



**Conference of the States Parties
to the United Nations
Convention against Corruption**

Distr.: General
10 January 2020
English
Original: Arabic

**Implementation Review Group
Eleventh session
Vienna, 8–10 June 2020
Item 4 of the provisional agenda**
State of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Executive summary	2
Bahrain	2

* Reissued for technical reasons on 31 March 2020.

** CAC/COSP/IRG/2020/1.



II. Executive summary

Bahrain

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

Bahrain signed the Convention on 8 February 2005 and ratified it on 4 February 2010. Bahrain deposited its instrument of ratification on 5 October 2010.

The implementation by Bahrain of chapters III and IV of the Convention was reviewed in the fourth year of the first review cycle, and the executive summary of that review was published on 26 May 2015 ([CAC/COSP/IRG/I/4/1/Add.12](#)).

Bahrain has adopted the principle of direct implementation of international conventions (Constitution, art. 37).

The national legal framework against corruption includes the Criminal Code, the Code of Criminal Procedure, the Anti-Money-Laundering Act, the Judicial Authority Act, the Government Procurement Act, the Financial Disclosure Act and the Civil Service Act. Bahrain is a party to several international treaties on international cooperation, crime control and crime prevention.

Relevant institutions in the prevention and countering of corruption include: the General Directorate to Combat Corruption and for Economic and Electronic Security at the Ministry of the Interior, the Financial Intelligence Directorate, the Public Prosecution Service, the Judicial Authority, the Ministry of Justice, Islamic Affairs and Religious Endowments, the Ministry of Finance, the National Audit Office, the Civil Service Bureau, the Tenders and Procurement Board, and the Financial Disclosure Examination Authority (affiliated to the Supreme Judicial Council).

Bahraini law enforcement authorities cooperate through various mechanisms and networks, including the Middle East and North Africa Financial Action Task Force (MENAFATF), the Egmont Group of Financial Intelligence Units, the International Criminal Police Organization (INTERPOL) and the Gulf Cooperation Council (GCC).

The Ministry of Justice, Islamic Affairs and Religious Endowments plays a key role in international cooperation.

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)

The Ministry of Interior of Bahrain adopted a national anti-corruption strategy on 9 December 2013 for a five-year period that ended on 9 December 2018. The strategy covered several areas, including: strengthening the role of national anti-corruption campaigns and involving the public and private sectors in their development; establishing a competent authority to combat corruption; developing educational curricula with integrity and anti-corruption components; and preparing a specific anti-corruption law. The strategy also included the amendment of public and private sector codes of conduct.

The strategy did not provide time frames for the implementation of its objectives or indicators to measure progress in achieving those objectives, nor did it specify the authorities responsible for its implementation.

The General Directorate coordinated and followed up on the implementation of the strategy and, in cooperation with the Legislation and Legal Opinion Commission, is currently developing a strategy for the next five years, to be adopted by the Cabinet.

The Chamber of Deputies studied the possibility of establishing an anti-corruption authority, a proposal contained in the previous strategy, but decided not to proceed.

Since the adoption of this strategy, many efforts have been made to prevent corruption, in addition to the adoption and amendment of laws. Special emphasis has been placed on the preparation of national campaigns and lectures to promote integrity and combat corruption, while the integrity-related topics and values have been included in school and university curricula. A number of hotlines have been established to report corrupt practices, and a Corporate Governance Charter was launched in 2010.

Bahrain periodically evaluates legal instruments and administrative measures on preventing and combating corruption. Moreover, legislative amendments were proposed after the first-cycle review of implementation of the Convention by Bahrain, including the drafting of an anti-corruption bill.

Bahrain contributes to promoting regional and international cooperation, particularly through regular participation in relevant conferences, meetings and forums and its membership in the International Anti-Corruption Academy (IACA) and the Arab Anti-Corruption and Integrity Network (ACINET). The national authorities have also signed bilateral cooperation agreements and participate in training and exchange information about combating corruption with foreign counterparts.

Several bodies, including the General Directorate, the National Audit Office, the Civil Service Bureau and other agencies, are tasked with preventing corruption. The General Directorate primarily contributes to preventive measures by raising awareness through national campaigns to promote integrity and combat corruption and the dissemination of knowledge and education. The General Directorate has adequate training and resources. Although, in practice, it has operational and financial independence, no measures are in place to provide for legal independence to ensure continuity of such operational and financial independence in the future.

