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Convention against Corruption**

Executive summary

Note by the Secretariat

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* [CAC/COSP/IRG/2023/1](#).



II. Executive summary

Pakistan

1. Introduction: overview of the legal and institutional framework of Pakistan in the context of implementation of the United Nations Convention against Corruption

Pakistan signed the United Nations Convention against Corruption on 9 December 2003 and ratified it on 31 August 2007.

The implementation by Pakistan of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 4 August 2017 ([CAC/COSP/IRG/I/3/1/Add.32](#)).

Treaties are not self-executing in Pakistan but are incorporated into the domestic legal framework.

The national legal framework for preventing and countering corruption includes provisions of the Constitution of Pakistan of 1973 and a number of legal instruments, notably the Prevention of Corruption Act (1947), the National Accountability Ordinance (1999), the Federal Public Service Commission Ordinance (1977), the Public Procurement Regulatory Authority Ordinance (2002), the Pakistan Penal Code (1860), the Code of Criminal Procedure (1898), the Federal Investigation Agency Act (1974), the Anti-Money-Laundering Act (2010), the Civil Servants Act (1973), the Right to Information Act (2017), the Companies Act (2017), the Mutual Legal Assistance (Criminal Matters) Act (2020), the Ombudsman Institutions (Establishment of *Wafaq Mohtasib*) Order (1983), the Prevention of Electronic Crimes Act (2016), the Electronic Transactions Ordinance (2002), the Investigation for Fair Trial Act (2013), the Payment Systems and Electronic Fund Transfers Act (2007), the Exit from Pakistan (Control) Ordinance (1981) and the Public Interest Disclosures Act (2017). The country is also a party to a number of international agreements on international cooperation, crime control and crime prevention.

Pakistan has a number of bodies and agencies concerned with preventing and combating corruption and with asset recovery, including the National Accountability Bureau (NAB), the Establishment Division (Regulation Wing) under the Office of the Prime Minister, the Federal Board of Revenue, the Federal Investigation Agency, the Federal Public Service Commission and provincial public service commissions, the Election Commission of Pakistan, the Controller General of Accounts, the Public Procurement Regulatory Authority, provincial anti-corruption establishments, federal and provincial ombudsmen, the Auditor General of Pakistan, the State Bank of Pakistan, the Securities and Exchange Commission of Pakistan (SECP) and the Financial Monitoring Unit.

The authorities of Pakistan cooperate at the international level through various mechanisms and networks, including the International Association of Anti-Corruption Authorities, the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP), the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA), the Global Operational Network of Anti-Corruption Law Enforcement Authorities and the International Criminal Police Organization (INTERPOL).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

In 2002, Pakistan adopted a national anti-corruption strategy with no defined time frame, focusing on the following pillars for national integrity: the legislature, the judiciary, the executive, public accountability bodies, anti-corruption agencies, the

media, civil society and the private sector. The strategy is in the process of being reviewed and updated, but there is no national review, monitoring and reporting mechanism related to its implementation.

NAB is the main national preventive anti-corruption body. All agencies and institutions at all levels are required to cooperate with it for the efficient implementation of the national anti-corruption strategy and associated action plan. The prevention methodology of NAB is mandated by the National Accountability Ordinance, which, inter alia, provides for the establishment of an awareness and prevention division and of prevention committees, focusing on specific topics and comprising NAB officers and individuals from relevant government agencies and organizations from the private and public sectors, as well as from civil society, as appropriate.

NAB implements a wide range of prevention activities at the federal and provincial levels through broadcast, print and social media. Those activities include organizing awareness-raising campaigns, establishing character-building societies in the education system; holding competitions, and organizing study tours and lectures.

Section 6 of the Law and Justice Commission of Pakistan Ordinance (1979) establishes a mechanism to periodically review relevant legal instruments and administrative measures against corruption, which are evaluated on an as-needed basis at the initiative of the Chair of NAB and heads of other bodies with a mandate to prevent corruption. The Cabinet Committee for Disposal of Legislative Cases reviews existing laws and associated legislation and is also mandated to take necessary actions and propose appropriate action on all issues relating to corruption.

Pursuant to the National Accountability Ordinance (sect. 6 (b)), the Chair of NAB is appointed by the President, in consultation with the leader of the House and the leader of the Opposition in the National Assembly, for a non-extendable period of four years on terms and conditions determined by the President. The Chair submits an annual report on the activities of NAB to the President. Pursuant to the Constitution (art. 209), the Chair cannot be removed except on the same grounds as those applicable to the removal of a judge of the Supreme Court. The President, in consultation with the Chair of NAB, may appoint any person who is qualified to be appointed as a judge of the Supreme Court as the Prosecutor-General for Accountability at NAB, and the removal procedure for the post is the same as that for the Chair.

Other bodies with a mandate to prevent corruption include the Establishment Division (Regulation Wing) under the Office of the Prime Minister, the Federal Board of Revenue, the Federal Investigation Agency, the Federal Public Service Commission and provincial public service commissions, the Election Commission of Pakistan, the Controller General of Accounts, the Public Procurement Regulatory Authority, provincial anti-corruption establishments, federal and provincial ombudsmen and the Auditor General of Pakistan.

