



# UNODC

United Nations Office on Drugs and Crime

## United Nations Convention against Corruption

Self-assessment Name: UNCAC Afghanistan Self-assessment Checklist ( Chapters Three and Four)

Country: Afghanistan

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Assessor: Joint Committee

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Comments:

Completed self-assessment checklists should be sent to:

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## A. General information

### A. General information

#### 1. General information

Please provide general information on the ratification and status of UNCAC in your country (use the "Use template answer" button in the answer field to see a generic text)

Today, corruption is a challenge not only for the stability and good governance of Afghanistan but many countries of the world which have good economy and security, suffer from this bad phenomenon.

Corruption augments instability and insecurity, challenges justice and rule of law and fails the development programs in different levels. Also, this bad phenomena downturns economy of a country, strengthens organized crime such as money laundering, expropriation of properties, illicit enrichment and puts nation's wealth into the pockets of powerful elements.

United Nations Convention against Corruption (UNCAC) was arrived at as a result of efforts by other international and regional organizations, such as the African Union, Council of Europe, International Custom Organization, European Commission, Union of Gulf States, Economic Cooperation Organization and Organization of American States.

The fundamental purpose of United Nations Convention against Corruption (UNCAC) is to prevent corrupt activities, facilitate and support international cooperation and technical assistance for prevention of corruption, provide transparent services to the nation and hold institutions and government accountable. This convention provides clear strategies and standards towards prevention of corruption.

**United Nations Convention against Corruption (UNCAC)** is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem The UNCAC covers five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange.

UNCAC implemented under UN General Assembly Resolution 58/4 of 31st October 2003.

The Islamic Republic of Afghanistan signed the UNCAC on 20th February 2004, Passed by the Wolosi Jirga on 16th August 2007 and the Moshrano Jirga on 25th September 2007, it was endorsed by the President on 23rd December 2007 and printed in the Official Gazette No 936 dated 15th January 2008. It was officially ratified on 25th August 2008.

#### **UNCAC Implementation review**

Based on Article 63 of the convention, a Conference of the state parties to the

Convention was established.

The purpose of this conference is to improve the capacity of and cooperation between state parties to achieve the objectives set forth in this convention and to promote and review its implementation.

So Far four conferences were convened and the main focus in these conferences was to create an effective mechanism for the review of the implementation of the convention. In the third conference of the state parties an effective review implementation mechanism was established as following:

- Every review phase is composed of two review cycles of five years.
- During the first cycle chapter III (Criminalization and law enforcement) and IV (International Cooperation) and during the second cycle chapters II (Prevention measures) and V (Asset Recovery) will be reviewed.
- Each state member shall be reviewed by two other countries.
- The first step of the review process is that the country under review should complete the self - assessment checklist which is an effective tool for information gathering on the implementation of the convention.
- The state party under review shall endeavour to prepare its responses to the self- assessment checklist through broad consultations at the national level with all relevant stakeholders, including the private sectors, individual groups outside the public sector and CSOs.
- The completed self-assessment checklist should be submitted to the reviewing states.
- The reviewing states will review the responses and conduct an analysis of the response focused on measures taken to implement the convention and on success in and challenges of such implementation.
- Reviewing states may request the state under review for clarifications on the responses through video conferences and email exchange.
- The reviewing states will prepare a country review report in close cooperation and coordination with the state under review and assisted by the secretariat
- This report shall identify success, good practices, and challenges and make observations for the implementation of the convention. It may also identify the technical assistance needs for the purpose of improving implementation of the convention.
- The secretariat shall compile the most common and relevant information on success, good practices, challenges, observations and technical assistance contained in the report for the submission to the implementation review group and the report will be translated into six UN official languages.
- The report may remain confidential and is up to the state party to publish it or available to other state parties, based on their requests.