Bahrain was reminded of its obligation to inform the Secretary-General of the United Nations of the updated information on the name and address of the authority or authorities able to assist other States parties in developing and implementing anti-corruption measures.

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

The Civil Service Act and its implementing regulations and instructions regulate the appointment, recruitment, promotion and retirement of civil servants. The staff of several government agencies, including the National Audit Office and the Central Bank of Bahrain, are not subject to the provisions of this Act nor to the authority of the Civil Service Bureau. The staff of these agencies are governed by special regulations. Civil servants in military bodies are subject to the provisions of the Civil Service Act but not to the authority of the Civil Service Bureau.

Civil Service Instruction No. 3 of 2014 sets out rules on advertising vacancies, application procedures and the organization of examinations and interviews for them. Vacancies are advertised publicly if no suitable candidates are registered with the Civil Service Bureau Careers Information Centre, which is available to all citizens of Bahrain and GCC countries.

Article 13 of the implementing regulations requires the Civil Service Bureau to establish an institutional performance management system promoting professionalism, integrity and transparency. Criteria for promotion have also been established (art. 14, Civil Service Instruction No. 4 of 2014). Retirement is subject to the provisions of the Civil Service Act (art. 26).

Special measures on recruitment, promotion and end of service apply to senior officials, such as members of the Shura Council, permanent secretaries of ministries, and directors of departments.

Training is mandatory for all staff (art. 18, Civil Service Act) and includes integrity and anti-corruption components.

Bahrain has not identified the public positions that are vulnerable to corruption or established procedures for the selection, training and rotation of individuals for such positions.

Article 30 of the Civil Service Act provides for a mechanism to address the grievances of public officials regarding administrative decisions that affect their employment rights, but it does not apply to applicants for public positions.

The Constitution (art. 57), Decree-Law No. 15 of 2002 on the Shura Council and the Chamber of Deputies (art. 11) and the Municipalities Act (art. 7) cover the criteria for prospective members of the Chamber of Deputies and the Municipal Council. Decree-Law No. 14 of 2002 on the exercise of political rights prohibits anyone who has been found guilty of a felony or who has been sentenced to more than six months' imprisonment for intentional offences from standing for the Chamber of Deputies.

Act No. 26 of 2005 on political associations and the Minister of Justice decision on the State's contribution to providing material support to political associations regulate the financing of political parties, which enjoy the status of associations in Bahrain. Political associations may not accept contributions, advantages or benefits from any foreigner, foreign body, international organization or anonymous person. The financial contributions of the State are linked to the effective participation of political associations in the Chamber of Deputies.

The National Audit Office reviews, on a regular basis or upon request by the Minister of Justice, the books and accounts of political associations and prepares annual reports thereon for the Minister of Justice. Associations are required to send copies of their annual budgets and final accounts to the Minister of Justice and to publish them in the Official Gazette.

The assets of political associations are considered public assets and those responsible for their affairs or employed by them are considered public servants for the purposes of application of the provisions of the Criminal Code. Moreover, the provisions of the Financial Disclosure Act apply to the elected leaders of political associations.

The implementing regulations of the Civil Service Act provide certain rules for preventing conflicts of interest. Article 34 prohibits an employee from having any interest in works, undertakings or tenders relating to the functions of his or her post. Civil servants may perform work for others with or without remuneration outside official working hours, provided that that work does not conflict with the nature of their functions or impair the dignity of their office. Moreover, the Constitution prohibits the appointment of members of the Shura Council or the Chamber of Deputies to the board of directors of a company and their engagement in certain transactions (art. 98). The Municipalities Act contains similar prohibitions (art. 14).

Bahrain prepared a proposal for a law on conflict of interest that covered a wider scope of conflicts relating to employees' personal and material interests; however, this proposal lapsed with the end of the parliamentary session in 2012.

In 2016, the Civil Service Bureau issued a Code of Conduct and Public Service Ethics containing a paragraph entitled "Conflict of interest", according to which civil servants are required to notify their immediate superior in writing in the event of a conflict between their personal interests and the public interest, and the public interest must be taken into consideration when dealing with such conflict. However, this Code does not apply to public employees who are not subject to the authority of the Civil Service Bureau.