The degree of independence afforded to other government entities involved in the prevention of corruption in relation to exercising their mandates and the appointment and removal procedures for the head of each entity varies, with the President having the power to appoint and remove the heads of certain entities but not others. Although mandatory specialized training is provided, these government entities and NAB could benefit from more human and material resources in order to ensure that they are able to carry out their functions adequately.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The structure of the civil service is established under article 240 (a) of the Constitution. Articles 18, 27, 34 and 36 of the Constitution are part of the Principles of Policy, which provide an overall framework for various government institutions to follow in the context of their respective mandates. Similarly, functions of the Federal

Public Service Commission are set out in section 7 of the Federal Public Service Commission Ordinance, according to which the Commission is the highest constitutional body for recruitment within the Government in the categories “basic pay scale 16” and above.

The civil service was established by the Constitution, and the Federal Public Service Commission, the statutory body responsible for the recruitment of civil servants, functions in accordance with articles 18, 25, 27, 34, 36 and 38 of the Constitution and section 7 of the Federal Public Service Commission Ordinance.

The Central Superior Service is a permanent structure responsible for government operations. Civil servants are recruited through a competitive examination held every year, conducted and supervised by the Federal Public Service Commission, and vacancies are publicly announced and published.

The Establishment Division (Regulation Wing) under the Office of the Prime Minister is responsible for managing the human resources of the Government. Under its rules of business (1973), amended in 2021, the Division regulates all matters related to civil service posts, including recruitment, promotion, verification of character and antecedents, conduct and discipline, and terms and conditions of service. The Division defines the occupational groups, manages general service matters and matters relating to selection boards for different categories of post, and determines the status of government offices. It also proposes and carries out the transfer and posting of, and is responsible for services for, officers belonging to the administrative service, police, secretariat and office management occupational groups. The recruitment and appointment process for any given position within the civil service depends on the basic pay scale for that position, and NAB has its own recruitment system.

There are rules pertaining to the selection, training and rotation, where appropriate, of special categories of public official (senior management positions) and positions considered especially vulnerable to corruption. Integrity checks are conducted when candidates are shortlisted for a post. Pakistan has a comprehensive system of pre- and in-service training for civil servants.

The permanent Election Commission of Pakistan was established under article 218 of the Constitution for elections to both houses of the Parliament and to provincial assemblies, local governments and cantonments. Criteria concerning candidature for and election to the National Assembly, the Senate and provincial assemblies are regulated in the Constitution. A candidate who does not fulfil the qualifications for public office as stipulated in the Constitution may be disqualified by a competent forum pursuant to the Constitution (arts. 62 and 63). Persons who have been convicted of any offence under the Elections Act (2017) or found guilty of any corrupt or illegal practice are subject to disqualification.

The funding of candidatures for elected public office and political parties is regulated in the Elections Act and by election rules prepared by the Election Commission of Pakistan, with notices issued in case of non-compliance. The Elections Act regulates the duties of political parties concerning, inter alia, accounting and bookkeeping. Political parties are required to restrict election expenses and to provide the Election Commission of Pakistan with a list of contributors who have donated an amount equal to or more than 100,000 Pakistan rupees (approximately \$450) to the political party, and only natural persons may contribute such an amount. Section 211 of the Elections Act provides that all financial reports submitted by candidates are open to inspection by any person for a fee. Although anonymous donations of more than 100,000 Pakistan rupees are explicitly prohibited pursuant to section 211 of the Elections Act, the authorities confirmed that in practice this extends to all fees, contributions or donations made by a member or a supporter of a political party, which should be duly recorded by that political party according to section 204 of the same Act. The Act provides for penalties, including for corrupt practices, bribery and undue influence in connection with elections. It also provides for the auditing of the annual accounts of each political party by a chartered accountant, who authenticates the prescribed consolidated statement of accounts for that party for the financial year and provides a professional opinion on the

accounts. The Election Commission of Pakistan scrutinizes each consolidated statement of accounts and publishes it in the official gazette. Political parties that do not comply with the accounting and bookkeeping requirements are not eligible to obtain an election symbol for contesting elections for *Majlis-e-Shoora* (the Parliament), provincial assemblies or local government (sect. 15 of the Elections Act).

Pakistan has adopted a framework for the management of conflicts of interest of civil servants, provided for under the Civil Servants Act (1973), the Government Servants (Conduct) Rules (1964) and the Government Servants (Efficiency and Discipline) Rules (1973, amended in 2020). The Government Servants (Conduct) Rules allow for the management of private companies and banks, as well as private trade or employment, by civil servants with the prior permission of the Government. The framework is honour-based, with responsibility for the reporting of conflicts of interest resting with the individual and the possibility for any other individual who identifies a conflict to file a complaint. The framework provides for disciplinary measures, which can be applied to all those serving in a civil capacity in connection with the affairs of the Government and the All-Pakistan Service during their employment within provincial governments. Rule 15 of the Government Servants (Conduct) Rules prescribes that “no Government servant shall, except with the previous sanction of the Government, take part in the promotion, registration or management of any bank or company”.

