlighted what it views as partial successes, but it has not been able to demonstrate any significant progress by Uzbekistan in legislative or technical aspects of anticorruption policy. There is no detailed monitoring or investigation of actual corruption cases or corrupt practices in the ACAP program.

### *EU Rule of Law Program*

The EU Rule of Law program was launched in 2011, and is aimed at improving the justice systems in five Central Asian states.<sup>209</sup> To date its main success has been the convening of regional meetings attended at ministerial level by Central Asian governments. Its program in Uzbekistan has focused on education, study tours, and training initiatives of the type that have failed elsewhere. Human rights groups have been skeptical about its potential impact in Uzbekistan, in particular. Human Rights Watch commented: 'Given Tashkent's resistance to reform, one must question how programs that consist solely of trainings and seminars for judges and prosecutors handpicked by the authorities will promote the rule of law over the long term'.<sup>210</sup>

### *UNDP Rule of Law Partnership*

A United Nations Development Program (UNDP) Rule of Law partnership was launched in October 2014 in partnership with the Supreme Court of Uzbekistan, but it faces similar challenges to the EU initiative. At the program launch in Tashkent UNDP's Administrator Helen Clark claimed that the project would 'engage key national stakeholders in strengthening judicial independence through rule of law institutions, and engage citizens in public discussion on issues of court administration and transparency'.<sup>211</sup> Such aspirations are unlikely to be fulfilled in Uzbekistan's repressive political environment. At best the program may play a positive role in introducing modern technology to courts through its e-justice 'E-SUD' program, which allows court documents and writs to be filed online.<sup>212</sup> However, to be effective in encouraging

<sup>209</sup> <http://ruleoflaw.eu/>

<sup>210</sup> See Steve Swerdlow, 'Uzbekistan: Effective EU Rule of Law Programs Depend on a Principled Human Rights Policy', 17 January 2013, <http://www.hrw.org/news/2013/01/17/uzbekistan-effective-eu-rule-law-programmes-depend-principled-human-rights-policy>

<sup>211</sup> Helen Clark: Speech at the Launch of the Rule of Law Partnership with the Supreme Court of Uzbekistan', 16 October 2014, <http://www.undp.org/content/undp/en/home/presscenter/speeches/2014/10/16/helen-clark-speech-at-the-launch-of-the-rule-of-law-partnership-with-the-supreme-court-of-uzbekistan.html>

<sup>212</sup> 'Rule of law partnership in Uzbekistan', Information Bulletin, 1, 2015

participation and transparency, online tools and court documents and procedures have to be widely accessible to the population.

### *OSCE initiatives*

The OSCE has supported a range of anticorruption initiatives, normally in conjunction with other partners. These activities have primarily focused on seminars and training sessions.<sup>213</sup>

### *UNDP/World Bank programs on state procurement processes*

The UNDP has also initiated a project called 'Budget System Reform in Uzbekistan', which aims to bring national legislation in line with international best practice, essentially seeking to support the process of drafting a law on public procurement. The draft law attempts to ensure:

- transparent selection of supplier;
- equal treatment for all participants in public procurement procedures;
- competitiveness;
- promotion of small business and socio-economic development.<sup>214</sup>

However, progress on new legislation has been slow, and the program has had very limited impact so far. The UNDP has also funded some initiatives linked to the ACN program, including a study tour to Singapore and Hong Kong 'to study best practices for improving legal systems and anticorruption measures, and for ensuring the transparency and independence of judiciary systems'.<sup>215</sup>

## 4.2 Impact of International Programs

None of these programs are making tangible progress in addressing the key problems of corruption in Uzbekistan. Most focus primarily on technical aspects of anticorruption programs. Others follow the failed pattern of many previous international programs, combining superficial training programs, external consultancies, and study tours abroad. They seldom reflect the complex political dynamics of corruption in their programs, and have failed to engage with non-governmental organizations, businesses or other affected groups. However, over the long term, Uzbekistan will require technical assistance in areas such as state procurement and public financial management in order to achieve any progress in tackling corruption. International partners need to balance the evident lack of impact of current programs with the need to retain some channels for long-term influence on the reform of state institutions inside Uzbekistan.

## 4.3 Priority Reforms in Tackling Corruption

International proposals for structural reforms are unlikely to result in significant policy changes by the Government of Uzbekistan. Until there is an improvement in the political environment,

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<sup>213</sup>'OSCE supports anti-corruption policy development in Uzbekistan', 12 September 2013, <http://www.osce.org/uzbekistan/104815>

<sup>214</sup> See the UNDP Website:

[http://www.uz.undp.org/content/uzbekistan/en/home/operations/projects/poverty\\_reduction/budget-system-reform-in-Uzbekistan.html](http://www.uz.undp.org/content/uzbekistan/en/home/operations/projects/poverty_reduction/budget-system-reform-in-Uzbekistan.html)

<sup>215</sup>TCA, 'Uzbek delegation learns best anti-corruption practices in Hong Kong and Singapore', *Times of Central Asia*, 29 July 2013, via Factiva.

the international community will continue to find it very difficult to engage with the Uzbek authorities in relation to these problems. Achieving significant progress against corruption in the country will require the reform of both the economy and the political system, the development of an independent judiciary and rule of law, much greater freedom for the media, and an end to persecution of civil society.