Civil servants are also prohibited from accepting any gift, reward, commission or loan in return for performing their duties (art. 34, implementing regulations). The Civil Service Bureau Code of Conduct also requires each agency to have a register of gifts and to clarify how they are dealt with.

In addition to the Public Service Code of Conduct and Ethics, which covers conflicts of interest and the acceptance of gifts, among other issues, several agencies have

issued codes of conduct for their staff. Each agency is responsible for enforcing its own code of conduct.

The Civil Service Bureau may take disciplinary measures against offending employees under the Civil Service Act and its implementing regulations, without prejudice to criminal or civil liability.

Article 48 of the Code of Criminal Procedure and article 230 of the Criminal Code require civil servants and officers entrusted with a public service to immediately report crimes they become aware of to the Public Prosecution Service or to a criminal investigation officer. The Civil Service Bureau receives administrative reports and complaints through various channels and the General Directorate operates a national anti-corruption hotline. All these channels are available to the public and public officials.

The Judicial Authority Act provides rules and conditions for the appointment and qualification of judges (arts. 22–25) and for their accountability, immunity and dismissal (arts. 34–43).

The Act also establishes a Supreme Judicial Council, the authority of which includes judges and the Public Prosecution Service. It supervises the proper functioning of the courts and their auxiliary bodies and recommends the appointment and promotion of judges and members of the Public Prosecution Service (arts. 69–73).

Article 44 of the Judicial Authority Act establishes a Judicial Inspection Department attached to the President of the Court of Cassation to review the work of judges. Judges are held accountable by a disciplinary board, which may impose disciplinary sanctions.

To avoid conflicts of interest, article 27 of the Judicial Authority Act prohibits judges and prosecutors from performing any work or act incompatible with the dignity and independence of the judiciary.

Bahrain has established an electronic system that automatically distributes cases to the competent courts.

The Judicial Authority Act sets out the rules and conditions for the appointment, qualification, dismissal and accountability of members of the Public Prosecution Service, a core division of the judiciary (arts. 57–66).

A Judicial Inspection Department attached to the Public Prosecutor inspects the work of members of the Public Prosecution Service.

Supreme Judicial Council Decree No. 49 of 2014 regulates matters concerning judges and members of the Public Prosecution Service. In 2007, the Supreme Judicial Council issued a Code of Conduct for Judges and Prosecutors. The authority competent to apply this code is the Judicial Inspection Department.

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

Bahrain has a centralized procurement system. Public procurement is regulated by the Procurement Act, its implementing regulations and related administrative decisions. Separate procurement rules are in place for the Bahrain Defence Force, the public security forces and the National Guard (art. 1). Procurements of a military, security or confidential nature or those related to the public interest are exempt from the Procurement Act (art. 3).

Contracts for the purchase of goods or for construction are concluded by means of public tender, while contracts for services require a request for the submission of proposals. Subject to a reasoned decision of the Procurement Board, procurements may, in exceptional cases, take place through other forms of closed competition (art. 4, Procurement Act). The reasons for decisions with respect to the award of public tenders, limited tenders, the cancellation of tenders or exclusion of bids must be publicly displayed on a designated board for a period of one week (art. 64).

Oversight over procurement decisions is carried out by the Procurement Board (art. 10), which imposes penalties and decides upon complaints (art. 96, implementing regulations). The Procurement Board, whose seven members are appointed by royal decree, is an independent body that reports directly to the Cabinet (art. 8, Procurement Act).

The National Audit Office conducts financial, administrative and compliance audits. Audit results are referred to the procuring entity for corrective action and followed up by the Procurement Board.

Complaints or appeals may be submitted by suppliers or contractors to the procuring entity prior to the contract coming into effect (art. 56) or to the Procurement Board thereafter. Complaints to the Procurement Board must be filed, in respect of local tenders, within 10 days or, in respect of international tenders, within 20 days of the date of knowledge of the decision or action (art. 57). Recourse may be sought before the competent court within 30 days of the date of notification of the Board's decision (art. 58). Complaints regarding procurement violations may also be reported to the National Audit Office.

Some conflict of interest measures are in place, which, inter alia, prohibit Board members and any person involved in tender activities from taking part in tender procedures, government auctions or sales if they have a "direct interest" in the proposed transaction, as defined in article 16 of the Procurement Act.