The obligation for all civil servants to declare gifts, interests and assets is established in the Government Servants (Conduct) Rules. The declarations must be updated for every financial year, which ends on 30 June. Members of the Parliament file their declarations with the Election Commission of Pakistan, whereas civil servants employed within the administrative service, police, secretariat or office management groups file declarations with the Establishment Division. All other civil servants submit declarations within their own departments. Sanctions are in place for violations of the declaration regime, which is trust-based. There is no centralized oversight authority or verification system.

Codes of conduct for all employees of Government entities are regulated by the Government Servant (Conduct) Rules. In cases of misconduct, disciplinary action is taken in accordance with the provisions of the Civil Servants (Efficiency and Discipline) Rules.

NAB has its own code of conduct. The Establishment Division has overall oversight and monitoring responsibility for the application of the above-mentioned acts, rules and codes of conduct. Relevant integrity training is provided for all federal and provincial civil servants.

The framework for the reporting by public officials of acts of corruption is provided for in the Whistle-blower Protection and Vigilance Commission Act (2019) and the Witness Protection, Security and Benefit Act (2017) at the national level, as well as in various legislation at the provincial level. NAB is able to receive complaints through various channels and has an inspection and monitoring team in place. Acts of corruption can also be reported to the Controller General of Accounts, the Auditor General of Pakistan, the Federal Investigation Agency and the provincial anti-corruption establishments. Civil servants receive a letter every year reminding them of their obligation to report acts of corruption in the workplace.

The procedures for the appointment and transfer of judges to the Supreme Court, high courts for each province and the Federal Shariat Court are defined in the Constitution. Vacant judicial positions for lower courts are publicly announced and advertised. The Judicial Commission appoints judges to the Supreme Court, high courts and the Federal Shariat Court. The President appoints the Chief Justice of Pakistan, who chairs the Judicial Commission. The Commission has different types of membership for the various categories of judge and it nominates, by majority, one person for each vacancy in the aforementioned courts. All judges of the Supreme Court are nominated by the President and the composition of the High Court is also determined by the President, who may also transfer high court judges, after consultation with the Chief

Justice of Pakistan and the chief justices of the high courts. As outlined in the Supreme Judicial Council Procedure of Inquiry (2005), the Council is mandated to conduct inquiries into the capacity or conduct of judges of the Supreme Court and high courts; if the Council or the President is of the opinion that a judge should be removed from office on the basis of article 209 (6) of the Constitution, the President may remove that judge from office. Allegations of incapacity or misconduct, including acts of corruption, may serve as grounds for removal. This procedure also provides for sanctions for “frivolous” complaints. Pakistan has established special anti-corruption courts, with the President appointing judges for those courts for a tenure of three years. Under article 209 of the Constitution, the Supreme Judicial Council and an inspection team at the level of the high courts may conduct disciplinary actions against judges accused of misconduct. The Supreme Judicial Council Code of Conduct (2009) is observed by Supreme Court and high court judges. A code of conduct of 2008 is observed by members of the subordinate judiciary. There is a trust-based system for the declaration of conflicts of interest, with judges expected to recuse themselves when such conflicts arise. Judges are also subject to asset declaration requirements.

The Prosecution Service is governed by the prosecution laws of the relevant provinces, and, at the national level, prosecutors are appointed under the National Accountability Ordinance, Anti-Money-Laundering Act, the Custom Act (1969) and the Federal Investigation Agency Act. The selection and recruitment of prosecutors are conducted by the Public Service Commission, whose Chair heads the committee for the appointment of prosecutors. The removal procedure for prosecutors is the same as that for civil servants. All provinces have their own codes of conduct for the prosecution service, governed under acts of the respective provincial parliaments. The officers employed in the prosecution service are also bound by the efficiency and discipline rules of the respective provincial government. The prosecutors-general of the provinces, who also oversee prosecutions before the anti-corruption courts, are appointed by chief ministers and the respective governments and may be dismissed at will.

Public procurement and management of public finances (art. 9)

The Public Procurement Regulatory Authority is an autonomous body mandated to take measures to improve the governance, management, transparency, accountability and quality of public procurement. In addition to fulfilling all the substantive and procedural requirements of the procurement regulatory framework, the procuring agencies are obliged to publish all tender notices with a value in excess of 3 million Pakistan rupees on the Public Procurement Regulatory Authority website, as well as in print media. The procuring agencies are also required to make public all documents related to the evaluation of the bid for and award of contracts, in accordance with rule 47 of the Public Procurement Rules (2004).

The Authority is currently in the final stages of developing a web-based e-procurement system called the “e-Pak acquisition and disposal system” (EPADS), which will fully automate the public procurement process in Pakistan.

