



## Asset recovery for Arab countries in transition

Since the ousting of [Hosni Mubarak](#) and [Zine El Abidine Ben Ali](#), the EU has frozen assets of 67 people suspected of concealing abroad state funds misappropriated in Egypt and Tunisia. But despite high-level political declarations supporting the recovery of these assets, there seems to be little prospect of their swift return to the countries of origin.

### Societies in need

The ousted rulers of Libya, Egypt and Tunisia accumulated wealth, the major part of which has been hidden in foreign accounts in the US, Switzerland and some EU countries (mostly the UK). While it is impossible to establish the amount of these ill-gotten gains, some estimates reach hundreds of billions of euros.

As the post-revolutionary governments struggle with economic hardship, calls to speed up the recovery of these assets and earmark them for reconstructing the societies concerned have grown stronger. Recovery, it is [suggested](#), serves three distinct purposes:

- Funding government programmes and initiatives,
- Providing justice for victims and challenging a political culture of impunity, and
- Deterring officials from engaging in corruption in future.

### A convoluted process

Asset recovery is a politically sensitive and tortuous exercise, as it involves numerous stakeholders, who often distrust each other. It is regulated by a plethora of national and international provisions.

First, plundered monies need to be tracked down and linked to the corrupt official. Straw men and shell companies are often used to conceal the origin of funds, however. In addition, a sizeable part is invested in offshore centres. These are reluctant to cooperate, and Western governments are [allegedly](#) unwilling to influence them.

Once the assets have been frozen, their illicit nature needs to be proven. The burden of

proof lies on the party reclaiming the funds (with the notable exception of the so-called [Lex Duvalier](#) in Switzerland), which also has to justify its rights. As countries in transition are struggling to rebuild state structures and guarantee the independence of the judiciary, questions are also raised on the accountability of institutions requesting the return of assets.

### International efforts

Even though the issue is mostly dealt with bilaterally, numerous international initiatives have been taken in *fora* such as the [G8](#), [World Bank and the UN](#), to facilitate the process.

Anti-corruption efforts have set the context, as the return of assets to their legitimate owners is a fundamental principle of the 2004 UN [Convention against Corruption](#), which led to the [Open-ended Intergovernmental Working Group on Asset Recovery](#) being set up.

Most importantly, the UN Security Council adopts resolutions which serve as the basis for freezing assets (e.g. 2011 [resolution](#) on Libya).

### The European Union's role

On the basis of Article 215 [TFEU](#), the EU may apply "restrictive measures" targeting third country entities and persons including former political leaders. They may be adopted either independently or to implement a UN Security Council resolution. Egyptian, Libyan and Tunisian assets have been frozen by relevant Council decisions and regulations.

The European Parliament is informed of restrictive measures taken by the Council (Article 215 TFEU). It addressed asset recovery in its 2012 [recommendation](#) to the Council on a consistent policy towards regimes against which the EU applies restrictive measures, as well as in resolutions on the situation in [Tunisia](#), [Libya](#), and, most recently, [Egypt](#).

In November 2012 the Council adopted Regulations aimed at facilitating the return of funds, which allow the Member States to release [Egyptian](#) and [Tunisian](#) assets on the basis of judicial decisions recognised in the EU.