After ratification of United Nations Convention against Corruption (UNCAC), the Government of Afghanistan took the following practical measures towards implementation of UNCAC recommendations:

1. Development of National Anti-Corruption Strategy: in order to establish

good and transparent governance, Government of Islamic Republic of Afghanistan places prevention and fight against corruption at the top of its priority programs and the government is committed in implementation of this program.

2. For the purpose of implementation of article (5) of United Nations Convention against Corruption (UNCAC) and based on Decree of President of Islamic Republic of Afghanistan, a commission was established under the chairmanship of H.E Chief Justice and with participation of Attorney General, Minister of Justice, Heads of Justice, Legal, Administrative Reform and Anti-Corruption Commissions of Lower House, Head of Complaints Commission of the Upper House, General Director of Office of Administrative Affairs and Secretariat of Council of Ministers, Head of Administrative Reform and Civil Service Commission, Director General of High Office of Anti-Corruption, Advisor to the President on Finance, Control and Audit Affairs, and Deputy Finance Minister on Financial Affairs. This commission, after convening (64) working meetings and gathering information, suggestions and recommendations of government and private institutions and the people, developed the National Anti-Corruption Strategy and submitted it to the Office of the President for approval and implementation. The Office of the President of Islamic Republic of Afghanistan approved the strategy and sent it to all government institutions for implementation.
3. Establishment of High Office of Anti-Corruption: based on paragraph (3) article (75) and article (142) of Constitution, paragraph (1) article (6) of UNCAC, recommendations of London Conference and decree number (63) dated 21 July 2008 of Office of the President of Islamic Republic of Afghanistan, High Office of Anti-Corruption was established to prevent and fight against corruption. This office has significant achievements in this regard.
4. Ratification of Law on High of Office Anti-Corruption: after development of National Anti-Corruption Strategy, General Directorate of Anti-Corruption and Bribery and its relevant law were dissolved. Instead, High Office of Oversight on Implementation of Anti-Corruption Strategy was established. Through Decree number (63) dated 21 July 2008 of Office of the President of Islamic Republic of Afghanistan and after the approval of Council of Ministers, the law for the new agency was ratified in (5) chapters and (22) articles.
5. Based on article (13) of Decree number (61) dated 18 March 2011 of Office of the President, this agency reviewed the Law of High Office of Oversight on Implementation of Anti-Corruption Strategy and referred it to Ministry of Justice for further legal process.
6. In the light of enforced laws of the country and UNCAC, High Office of Oversight has taken practical measures to prevent corruption. These measures include asset registration and declaration of high ranking officials of the government and conducting seminars, conferences, capacity building programs and public awareness programs.
7. Establishment of a Joint Monitoring and Evaluation Committee: based on

article (12) of UNCAC and Decree number (61) dated 18 March 2011 of Office of the President and in order to prevent corruption and attract assistance of international organizations and donors, a Joint Monitoring and Evaluation Committee comprised of national and international experts was established in accordance with decree number (5675) dated 28 December 2011 of Office of the President of Islamic Republic of Afghanistan.

8. Establishment of Law Reform Committee: based on provisions of UNCAC specially chapter three and based on the commitments of Afghan Government in London Conference; and in order to review and reform procedural laws of Afghanistan in compliance with the UNCAC, a committee was established from representatives of Ministry of Justice and line institutions to amend and bring additions to the laws in compliance with UNCAC.
9. Justice Institutions: Government of Islamic Republic of Afghanistan has always believed in the abilities and performances of Justice Institutions in ensuring rule of law and justice in the country. Justice Institutions have not only addressed corruption cases but also taken effective measures in ensuring social order and justice in the country.
10. Establishment of Special Anti-Corruption Court:
11. Office on Monitoring and control of Judicial Affairs: in order to monitor and control judicial affairs of courts, prevent and fight against corruption, this office was established in the Judiciary in 1385 and functions in accordance with its regulation.
12. Establishment of Special Anti-Corruption Prosecution Office: in accordance with article (134) of the Constitution, the authority of investigation and prosecution of cases has been vested to the Attorney General's Office.
13. In order to address corruption cases, based on paragraph (2) article (28) of Law on Organization and Authority of AGO and article (19) of Law on oversight of Implementation of Anti-Corruption Strategy, the Special Anti-Corruption Prosecution Office was established in 1388 and so far this office has significant achievements in the fight against corruption.