The Auditor General of Pakistan reviews procurement contracts when auditing expenditures of public funds. Moreover, the National Accountability Ordinance requires all ministries, divisions and departments of the Government and of provincial and local governments, as well as statutory corporations or authorities and holders of public office, to provide NAB with copies of all public contracts valued at 50 million Pakistan rupees or more. The procurement rules are currently being revised. Complaints can be filed with the agency that initiated the procurement. The rules provide only for a system of administrative review of complaints by the Principal Accounting Officer, whose findings are communicated to the Public Procurement Regulatory Authority prior to the award of the contract, with the information being published when contracts are awarded. The training programme for procurement personnel might be improved. Public procurement personnel are required to file asset

declarations but are not required to file declarations of conflicts of interest, and they do not undergo screening procedures.

Pursuant to the Constitution, the annual budget statement, containing the estimated receipts and expenditure of the Government, is prepared and presented by the Government to the National Assembly (lower house) every year. The Department of the Auditor General of Pakistan conducts audits of all public expenditure and revenue, in line with the relevant international standards. Off-budget expenditures are permitted, with revised budgetary statements presented to the National Assembly for approval. All government entities are required to submit their reports to the Ministry of Finance, with the Federal Board of Revenue publishing yearly revenue and expenditure reports. The Internal Control Department of the Federal Board of Revenue oversees a system of risk management and control, and there are sanctions for lack of compliance.

The *Accounting Policies and Procedures Manual* (2001) provides the framework for department requirements and standards, and for storing and preserving the integrity of accounting books. Pakistan is currently digitalizing all its records.

Public reporting; participation of society (arts. 10 and 13)

The right to information is enshrined in the Constitution. Access to information is regulated through the Right to Information Act at the federal level and other legislation at the provincial level.

The country has established the Pakistan Information Commission. Requests for information can be filed directly through the public information officers or designated officials of each public body. The right to information may be restricted on the basis of national security, defence or diplomatic grounds; appeals may be filed to the Commission.

Civil society is involved in the policymaking and legislative processes to a certain degree, mainly through the prevention committees.

Each government agency makes available on its website all the information that it is mandated to provide, and many government services can be accessed online.

Although no dedicated public surveys or corruption risk assessments have been conducted, the threat of corruption as a predicate crime to money-laundering was assessed in 2019 in the context of the national risk assessment for money-laundering and terrorism financing.

Suspected corruption offences may be reported to NAB, the Federal Investigation Agency and, at the provincial level, to the anti-corruption establishments.

Private sector (art. 12)

The Companies Act provides the regulatory framework and auditing standards for the corporate sector. The Act also contains provisions aimed at minimizing conflicts of interests arising from the acts of companies or their directors or officers, and prescribes civil, administrative and criminal penalties for non-compliance.

In addition, SECP has issued the Listed Companies (Code of Corporate Governance) Regulations (2017) and Public Sector Companies (Corporate Governance) Rules (2013), which endorse various measures for preventing conflicts of interest, developing codes of conduct, developing and implementing an anti-corruption policy, and ensuring professional standards and corporate values are in place that promote values such as integrity. SECP has supervisory powers in terms of the implementation of the policy.

The Companies (Amendment) Act (2020) and the Limited Liability Partnership Amendment Act (2020) were enacted to introduce requirements for all companies under section 123A of the Companies Act and limited liability partnerships under section 8 (2) of the Limited Liability Partnership Act (2017) to obtain, maintain and

provide timely updates of the particulars of the ultimate beneficial owner (including any change thereto) and to submit an annual declaration of compliance in this regard to SECP.

Furthermore, the Companies Act prohibits the issuance of bearer shares or bearer share warrants. Moreover, the Companies (Amendment) Act requires that all existing bearer shares or bearer share warrants be cancelled or registered.

Reporting entities (securities brokers, commodities brokers, insurers, *takaful* operators, non-bank financial institutions and *modarabas*) regulated by SECP under its anti-money-laundering and countering the financing of terrorism regulations (2020), read in conjunction with the Anti-Money-Laundering Act, are required to obtain beneficial ownership information from natural and legal persons before entering into a business relationship. Companies are now also required to hold a register of their ultimate beneficial owners, to record and update any changes in the register in a timely manner, and to provide such information to the registrar. There is an automated system for submitting information on the registration and ownership of companies and SECP has established a supervision and enforcement mechanism in this regard.

SECP has established centralized supervision and adjudication divisions that ensure the implementation of effective enforcement supervisory sanctions. The enforcement and sanctions provisions of the Companies Act and the Limited Liability Partnership Act, together with the enabling regulations, ensure effective enforcement of the ultimate beneficial owner framework by introducing penalties for non-compliance for both entities and for individual directors.

Entities regulated by the State Bank of Pakistan are subject to restrictions applicable to any person linked to criminal activities or affiliated with a terrorist organization.