There is no specific mechanism for the periodic rotation of staff in procurement functions. The term of office of members of the Procurement Board is two years, renewable once only.

Bahrain has established detailed procedures for the adoption of the national budget and requirements for timely reporting on revenue and expenditure pursuant to Act No. 39 of 2002 on the State budget.

Under article 49 of this Act, all ministries and government institutions are required to issue annual consolidated financial statements, prepared in accordance with Generally Accepted Accounting Standards (GAAS), which are published in the Official Gazette, upon approval by the Chamber of Deputies and the Shura Council.

Auditing and oversight are carried out by the National Audit Office (art. 116, Constitution), which conducts regulatory (compliance) audits, performance audits and administrative audits (art. 5, Decree-Law No. 16 of 2002 on the National Audit Office) and may prescribe measures for corrective action (arts. 16 and 17). Government agencies have also established internal audit units or departments.

Bahrain has adopted measures to preserve the integrity of accounting books, records and financial statements relating to public expenditure and revenue and to prevent the falsification of such documents.

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

There are no special procedures or regulations on public access to information. The Bahraini authorities have prepared a draft law guaranteeing the right to information. Bahrain has taken several steps to simplify administrative procedures and facilitate the provision of public services, including through government websites and electronic applications that simplify procedures, expedite public services delivery and allow for the provision of information.

Bahrain makes data on corruption available primarily in the form of annual statistics on crime and corruption published by the National Audit Office, the General Directorate and the Public Prosecution Service, but also through awareness campaigns, the media and government websites. There have been no recent studies or assessments of corruption risks in the public administration.

Bahrain has taken steps to encourage the participation of society in national anti-corruption campaigns, raising public awareness and reporting corrupt activities.

The General Directorate receives corruption reports, including anonymous communications, through various communication channels, including by hotline and email.

Private sector (art. 12)

Bahrain has taken steps to prevent corruption and strengthen financial controls in the private sector. The Commercial Companies Act promulgated by Decree-Law No. 21 of 2001 and its implementing regulations stipulate compliance with accounting, auditing, and internal and external administrative and financial audit standards, and the obligation of companies annually to submit audited financial reports to the Ministry of Industry, Trade and Tourism. The Commerce Act also provides for the keeping of regular accounting records (art. 20).

The Ministry of Industry, Trade and Tourism serves as registrar for businesses and performs periodic field inspections of licensed audit firms. Data on owners, managers and ultimate beneficial owners of private entities are available on the Commercial Records System portal (www.sijilat.bh).

In addition, the General Directorate grants financial rewards to anyone who cooperates and reports illegal practices, including suspected corruption.

Ministerial Decision No. 19 of 2018 on corporate governance requires the boards of directors of joint-stock companies to put in place reporting programmes that enable employees to report irregularities internally, as well as to develop written policies to deal with conflicts of interest and codes of conduct. External auditors verify implementation of these obligations.

There are no regulations limiting the professional activities of former public officials after their resignation.

No taxes are levied in Bahrain.

Measures to prevent money-laundering (art. 14)

The legal regime to combat money-laundering consists principally of the Anti-Money-Laundering Act and rules, regulations, resolutions and circulars issued by the Central Bank of Bahrain and other supervisory authorities. These measures apply to banks, non-bank financial institutions and designated non-financial businesses and professions, including natural or legal persons that are specifically licensed to provide formal or informal money or value transfer services. The requirements cover customer/beneficial owner identification, record-keeping and the reporting of suspicious transactions.

The risk-based approach to combating money-laundering has been applied to financial institutions since 2014. In 2017, Bahrain finalized its first national risk assessment and adopted a national action plan to implement the risk-based approach. Supervisory bodies also conduct risk-based compliance inspections and supervision.

The National Committee for the Development of Policies to Prevent and Prohibit Money-Laundering and the Financing of Terrorism is responsible for establishing money-laundering prevention and prohibition policies, including inter-agency coordination mechanisms. A national anti-money-laundering strategy has been developed.

Authorities such as the Financial Intelligence Directorate and the Central Bank of Bahrain can provide mutual legal assistance for money-laundering and associated predicate offences. The authorities also cooperate through INTERPOL and the Egmont Group.