High Office of Audit: High Office of Audit as the highest office for monitoring the financial affairs of ministries, offices, enterprises and institutions throughout the country was established in Kabul under the name of "General Division of Accounts" in 1321. With seventy years of working experience, this office, besides other offices, has been able to play an effective role through conducting audit and providing effective recommendations.

10- Establishment of Financial Intelligence Unit (FIU): in order to control and monitor financial and economical affairs and to implement provisions of UNCAC with respect to asset recovery based on article

(58) of UNCAC, the Government of Islamic Republic of Afghanistan established Financial Intelligence Unit within The Afghanistan Bank. The Government of Islamic Republic of Afghanistan has been committed to prevent and constantly fight against corruption because this bad phenomenon not only precludes good governance and development of the country but also discredits the people and Government of Afghanistan in international community. Therefore, the government takes serious and practical measures to implement laws and decrease the level of and eliminate corruption.

**Please briefly describe the legal, institutional and political system of your country.**

The Government of Afghanistan is comprised of three branches (powers):

- A. Executive Branch
- B. Judiciary
- C. Legislative Branch

The President shall be the head of state of the Islamic Republic of Afghanistan, executing his authorities in the executive, legislative and judiciary fields in accordance with the provisions of this Constitution.

The President shall have two Vice-Presidents, first and second (Article (60) of Constitution)

#### **A. Executive Branch (The Government):**

Based on the Constitution approved on January 03, 2004, the government shall have the following duties:

Execute the provisions of this Constitution, other laws, as well as the final decisions of the courts;

1. Preserve the independence, defend the territorial integrity and safeguard the interests and prestige of Afghanistan in the international community;
2. Maintain public law and order and eliminate every kind of administrative corruption;
3. Prepare the budget, regulate financial conditions of the state as well as protect public wealth;
4. Devise and implement social, cultural, economic and technological development programs;
5. Report to the National Assembly, at the end of the fiscal year, about the tasks achieved as well as important programs for the new fiscal year;
6. Perform other duties that, in accordance with this Constitution and other laws, fall within the Government responsibilities.

#### **B. Legislative Branch: (Article 81)**

The National Assembly of the Islamic Republic of Afghanistan, as the highest legislative organ, shall manifest the will of its people as well as represent the entire nation

The National Assembly consists of two houses:

- House of People consists of (249) members both male and female.
- House of Elders consists of (102) members both male and female.

Members of the House of Elders shall be elected and appointed as follows:

1. From amongst each provincial council member, one individual shall be elected by the respective council for a four year term;
2. From amongst district councils of each province, one individual, elected by the respective councils, for a three year term;
3. The remaining one third of the members shall be appointed by the President, for a five year term, from amongst experts and experienced personalities, including two members from amongst the impaired and handicapped, as well as two from nomads.
4. The President shall appoint fifty percent of these individuals from amongst women.

The National assembly shall have the following duties:

1. Ratification, modification or abrogation of laws or legislative decrees;
2. Approval of social, cultural, economic as well as technological development programs;
3. Approval of the state budget as well as permission to obtain or grant loans;
4. Creation, modification and or abrogation of administrative units;
5. Ratification of international treaties and agreements, or abrogation of membership of Afghanistan in them;
6. Other authorities enshrined in this Constitution.

### **Authorities of House of People ( Wolosy Jerga)**

A: To take decision on impeachment of any Ministry in accordance with the provision of Article 92 of Constitution

B: To decide on the development programs as well as the state budget;

C: to approval of or disapprove the recruitments in accordance to provisions of the constitution

### **Grand Assembly ( Loya Jerga)**

The Loya Jirga is the highest manifestation of the will of the people of Afghanistan.