Accounting and financial reporting standards are regulated in the Companies Act and the Accounting and Financial Reporting Standards for Small-sized Entities. SECP has delegated responsibility for developing, adopting and issuing accounting standards to the Institute of Chartered Accountants of Pakistan. The accounts of private sector entities are audited by chartered accountants, who issue reports to the shareholders on the compliance status of companies, in line with the applicable accounting framework and the relevant provisions of the Companies Act.

SECP actively engages with law enforcement agencies and refers matters for investigation or inquiry to law enforcement agencies, including NAB. There is also cooperation between private sector entities and law enforcement agencies.

Post-employment restrictions that apply to all public officials, except under special circumstances, are defined in the Companies Act.

Pakistan specifically disallows the tax deductibility of expenses that constitute bribes, in accordance with section 21 (g) of the Income Tax Ordinance (2001).

Measures to prevent money-laundering (art. 14)

The country's legal regime against money-laundering consists principally of the Anti-Money-Laundering Act, the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020), as well as regulations and guidelines issued by the various supervisory authorities.

To comply with anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions must have in place internal anti-money-laundering systems that include customer and beneficial owner identification; ongoing monitoring of transactions; application of enhanced due diligence to high-risk customers, accounts and transactions; and record-keeping and reporting of suspicious transactions (see the section on article 52 of the Convention, below).

The cross-border declaration system of Pakistan combines obligations under the Customs Act (1969) and the Foreign Exchange Regulation Act (1947). Pakistan has adopted a written declaration system for persons entering the country with cash and bearer negotiable instruments with a value that equals or exceeds \$10,000 or its equivalent in another currency (notification F.E.1/2012-SB (the currency declaration form prescribed under the Foreign Exchange Regulation Act)). Persons carrying more than \$10,000 or the equivalent out of Pakistan must first seek permission to do so from the State Bank of Pakistan (notification F.E.2/98-SB).

The Customs Act establishes a graded penalty regime for false declarations and failure to declare, with penalties ranging from administrative fines to criminal penalties, including seizure and confiscation of falsely declared or undeclared cash (sects. 139 and 156 (1)).

Regulation 3 of the anti-money-laundering and countering the financing of terrorism regulations of the State Bank of Pakistan (2020) establishes adequate wire transfer rules, including requiring banks and development finance institutions to ensure that necessary and accurate originator and beneficiary information is included when initiating, forwarding or receiving a wire transfer and to retain records. The regulation also prohibits banks and development finance institutions from pursuing electronic fund transfer transactions where the information provided does not meet the requirements (sect. 6 (6)).

The anti-money-laundering supervisory regime for designated non-financial businesses and professions is relatively new. The Anti-Money-Laundering Act designates anti-money-laundering regulatory authorities for financial institutions and designated non-financial businesses and professions, and provides them with the necessary powers and functions to monitor compliance (sect. 6A and schedule IV of the Anti-Money-Laundering Act). Those regulatory authorities include the State Bank of Pakistan, SECP, the Federal Board of Revenue, the Institute of Chartered Accountants, the Institute of Cost and Management Accountants and the Pakistan Bar Council, as well as the Directorate General of Designated Non-financial Businesses and Professions at the Federal Board of Revenue. An interactive designated non-financial business and profession management system linked to an application for mobile phones allows for registration, cross-matching with proscribed persons, submission of the off-site monitoring questionnaire and generation of suspicious transaction reports. On-site inspections are conducted and sanctions imposed for non-compliance.

Pakistan completed its first national risk assessment for money-laundering and terrorism financing in 2017, identifying corruption among the high-risk and high-threat predicate crimes. In September 2019, the country issued a new national risk assessment, which will be updated every two years. Pakistan is currently reviewing the risk assessment of 2019, with the review due to be finalized in 2023.

The Financial Monitoring Unit was established in 2007 under section 6 of the Anti-Money-Laundering Ordinance (2007) (now the Anti-Money-Laundering Act). The Unit, law enforcement and supervisory and regulatory authorities cooperate and exchange information at both the domestic and international levels, and have information exchange arrangements such as memorandums of understanding and letters of intent.

Pakistan has taken measures, including amendments to the Anti-Money-Laundering Act, to address many of the shortcomings identified in the mutual evaluation report published by the Asia/Pacific Group on Money Laundering in 2019, including those related to preventive measures and supervision.

The country actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA).

2.2. Successes and good practices

- Pakistan has established special anti-corruption courts and accountability courts at the provincial level (art. 11).
- Pakistan actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the Asset Recovery Inter-Agency Network in West and Central Asia (ARIN-WCA) (art. 14).