Bahrain has established a cross-border disclosure system to detect and monitor the movement of cash and bearer negotiable instruments. Competent authorities may seize cash and bearer negotiable instruments where there is a suspicion of

money-laundering, where no disclosure has been made or where a false disclosure has been made.

Bahrain has adopted enforceable measures in the Central Bank Rulebook dealing with electronic transfers and alternative remittances that require financial institutions and money or value transfer services to include accurate and meaningful information on the originator of the transfer and to maintain such information throughout the payment chain. Enhanced due diligence is required in the case of inward wire transfers containing incomplete information on the originator (FC-3.1.14). However, intermediary and beneficiary banks are required to exercise only reasonable scrutiny in the case of cross-border wire transfers containing incomplete originator information (FC-3.1.16 and FC-3.1.18).

Bahrain has made significant efforts to bring its anti-money-laundering regime into line with Financial Action Task Force (FATF) requirements. Some gaps in the regulation of financial institutions and designated non-financial businesses and professions were identified in the June 2018 FATF/MENAFATF mutual evaluation. Bahrain is continuing efforts to address these findings.

Bahrain contributes to the development and strengthening of regional and international cooperation to combat money-laundering, particularly through its participation in MENAFATF.

2.2. Successes and good practices

- National campaigns to promote integrity and combat corruption (art. 5, para. 2)
- Establishment of an electronic system to distribute cases to the competent courts automatically (art. 11, para. 1)

2.3. Challenges in implementation

It is recommended that Bahrain:

- Adopt a national anti-corruption strategy which provides time frames for the implementation of its objectives, identifies indicators to measure progress in achieving these objectives and identifies the agencies responsible for its implementation (art. 5, para. 1)
- Take measures to grant the General Directorate the legal independence to ensure continuity of its operational and financial independence in the future (art. 6, para. 2)
- Endeavour to adopt legislative measures to establish a clear mechanism to address the grievances of applicants for public-sector positions relating to administrative decisions on recruitment (art. 7, para. 1)
- Endeavour to identify public positions considered especially vulnerable to corruption and to establish procedures for the selection and training of individuals for such positions and their rotation, where appropriate (art. 7, para. 1)
- Continue efforts to extend the legislation on conflict of interest to cover a wider scope of conflicts related to the employee's personal and material interests (art. 7, para. 4, and art. 8, para. 5)
- Consider establishing a reporting obligation on public officials, in addition to those subject to the Civil Service Bureau, to declare relevant interests that may result in a conflict with respect to their public functions (art. 8, para. 5)
- Regarding public procurement: (1) consider extending the applicable time frames for filing complaints or appeals; (2) consider specifying in the act or implementing regulations the criteria used for appointing Procurement Board members; and (3) consider adopting measures for the periodic rotation of

procurement staff, including limiting the term of office of members of the Procurement Board (art. 9, para. 1)

- Continue efforts to adopt legislative or other measures to regulate public access to information (art. 10 (a)) and to strengthen corruption risk assessments through relevant studies and assessments (art. 10 (c))
- Continue to strengthen measures to prevent corruption in the private sector, including by enhancing accounting and auditing standards and by considering adopting restrictions on the professional activities of former public officials (art. 12, para. 2 (e))
- Consider strengthening beneficial owner identification and verification requirements for designated non-financial businesses and professions (art. 14, para. 1 (a))
- Adopt measures to require financial institutions (including intermediary and beneficiary institutions) to apply enhanced scrutiny to outgoing and incoming wire transfers containing incomplete information on the originator (art. 14, para. 3)
- Continue efforts to address the results of the joint FATF/MENAFATF evaluation (art. 14, para. 4)

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)

Bahrain does not have specific legislation on mutual legal assistance or asset recovery. Requests are executed in accordance with the Code of Criminal Procedure and international treaties or principles of reciprocity or international comity. Bahrain has entered into several bilateral and multilateral treaties and agreements on judicial and legal cooperation that can be used in the context of asset recovery. Bahrain also considers the Convention a basis for mutual legal assistance.

Article 9, paragraph 1, of the Anti-Money-Laundering Act and the Egmont principles allow the Financial Intelligence Directorate to exchange information on money-laundering and predicate offences with foreign counterparts on its own initiative or upon request. The Riyadh Arab Agreement on Judicial Cooperation and other treaties include provisions on special cooperation. However, the power of other authorities, such as the Central Bank of Bahrain, to spontaneously exchange information is not specified in the legislation.