The Loya Jirga consists of:

1. Members of the National Assembly;
2. Presidents of the provincial as well as district assemblies.

Ministers, Chief Justice and members of the Supreme Court as well as the attorney general shall participate in the Loya Jirga sessions without voting rights.

### **Loya Jirga Activities Article 111**

The Loya Jirga shall be convened in the following circumstances:

1. To decide on issues related to independence, national sovereignty, territorial integrity as well as supreme national interests;
2. To amend provisions of the Constitution;
3. To impeach the President in accordance with the provisions of Article 69 of the Constitution.

#### **State Monetary Policy - Article 112 of the Constitution**

- Currency issuance as well as formulating and implementing the monetary policy of the country shall be, according to provisions of the law, the authority of the central bank.
- The central bank shall consult the economic committee of the House of People about printing of money.

#### **Judiciary of the Islamic Republic of Afghanistan - Article 116 of the Constitution**

- The judiciary shall be an independent organ of the state of the Islamic Republic of Afghanistan.
- The judiciary shall be comprised of one Supreme Court, Courts of Appeal as well as Primary Courts whose organization and authority shall be regulated by law.
- The Supreme Court shall be the highest judicial organ, heading the judicial power of the Islamic Republic of Afghanistan.

#### **Members of Judiciary**

- The Supreme Court shall be comprised of nine members, appointed by the President and with the approval of the House of People.
- Three members for a period of 4 years, three members for 7 years, and three members for 10 years.
- Later appointments shall be for a period of ten years.
- Appointment of members for a second term shall not be permitted.
- The President shall appoint one of its members as Chief Justice of the Supreme Court.
- Members of the Supreme Court, except under circumstances stated in Article 127 of this Constitution, shall not be dismissed till the end of their term.
- Supreme Court judges shall receive lifetime pensions at the end of their term of service provided, only if they do not hold state and political offices. (Article 126)

#### **Authorities of the Judiciary**

- Authorities of the judicial organ shall include consideration of all cases filed by real or incorporeal persons, including the state, as plaintiffs or defendants, before the court in accordance with the provisions of the law. (Article 120)
- At the request of the Government, or courts, the Supreme Court shall

review the laws, legislative decrees, international treaties as well as international covenants for their compliance with the Constitution and their interpretation in accordance with the law. (Article 121)

- No law shall, under any circumstances, exclude any case or area from the jurisdiction of the judicial organ as defined in this chapter and submit it to another authority. (Article 122)
- The budget of the judiciary shall be prepared by the Supreme Court in consultation with the Government, and shall be presented to the National Assembly. (Article 125)
- The implementation of the budget of judiciary is the authority of Supreme Court. (Article 125)

### **Final Verdict of the Court**

Is the verdict which has been finalized, or that there should be no question of appeal or cassation, or that the deadlines for appeal and cassation have lawfully lapsed. (Article 10 of Penal Code)

### **Final Verdict**

Article 8 of Interim Criminal Procedure Code

- The decision of the Primary Court is final if a valid appeal has not been filed within the term prescribed by the law.
- The decision of the Court of Appeal is final if recourse to the Supreme Court has not been filed within the term prescribed by the law.
- The decision of the Supreme Court is final.
- The prosecutor (Saranwal) at the Primary Court shall give execution to the final decisions. To this end the Court of Appeal and the Supreme Court shall deliver to the Saranwal at the Primary Court that adopted the initial decision the file containing the procedural documents and the objects confiscated.

### **Presumption of Innocence**

- Innocence is the original state. The accused shall be considered innocent as long as he is not convicted by a final verdict of a competent court. (Article 25 of Constitution - Article 4 of Penal Code )

### **Attorney General's Office (Article 134 of Constitution)**

Discovery of crimes shall be the duty of police, and investigation and filing the case against the accused in the court shall be the responsibility of the Attorney General's Office, in accordance with the provisions of the law.

The Attorney General's Office shall be part of the Executive organ and shall be independent in its performance.