2.3. Challenges in implementation

It is recommended that Pakistan:

- Establish a monitoring and reporting mechanism on the implementation of the national anti-corruption strategy and other relevant policies (art. 5, para. 1).
- Ensure the necessary independence of NAB and other bodies with anti-corruption mandates, including by reviewing the appointment and removal procedures for their heads and other relevant high-level officials (art. 6, para. 2).
- Ensure that NAB and other bodies with preventive anti-corruption mandates have adequate and sufficient resources to carry out their functions (art. 6, para. 2).
- Endeavour to identify public positions considered especially vulnerable to corruption and to adopt procedures for the selection, training and rotation, where appropriate, of individuals for such positions (art. 7, para. 1 (b)).
- Consider strengthening the system for the identification and management of conflicts of interest (art. 7, para. 4).
- Consider establishing a verification system for the declaration of relevant interests by civil servants and members of the judiciary and prosecution service (art. 8, para. 5, and art. 11).
- Review the public procurement framework to provide for a more comprehensive legal framework and for an effective system of appeal; strengthen the implementation of public procurement legislation and rules, including by providing the Public Procurement Regulatory Authority and NAB with adequate and sufficient resources to carry out their functions in that regard and by taking measures to regulate matters regarding personnel involved in procurement, such as the establishment of a system for the declaration of conflicts of interest, the introduction of screening procedures and the provision of training (art. 9, para. 1).
- Consider developing guidelines for ministries and other government bodies on the effective implementation of the right to information and on facilitating timely access to information for the public (art. 10 (a)).
- Consider conducting and publishing dedicated and periodic assessments of the risks of corruption in public administration (art. 10 (c)).
- Take measures to enhance the independence of members of the judiciary and the prosecution service, including by reviewing the selection and removal procedures for high-level and key positions (art. 11).
- Enhance the transparency of and promote the contribution of the public to decision-making processes (art. 13, para. 1 (a)).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building for the Financial Monitoring Unit, law enforcement authorities and reporting entities (art. 14, para. 1 (a)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Asset recovery is mainly governed by the general provisions on international legal assistance of the Mutual Legal Assistance (Criminal Matters) Act, the Code of Criminal Procedure, the Anti-Money-Laundering Act and the National Accountability Ordinance (sect. 12 on freezing), in addition to relevant bilateral and multilateral treaties to which Pakistan is a party. Pakistan also issued non-binding mutual legal assistance guidelines in 2020 to assist foreign countries in understanding the steps to be followed when requesting formal or informal international cooperation from Pakistan and to provide a process for internal cooperation, with timelines for domestic responses from relevant agencies.

There is no central asset recovery office in Pakistan, but agencies have separate units responsible for managing the maintenance and disposal of seized and confiscated property. Although the Secretary to the Ministry of Interior is the central authority for mutual legal assistance in general (sect. 2 (c) of the Mutual Legal Assistance (Criminal Matters) Act), NAB is the central authority for corruption-related mutual legal assistance (sect. 24 (2) of the Act). Requests can be sent directly to NAB or through any other agency or authority in Pakistan (sect. 5 (2) of the Act).

Pakistan can cooperate in the area of asset recovery on the basis of reciprocity and regardless of the existence of a treaty (sect. 3 (2) of the Act), with the exception of the enforcement of foreign confiscation orders (sect. 2 (i) of the Act).

The same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, are available in the context of such cooperation (sect. 1.4 (c) of the mutual legal assistance guidelines).

Although Pakistan has recovered and returned stolen assets in several cases, international cooperation and asset recovery mechanisms have not been fully utilized for the recovery of stolen assets.

While the formal transmission of information can be carried out only upon prior request (sect. 5 of the Mutual Legal Assistance (Criminal Matters) Act), the authorities of Pakistan may informally provide information to foreign authorities spontaneously and have done so in the past. The Financial Monitoring Unit, the Federal Investigation Agency, the State Bank of Pakistan, the Federal Board of Revenue, the National Savings Supervisory Board and SECP have provisions for sharing information spontaneously or on request, either under the Anti-Money-Laundering Act or under their own procedures. The mutual legal assistance guidelines (sect. 6 (e)) allow for the spontaneous sharing of information if the information is of a nature that can be disclosed and the disclosure is within the purview of the law enforcement authority.

Pakistan is a party to a number of bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing and recovery of proceeds of crime.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Financial institutions and designated non-financial businesses and professions are subject to anti-money-laundering requirements, in accordance with the Anti-Money-Laundering Act and relevant regulations and guidelines issued by the supervisory authorities.

The requirements cover customer due diligence measures, including customer identification and verification (sect. 7A (2) (a) of the Anti-Money-Laundering Act);

taking reasonable measures to identify and verify the identities of the beneficial owner or owners (sect. 7A (2) (b) of the Act); ongoing monitoring of business relationships (sect. 7A (2) (d) of the Act); record-keeping for five years from completion of the transaction or termination of the business relationship (sect. 7C of the Act; the State Bank of Pakistan regulations extend the record-keeping requirement to 10 years); and prompt reporting of suspicious transactions and attempted transactions to the Financial Monitoring Unit (sect. 7 (1) of the Act). The requirements also include assessing the risks of money-laundering and taking appropriate measures to manage those risks, and applying enhanced due diligence to high-risk customers, accounts and transactions, including accounts of current and former domestic and foreign politically exposed persons and of their family members and close associates (regulation 1 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan and regulation 8-24 of the SECP anti-money-laundering and countering the financing of terrorism regulations (2020)). Adequate sanctions for non-compliance are provided for under the Anti-Money-Laundering and Countering the Financing of Terrorism Sanctions Rules (2020).