There have been no completed cases where confiscated assets were returned to a requesting State. Bahrain has never refused a request relating to asset recovery.

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

Under the Anti-Money-Laundering Act and enforceable provisions of the Central Bank Rulebook, financial institutions are required to adopt internal procedures to establish and verify the identity of their customers and the source of their funds, including beneficial owners. The requirements include applying enhanced due diligence to high-risk customers, accounts and transactions, including politically exposed persons, their family members and close associates. In practice, there are some weaknesses in the identification and verification of beneficial owners.

These measures are applied to detect suspicious transactions.

The Central Bank Rulebook contains a Financial Crimes Module, and relevant advisories issued by the Central Bank and the Financial Intelligence Directorate provide further guidance on complying with anti-money-laundering and financing of

terrorism obligations across the financial sector. Bahrain has also developed a national list of politically exposed persons.

The record-keeping requirements of the Anti-Money-Laundering Act, as specified in the Financial Crimes Module, require financial institutions to keep customer identification and transaction records for five years after the customer relationship has ended or the transaction was terminated.

The licensing procedures for financial institutions stipulated in the Commercial Companies Act prohibit the establishment of shell banks. Pursuant to the Financial Crimes Module, financial institutions must not establish business or correspondent banking relationships with shell banks or with banks that provide correspondent services to shell banks.

Financial Disclosure Act No. 32 of 2010 requires specified categories of public officials to submit financial disclosure statements to the Financial Disclosure Examination Authority every three years and upon leaving office. This system remains limited, however, because the statements are submitted in paper form and remain sealed unless a criminal investigation is launched. Previous statements are not retained but are returned to the reporting person upon submission of a new statement. The information cannot be sent via mutual legal assistance unless a domestic investigation is open and provided that the envelope is opened in the presence of the reporting person.

Bahrain has not adopted measures requiring public officials to report their interest in or control over foreign financial accounts or to maintain appropriate records thereof.

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 Civil and Commercial Procedure Act allows any injured party to initiate a civil action in the courts to establish title to or ownership of property or to intervene in ongoing civil proceedings as a third party. There are no restrictions on who may have the status of plaintiff in the domestic courts.

Moreover, a party may claim compensation in criminal proceedings during the preliminary investigation or in court (art. 22 et seq., Code of Criminal Procedure). The courts are authorized to adjudicate the claim and issue orders for payment of compensation or damages (arts. 32 and 35, Code of Criminal Procedure; arts. 9, 18 and 256, Civil and Commercial Procedure Act).

Article 12 of the Criminal Code provides for the direct enforcement of foreign confiscation orders, provided the offence is recognized in Bahrain. The enforcement of a foreign confiscation order requires a final judgment by the foreign court. The dual criminality requirement imposes limitations in cases of requests involving Convention offences not criminalized in Bahrain.

Articles 426 to 428 of the Code of Criminal Procedure regulate the procedure for judicial assistance in criminal matters generally. However, these articles are limited to investigative measures and are not specific to asset recovery.

Article 64 of the Criminal Code and article 3, paragraph 2, of the Anti-Money-Laundering Act allow the Bahraini courts to confiscate property of foreign origin located in Bahrain through a local court decision on a money-laundering offence.

The rights of bona fide third parties are protected (art. 64, Criminal Code; art. 113, Code of Criminal Procedure; art. 3.2, Anti-Money-Laundering Act).

Non-conviction-based confiscation is possible in several cases within the context of criminal proceedings, such as when the suspect dies or absconds at the time the judgment for the offence is handed down (art. 64, Criminal Code; arts. 17 and 113, Code of Criminal Procedure) and before conviction in money-laundering cases (art. 3.2, Anti-Money-Laundering Act).

Articles 426 to 428 of the Code of Criminal Procedure allow for the submission of requests to take the full range of investigative measures authorized under the Code of Criminal Procedure (arts. 55–103). A request for interim measures may be executed on the basis of foreign investigation papers proving the crime in question (art. 426). Dual criminality is not required to implement investigative measures based on a foreign request (art. 427). For money-laundering offences, the Financial Intelligence Directorate will seek a warrant from the Public Prosecution Service (art. 8, Anti-Money-Laundering Act).