The organization, authority as well as method of work of the Attorney General's

Office shall be regulated by law.

**Please list relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist and provide them as attachments by separate email to the secretariat.**

1. The Constitution of Afghanistan
2. Interim Criminal Procedure Code
3. Criminal Procedure Code
4. Panel Code
5. Anti-Money Laundering and Proceeds of Crime Law
6. Law on the implementation of the national anti-corruption strategy
7. National Audit Law
8. Courts Jurisdiction Law
9. Law on the Structure and Authority of the Attorney General Office
10. Decree No 61
11. Decree No 81
12. Decree No 45
13. Procurement Law
14. Chart of Cases presented by the relevant entities

**If applicable, please attach relevant draft bills, policies and/or other measures that you want to be taken into account in the present review**

**Have you ever assessed the effectiveness of anti-corruption measures taken by your country? If available, please attach any relevant documents (e.g. gap analysis, reports of other international and regional review mechanisms, policy studies).**

1. UNCAC Gap Analysis (UNDP & UNODC)
2. Joint UNODC and HOOAC Corruption Survey 2012
3. UNODC Corruption Survey 2009

**If available, please provide as attachments by separate email to the secretariat any of the documents listed above that also exist in any other official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish)**

### **III. Criminalization and law enforcement**

#### **15. Bribery of national public officials**

##### **63. Subparagraph (a) of article 15**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 254: Any official of public services who, for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else's name any money, good or other benefit, or receives a promise of accepts a gift to this end, shall be considered a bribe-taker.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 255: (1) The bribe-taker shall be sentenced to an imprisonment of not less than two years and not more than ten years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 260: If a person presents a bribe but the official of public services does not accept it, the briber shall be sentenced to medium imprisonment or cash fine of not less than twelve thousand and not more than sixty thousand Afghanis.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**64. Subparagraph (b) of article 15**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal**

### **Code**

Article 254: Any official of public services who, for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else's name any money, good or other benefit, or receives a promise of accepts a gift to this end, shall be considered a bribe-taker.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 258: If an official of public services requests something in return for performance of his duty, in his own or someone else's name, or receives or accepts from someone for whom he has done something in the line of duty, or for the purpose of receiving a gift disrupts any of his job obligations after the performance of a duty, or without advance agreement refuses to do something or disrupts it for the purpose of getting a reward, shall be sentenced to medium imprisonment and cash fine of equivalent of what has been requested, presented or promised.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 261: If the official of public services, being cognizant of the criminal quality of the act in accordance with the provisions of articles 254, 258, and 259 of this Law, accepts through an intermediary an insignificant part of the gift or benefit shall be sentenced to imprisonment of not more than one year and cash fine of equivalent of what he has accepted or received.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **65. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 16. Bribery of foreign public officials and officials of public international organizations

### 66. Paragraph 1 of article 16

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 260: If a person presents a bribe but the official of public services does not accept it, the briber shall be sentenced to medium imprisonment or cash fine of not less than twelve thousand and not more than sixty thousand Afghanis.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 67. Paragraph 2 of article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or

staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 254: Any official of public services who, for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else's name any money, good or other benefit, or receives a promise of accepts a gift to this end, shall be considered a bribe-taker.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 255: (1) The bribe-taker shall be sentenced to an imprisonment of not less than two years and not more than ten years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 258: If an official of public services requests something in return for performance of his duty, in his own or someone else's name , or receives or accepts from someone for whom he has done something in the line of duty, or for the purpose of receiving a gift disrupts any of his job obligations after the performance of a duty, or without advance agreement refuses to do something or disrupts it for the purpose of getting a reward, shall be sentenced to medium imprisonment and cash fine of equivalent of what has been requested, presented or promised.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 261: If the official of public services, being cognizant of the criminal quality of the act in accordance with the provisions of articles 254,258, and 259 of this Law, accepts through an intermediary an insignificant part of the gift or benefit shall be sentenced to imprisonment of not more than one year and cash fine of equivalent of what he has accepted or received.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **68. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **17. Embezzlement, misappropriation or other diversion of property by a public official**

### **69. Article 17**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 268: (1) Any official of public services, to whom the goods of State or persons have been given in the line of his duty, and he embezzles it or hides it shall be sentenced to long imprisonment of not more than years.