The State Bank of Pakistan and SECP have issued guidelines on a risk-based approach to countering money-laundering and the financing of terrorism, which allow the regulators to notify financial institutions, at the request of another State party or on their own initiative, of the identity of natural or legal persons to whose accounts such institutions are expected to apply enhanced scrutiny, in addition to those whom the financial institutions may identify (sect. B, para. 12 of the guidelines). The Financial Monitoring Unit has also issued guidance notes, including on suspicious transaction reporting, which provide guidelines on persons, accounts and transactions that must be given particular attention.

The procedures for the establishment of banks prohibit the establishment of shell banks (sects. 5 and 27 of the Banking Companies Ordinance (1962)). Regulation 2 of the anti-money-laundering and countering the financing of terrorism regulations (2020) of the State Bank of Pakistan prohibits banks from entering into or continuing correspondent banking relations with a shell bank. The regulation also requires banks to satisfy themselves that their respondent banks do not permit their accounts to be used by a shell bank.

Pakistan has established a paper-based financial disclosure system for public officials.

Members of the Parliament and civil servants, including members of the judiciary, are required to declare their assets and liabilities, whether held domestically or abroad, as well as those of any dependent family members living with them, according to the Representation of People Act (1976) and the Government Servants (Conduct) Rules, respectively. As ministers in Pakistan are members of the Parliament, they are covered by the asset declaration obligations; however, the obligations do not extend to the Head of State. Asset declarations must be submitted upon taking office or on first appointment, and then annually (by 30 June), but not at the end of service.

The Election Commission of Pakistan is responsible for receiving asset declarations from members of the Parliament. With regard to civil servants, there is no single, independent agency that handles asset declarations. Respective ministries and government agencies are therefore responsible for receiving declarations and enforcing the applicable requirements, as described above.

The Representation of People Act and the Government Servants (Conduct) Rules do not provide for a clear examination or verification process. In practice, verification is carried out in cases where there is a reason to suspect that the information provided is inaccurate or false, or in cases of criminal investigation.

The failure by members of the Parliament to comply with asset disclosure rules (namely, late filing or non-filing) can lead to administrative sanctions, such as suspension. Criminal sanctions, including fines and up to five years of imprisonment, can also be applied if the information declared is false. Civil servants, on the other

hand, may face administrative sanctions and non-promotion to higher grades for non-compliance.

Asset declarations submitted by members of the Parliament and senators are published on the website of the Election Commission of Pakistan, whereas those submitted by civil servants are confidential but can be shared with foreign authorities upon request.

The asset declaration form covers financial accounts in a foreign country in which a public official has an interest or over which they have a signature or other authority (serial 11 of the form "Assets held as Attorney").

The Financial Monitoring Unit is the national central agency responsible for receiving, analysing and disseminating suspicious transaction reports and currency transaction reports from financial institutions and designated non-financial businesses and professions. It is located within the State Bank of Pakistan as an autonomous body with independent decision-making authority. The Unit conducts operational and strategic analysis and has direct and indirect access to several government and private databases, including border currency declarations, to support its analysis functions. It also conducts temporary freezing of accounts.

The Financial Monitoring Unit appears to have sufficient resources to perform its functions. It receives suspicious transaction reports and currency transaction reports from reporting entities in soft copy using the goAML system of the United Nations Office on Drugs and Crime.

The Unit has applied to join the Egmont Group of Financial Intelligence Units and its application is currently being processed.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

The Code of Civil Procedure (1908) explicitly grants foreign States the right to initiate civil action in any court in Pakistan, provided that such State has been recognized by the Government (sect. 84). The Code also provides the legal basis for a person, whether legal or natural, domestic or foreign, to initiate action to establish ownership of property (sect. 16) or claim compensation for damages (sect. 19) in the domestic courts. These provisions also apply to foreign States.

When having to decide on confiscation, domestic courts can recognize another State's claim as a legitimate owner of property acquired through the commission of an offence (sects. 88, 89, 517, 522 and 522-A of the Code of Criminal Procedure).

Pakistan follows the principle that confiscation should be conviction-based. The Mutual Legal Assistance (Criminal Matters) Act (sect. 14) allows, however, for the enforcement of confiscation orders issued by a court of a foreign State on the basis of a reciprocal agreement and on the condition of dual criminality, whether or not the order is based on a criminal conviction (sect. 2 (i)).

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2)), a court is required to issue adequate notice to all persons appearing to have an interest in the property against which a confiscation order may be executed. The mutual legal assistance guidelines provide further guidance for the relevant authorities on how to proceed to ensure that the property is protected from dissipation.