In the present political context, measures proposed by the international community in other countries facing significant corruption challenges, such as the establishment of an anticorruption agency, are unlikely to achieve any success in present-day Uzbekistan. Any such body will simply become another mechanism for intra-elite struggles over property and rents. Other technical fixes also run the risk of being used instrumentally by politicians seeking to use anticorruption drives to their own advantage. However, there are four areas of engagement that are worth highlighting, even in the present difficult policy environment.

### Technical engagement

The technical programs outlined above have so far have had no substantive impact on systemic corruption. However, over the long term, Uzbekistan will need to develop the tools and mechanisms to manage corrupt practice. The main reason to continue with similar programs is the possibility that over the long term they may contribute to gradual improvements in public financial management and anticorruption policies. However, further international engagement needs to move away from present modalities, such as international study tours, to emphasize more substantive engagement. Funded programs should include clear benchmarks and timelines and more emphasis on input and response from the Uzbek authorities.

The OECD Istanbul Anticorruption Action Plan process has had limited impact so far, but it has engaged the Uzbek authorities in discussion of anticorruption policy and has encouraged some limited transparency in this area. Four areas to prioritize in further engagement include:

- Involvement of independent think-tanks, academics, media and civil society in the OECD ACAP process;
- Continued work to develop effective state legislation on state procurement, and laws on conflicts of interest;
- Further pressure to liberalize regulatory regimes for business, including tax payments, customs and other bureaucratic requirements;
- Measures to permit greater independence in the judiciary and to allow defense lawyers to function independently.

### Abuses of state power

As discussed above, problems of corruption are intimately linked to human rights abuses and state violence against the population. A reinvigorated international response to human rights challenges in Uzbekistan needs to continue to campaign for an end to state violence against political activists, dissidents, and human rights defenders, but also to highlight the abuse and ill-treatment of businesspeople, entrepreneurs, and employees of foreign companies. International agencies and governments should avoid any support for the highly repressive mechanisms often used in anticorruption campaigns and the punitive prison sentences that often result from convictions. The international business community and diplomatic interlocutors should attempt

to develop an agenda that includes the problem of abuses of state power in relation to business. Key recommendations for the international community to propose in this area include:

- A fundamental reform of the role of law enforcement agencies, including the NSS, in tackling economic crimes;
- Initiatives to reduce corruption in law enforcement agencies and improve their accountability to local communities and to business;
- A shift away from the use of the criminal code to govern many aspects of business activity, which enables the state to use criminal prosecution as part of corrupt practice against businesses;
- An end to the practice of arresting businesspeople on dubious charges as part of commercial disputes and business negotiations, and a review of excessive, punitive sentencing in relation to businesspeople and company employees;
- Curbs on abuses of power by the tax authorities, which have become a major deterrent to investment and business.

### Transparency and accountability

State initiatives alone are unable to tackle the problem of corruption. Uzbekistan needs a more active media and civil society that can challenge corrupt practices, and a freer flow of information. The Uzbek government should:

- Provide reliable data about public finances and state expenditure, and the functioning and oversight of off-budget funds, including the *Selkhozfond* and FRD;
- Ensure transparent court proceedings and accessible documentation and reporting about court cases in cases of corruption;
- End the prosecution and harassment of journalists and civil society activists reporting on corrupt practices in state bodies.

### Foreign companies and international finance

Many of the most significant mechanisms of corruption in Uzbekistan take place in other jurisdictions. OECD states need to take active measures to combat corruption in their own financial institutions by individuals with business and political interests in Uzbekistan. The role of banks in Latvia, Norway, and Switzerland, has been highlighted in recent cases. Regulatory bodies should emphasize:

- The need for effective due diligence on companies and Politically-Exposed Persons (PEPs)—individuals with either formal or informal political linkages to the regime in Uzbekistan—who are involved in cross-border business and financial transactions;
- Stricter application of existing antimoney laundering (AML) rules—and the development of new regulations—to stem the laundering of funds gained from corrupt practices in jurisdictions such as Uzbekistan, whether through the use of shell companies and offshore entities, or through property markets;

- Stricter application of antibribery laws against international companies operating in Uzbekistan. While the United States has applied the FCPA in several relevant cases, a more proactive approach from financial and investigatory authorities in EU states would also be welcome. Foreign corporations need to recognize their wider social responsibilities in complex environments such as Uzbekistan.

FOR MORE INFORMATION ON OUR WORK ON ISSUES RELATED TO CORRUPTION, TRANSPARENCY AND ACCOUNTABILITY IN THE REGION OF EURASIA, PLEASE CONTACT:

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