If the crime mentioned in the above paragraph is committed by treasurer, storekeeper, collection officer, cashier, petrol official, sugar official, person in-charge of go down, cash or material trustee and officials of food department, or other persons assigned to preserve embezzled or hidden goods, the person committing it shall be sentenced to long imprisonment. An official of public services who has been sentenced to debarment from his profession or separation from service, shall be accepted anew in employment or Government service after restoration of honor in accordance with the provisions of the Law of criminal Procedures.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 269: Any one of public services who turns into his own proprietorship State money, priced documents, goods or other articles, shall be sentenced to medium imprisonment.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 270: (1) Any official of public services who has the duty in contract, act or case to protect State interests and totally damages the said interest for the purpose of gaining a benefit for himself or someone else, shall be sentenced to long

imprisonment of not more than ten years.

(2) If the damage mentioned in the above paragraph is insignificant, the person committing the crime shall be sentenced in the light of circumstances to medium or short imprisonment.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 271: Any official of public services who has a direct obligation in the administration of contracts, revenues, imports or other matters of the State, or the supervision thereof, and as a result of it gains in the above matter a profit in his own or someone else's name, or tries to gain it, shall be sentenced to medium imprisonment of not less than three years.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (1) The criminal, in addition to the punishments fixed in this chapter, shall also be ordered to return the goods and to pay a cash fine equivalent to the embezzled goods or whatever he has taken into his possession from the State property.

(2) If the duration of imprisonment of the convict is more than three years, the convict shall be sentenced to debarment from his profession or separation from duty, too.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **70. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

*Which challenges are you facing in (fully) adopting/implementing the article under review? (Check all the*

*answers that apply and provide an explanation in the "Comments" field)*

**(INTACO) Inter-agency co-ordination**

Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

**(LICAP) Limited capacity (e.g. human/technological/institution/other; please specify)**

1. Professional capacity building of the detection & investigation department (AGO) and judicial branch.

**(LIRIM) Limited resources for implementation (e.g. human/financial/other; please specify)**

1. Technical and modern equipment are required to investigate and detect corruption related crimes

## 18. Trading in influence

### 71. Subparagraph (a) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 259: If a member of parliament, municipality and provincial and local councils request something for himself or someone else or accepts a promise to this and or receives a gift and for this reason exerts his influence to obtain from the competent authorities or public services orders, decisions, instructions, promises, releases, agreements, imports, appointments, contracts and any other service and privileges, shall be considered as bribe-taker and shall be sentenced in accordance with the provisions of this Law.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 255: (1) The bribe-taker shall be sentenced to an imprisonment of not less than two years and not more than ten years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.  
(2) The briber and the intermediary in bribery shall be sentenced to the same punishment mentioned in the above paragraph.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 260: If a person presents a bribe but the official of public services does not accept it, the briber shall be sentenced to medium imprisonment or cash fine of not less than twelve thousand and not more than sixty thousand Afghanis.

### **The Constitution of Afghanistan**

Article 130: In cases under consideration, the courts shall apply provisions of this Constitution as well as other laws.

If there is no provision in the Constitution or other laws about a case, the courts shall, in pursuance of Hanafi jurisprudence, and, within the limits set by this Constitution, rule in a way that attains justice in the best manner.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **72. Subparagraph (b) of article 18**

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 259: If a member of parliament, municipality and provincial and local councils request something for himself or someone else or accepts a promise to this and or receives a gift and for this reason exerts his influence to obtain from the competent authorities or public services orders, decisions, instructions, promises, releases, agreements, imports, appointments, contracts and any other service and privileges, shall be considered as bribe-taker and shall be sentenced in accordance with the provisions of this Law.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 255: (1) The bribe-taker shall be sentenced to an imprisonment of not less than two years and not more than ten years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive. (2) The briber and the intermediary in bribery shall be sentenced to the same

punishment mentioned in the above paragraph.