Bahrain refuses requests for assistance if implementation of the request would be contrary to the public order (art. 427, Code of Criminal Procedure). Otherwise, there are no reasons for refusing requests specified in the legislation. However, some local legal principles and internal rules require the judicial authorities to refuse requests for reasons including undue delay by the requesting State, insufficient evidence or requests pertaining to the seizure of salaries prohibited by principles of domestic law.

Bahrain has some procedures and legislative provisions relating to the administration of seized items that can be taken within the framework of international cooperation (arts. 98–99, Code of Criminal Procedure; art. 8.2 (c), Anti-Money-Laundering Act; Minister of Justice Decision No. 66 (2017)).

Bahrain has established a Directorate for the Administration of Seized Assets, pursuant to Minister of Justice Decision No. 66 (2017). Furthermore, the Public Prosecution Service is preparing asset management guidelines that will apply to all law enforcement agencies in Bahrain.

Bahrain is developing an internal procedures manual for legal assistance and asset recovery that explains the steps and mechanisms for implementing international cooperation requests.

There is no asset recovery guide or published guidance on the requirements and procedure for submitting requests for mutual legal assistance, including the authorities competent to receive requests.

Return and disposal of assets (art. 57)

There is no provision in the law providing for the return of confiscated funds. The Code of Criminal Procedure permits the return of *seized* assets, unless they are subject to confiscation (arts. 104–113). Accordingly, Bahrain may return property only during the investigation stage when property has been seized, but not if the property is subject to confiscation (art. 104). Confiscated property is transferred to the Treasury or, in some cases, to the Ministry of Social Development, as prescribed by law.

Article 8, paragraph 6, of the Anti-Money-Laundering Act sets forth a permissive provision to give to or share with a foreign State all or part of any proceeds confiscated under the Act.

Mutual legal assistance costs are handled on a case-by-case basis in accordance with bilateral and multilateral treaties. Bahrain has never claimed any costs relating to the execution of a request.

Apart from the Arab Anti-Corruption Convention, Bahrain has not entered into any agreements on asset disposal or taken any other measures for the final disposal of confiscated property in specific cases.

3.2. Challenges in implementation

It is recommended that Bahrain:

- Adopt legislative measures to regulate in detail the issues of international cooperation, including mutual legal assistance for asset recovery for offences established in accordance with the Convention, in line with the requirements of chapter V (arts. 51, 54, 55, 57). Such legislation should specify the types of assistance that may be requested (including confiscation), procedures for

submitting requests and required information, grounds for refusal and other procedural aspects (such as the costs of mutual legal assistance and asset recovery), and principles for the disposal and return of assets (art. 57)

- Continue efforts to strengthen beneficial ownership identification and verification by financial institutions (art. 52, para. 1)
- Strengthen the financial disclosure system to allow for the verification and use of information provided to detect cases of conflict of interest and illicit enrichment in the absence of any criminal investigation, and to permit the sharing of relevant information with competent foreign authorities (art. 52, para. 5)
- Consider taking measures as necessary to require appropriate public officials to report their interest in or control over foreign financial accounts to the competent authorities and to maintain appropriate records relating to such accounts (art. 52, para. 6)
- Amend the dual criminality requirement stipulated in article 12 of the Criminal Code to allow for the enforcement of foreign judicial orders for all offences established in accordance with this Convention (art. 54, para. 1)
- Amend the Code of Criminal Procedure provisions on mutual legal assistance (arts. 426–428) to allow Bahrain to respond to a wide range of requests for assistance with regard to confiscation, freezing and seizure, and not only requests for assistance in relation to investigations, in line with chapter V of the Convention (art. 54, para. 1)
- Consider developing an asset recovery guide or publication to guide foreign States on the requirements and procedures for submitting requests, and continue efforts to develop an internal procedures manual on dealing with requests for mutual legal assistance (art. 55)
- Specify in its legislation the legal powers of other authorities, such as the Central Bank of Bahrain, to spontaneously exchange information with foreign authorities (art. 56)
- Adopt legislation providing for the return of confiscated property, including to its prior legitimate owners, pursuant to article 57, paragraph 3. It would also be useful to include a reference to the obligations provided for in article 57 in the asset recovery guide (art. 57, para. 1)