The Pakistan courts can also order the confiscation of property of foreign origin by adjudication of an offence of money-laundering (sect. 2, read in conjunction with sect. 4, of the Anti-Money-Laundering Act; sect. 2 (p) of the Mutual Legal Assistance (Criminal Matters) Act). The authorities of Pakistan may also obtain a domestic conviction-based order of confiscation on the basis of a foreign request (sect. 8 (d) of the Mutual Legal Assistance (Criminal Matters) Act).

Under the Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (3)), the competent authorities of Pakistan are permitted to freeze or seize property upon a

freezing or seizure order issued by a competent court of a foreign State through its registration with the court in Pakistan. No prior notice to the persons concerned is required in this case (sect. 4.3 of the mutual legal assistance guidelines). The Mutual Legal Assistance (Criminal Matters) Act does not provide for the enforcement of freezing or seizure orders issued by a foreign competent authority other than a court.

The Mutual Legal Assistance (Criminal Matters) Act (sect. 13 (2)) also permits Pakistan courts to freeze or seize property upon a request from a foreign State. In this case, the court may issue a freezing or seizure order only after providing the persons concerned with the opportunity to be heard and ensuring that a number of requirements are met, including dual criminality and the existence of a valid confiscation order issued by the requesting State.

Where the act of notifying the persons concerned before freezing or seizing property has the potential to compromise foreign investigations and may result in requests not being made, foreign jurisdictions have the option, in corruption-related cases, to send the request directly to NAB. In such cases, the Chair of NAB can order the seizure or freezing of the property without notifying the persons concerned. The order remains in force for a period not exceeding 15 days, unless otherwise decided by the court (sect. 12 of the National Accountability Ordinance).

The authorities of Pakistan can preserve property for confiscation in the absence of a foreign request, on the basis of the general provisions on freezing and seizure of the National Accountability Ordinance (sect. 12), the Code of Criminal Procedure (sects. 88 and 516A), and the Anti-Money-Laundering Act (sects. 6 (6), 8, 14 and 17).

The Mutual Legal Assistance (Criminal Matters) Act (sect. 8) specifies the information to be included in mutual legal assistance requests sent to Pakistan; it does not provide for the possibility of refusing a request if the property is of a *de minimis* value.

The Mutual Legal Assistance (Criminal Matters) Act does not prevent Pakistan from inviting the requesting State to present its reasons in favour of continuing provisional measures before it lifts them, if such a case arises.

The Mutual Legal Assistance (Criminal Matters) Act (sect. 14 (2) and (3)) provides for the protection of bona fide third parties in cases of confiscation pursuant to a foreign request.

Return and disposal of assets (art. 57)

Confiscated assets are transferred to the Government (sect. 10 of the Anti-Money-Laundering Act). Nevertheless, the Code of Criminal Procedure and the Anti-Money-Laundering Act allow for the return of such assets to the requesting country (sect. 30 of the Anti-Money-Laundering Act) or to any person claiming to be entitled to possession (sect. 517 of the Code of Criminal Procedure). Accordingly, Pakistan has returned the proceeds of embezzlement of private funds to a financial institution in a foreign jurisdiction. Furthermore, NAB may facilitate the indirect recovery of assets through voluntary return and plea bargaining (sect. 25 of the National Accountability Ordinance), and has done so in two cases.

The Mutual Legal Assistance (Criminal Matters) Act is silent on issues of return, with the exception of section 8 (1), read in conjunction with section 7 (e), according to which the central authority may transmit to the requesting country property or proceeds realized from the disposal of property, and section 14 (5), which allows the central authority to enter into arrangements with the requesting country for the return of confiscated assets in Pakistan in response to a request for the enforcement of a confiscation order.

In accordance with the Mutual Legal Assistance (Criminal Matters) Act (sect. 21), the execution of a request for mutual legal assistance in Pakistan should be conducted without charge to the requesting country, except for costs of a substantial or extraordinary nature and certain other specific costs.

3.2. Successes and good practices

- Pakistan explicitly grants foreign States the right to initiate civil action in its courts (art. 53 (a) and (b)).

3.3. Challenges in implementation

It is recommended that Pakistan:

- Increase the use of international cooperation and asset recovery mechanisms to improve the recovery of stolen assets (art. 51).
- Consider reviewing and strengthening its financial disclosure system to make it more efficient and effective, including by moving from a paper-based to a digitalized system; extending the scope of the system to spouses in all cases; providing for a clear and adequate verification process, in particular for declarations that are not made publicly available, such as those of civil servants; and requiring the submission of financial disclosures at the end of service (art. 52, para. 5).
- Consider taking measures to allow confiscation of property without a criminal conviction in corruption cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases (art. 54, para. 1 (c)).
- Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a foreign competent authority other than a court (art. 54, para. 2 (a)).
- Consider the Convention as the necessary and sufficient treaty basis for the enforcement of confiscation orders issued by a court of another State party, in the absence of a reciprocal agreement (art. 54, para. 1 (a) and art. 55, para. 6).
- Expressly provide for the return and disposal of assets in accordance with the provisions of article 57, paragraph 3, of the Convention (art. 57, paras. 1 and 3).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building in the area of asset recovery, including investigative techniques.
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