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For more information refer to the chart

### **73. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **19. Abuse of functions**

### **74. Article 19**

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 285: (1) If the official of public services, making use of his official authority, deliberately and without legal grounds stops the implementation of provisions of laws, regulations, verdict and decision of the court, or orders issued by competent authorities of the government, and/or collection of goods and taxes stipulated by the law, the official shall be sentenced in the light of circumstances to short imprisonment of not less than three months or cash fine of not less than three thousand and not more than twelve thousand Afghanis.

(2) If as a result of stoppage mentioned in the above paragraph the execution of State plans are delayed or interrupted or a loss is inflicted upon public property, the offender shall be sentenced in the light of circumstances to long or medium imprisonment.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **75. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **20. Illicit enrichment**

### **76. Article 20**

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**  
**Administrative Corruption**

**Article3:** Committing of the following acts and crimes by government officials or

other authorities prescribed in Article (7) of this law shall be considered as administrative corruption:

11. Illegal increase in assets

### **Decree of the President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption**

**NO. 61**

**Date: 1388/12/27**

Based on the provisions of the Constitution of Afghanistan, in observance of the United Nations Convention against Corruption, and considering the recommendations of the National Conference held on 15 December 2009 in Kabul, in order to delegate more authorities to the High Office of Oversight, the following are approved.

**Article 6:** The High Office of Oversight shall inspect illegal appointments in government offices and shall refer cases related to abuse of authority and violation of law to the Office of the Attorney General.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **77. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

**(Y) Yes**

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **21. Bribery in the private sector**

### **78. Subparagraph (a) of article 21**

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 260: If a person presents a bribe but the official of public services does not accept it, the briber shall be sentenced to medium imprisonment or cash fine of not less than twelve thousand and not more than sixty thousand Afghanis.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **79. Subparagraph (b) of article 21**

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

...

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

### **Code**

Article 254: Any official of public services who, for the purpose of performance of or abstention from or disruption of a duty which is assigned to him, requests in his own or someone else's name any money, good or other benefit, or receives a promise of accepts a gift to this end, shall be considered a bribe-taker.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 255: (1) The bribe-taker shall be sentenced to an imprisonment of not less than two years and not more than ten years and cash fine of equivalent of what he has requested as bribe or has been given to him or he has been promised to receive.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 258: If an official of public services requests something in return for performance of his duty, in his own or someone else's name, or receives or accepts from someone for whom he has done something in the line of duty, or for the purpose of receiving a gift disrupts any of his job obligations after the performance of a duty, or without advance agreement refuses to do something or disrupts it for the purpose of getting a reward, shall be sentenced to medium imprisonment and cash fine of equivalent of what has been requested, presented or promised.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 261: If the official of public services, being cognizant of the criminal quality of the act in accordance with the provisions of articles 254,258, and 259 of this Law, accepts through an intermediary an insignificant part of the gift or benefit shall be sentenced to imprisonment of not more than one year and cash fine of equivalent of what he has accepted or received.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **80. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department

(AGO) and judicial branch.

4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **22. Embezzlement of property in the private sector**

### **81. Article 22**

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 268: (1) Any official of public services, to whom the goods of State or persons have been given in the line of his duty, and he embezzles it or hides it shall be sentenced to long imprisonment of not more than years.

(2) If the crime mentioned in the above paragraph is committed by treasurer, storekeeper, collection officer, cashier, petrol official, sugar official, person in-charge of go down, cash or material trustee and officials of food department, or other persons assigned to preserve embezzled or hidden goods, the person committing it shall be sentenced to long imprisonment.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **82. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

**(Y) Yes**

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect

- corruption related crimes
- 3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
- 4. Sharing of international experiences in the fight against corruption
- 5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 23. Laundering of proceeds of crime

### 83. Subparagraph 1 (a) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Transitional Government of Afghanistan concerning the enforcement of the Law on Anti-Money Laundering and Proceeds of Crimes**

**No. (81)**

**Date: 26/07/1383 (October 17, 2004)**

**Article 1:** I promulgate the Law on Money Laundering and Proceeds of Crimes which is ratified in the Council of Ministers in (12) Chapters and (75) Articles in the approval number (31) dated October 11, 2004 (20/07/1383).

**Article 2:** This Decree shall be enforced from the date of promulgation and shall be published together with the law in the Official Gazette.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(a) Conceals, disguises, converts, transfers, removes from or brings into the Islamic Republic of Afghanistan funds and property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions:

(i) In the Islamic Republic of Afghanistan which constitute an offence against any law of the Islamic Republic of Afghanistan; or

(ii) outside the Islamic Republic of Afghanistan which constituted an offence in the place where they occurred and which, had they occurred in the Islamic Republic of Afghanistan, would have constituted an

offence against the law of the Islamic Republic of Afghanistan; or

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **84. Subparagraph 1 (a) (ii) of article 23**

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(a) Conceals, disguises, converts, transfers, removes from or brings into the Islamic Republic of Afghanistan funds and property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions:

(i) In the Islamic Republic of Afghanistan which constitute an offence against any law of the Islamic Republic of Afghanistan; or

(ii) outside the Islamic Republic of Afghanistan which constituted an offence in the place where they occurred and which, had they occurred in the Islamic Republic of Afghanistan, would have constituted an offence against the law of the Islamic Republic of Afghanistan; or

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **85. Subparagraph 1 (b) (i) of article 23**

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such

legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(a) Acquires, possesses or uses funds and property knowing or having reason to believe that it is derived directly or indirectly from those acts or omissions

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**86. Subparagraph 1 (b) (ii) of article 23**

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system:

...

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(c) Enters into or participates in an arrangement or transaction knowing or having reason to believe that it facilitates (by whatever means) the acquisition, retention, use or control of funds and property derived directly or indirectly from those acts or omissions by or on behalf of another person.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**87. Subparagraphs 2 (a) and 2 (b) of article 23**

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

*Has your country adopted and implemented the measures described above? (Check one answer)*

**(Y) Yes**

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(2) Concealing or disguising funds and property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

(3) Knowledge or belief as an element of the offences in subsection 1 may be inferred from objective factual circumstances.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**88. Subparagraph 2 (c) of article 23**

2. For purposes of implementing or applying paragraph 1 of this article:

...

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(a) Conceals, disguises, converts, transfers, removes from or brings into the Islamic Republic of Afghanistan funds and property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions:

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**89. Subparagraph 2 (d) of article 23**

2. For purposes of implementing or applying paragraph 1 of this article:

...

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

*Has your country furnished copies of its laws to the Secretary-General of the United Nations as prescribed above? (Check one answer)*

(Y) Yes

**Decree of the president of Transitional Government of Afghanistan concerning the enforcement of the Law on Anti-Money Laundering and Proceeds of Crimes**

**No. (81)**

**Date: 26/07/1383 (October 17, 2004)**

**Article 1:** I promulgate the Law on Money Laundering and Proceeds of Crimes which is ratified in the Council of Ministers in (12) Chapters and (75) Articles in the approval number (31) dated October 11, 2004 (20/07/1383).

**Article 2:** This Decree shall be enforced from the date of promulgation and shall be published together with the law in the Official Gazette.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **90. Subparagraph 2 (e) of article 23**

2. For purposes of implementing or applying paragraph 1 of this article:

...

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

*Does your country's domestic system contain fundamental principles as referred to in the provision above? (Check one answer).*

(Y) Yes

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 158: If a person commits several crimes and these crimes are not related to one another and prior to the issuance of verdict with respect to any of them there should be nounty no objective to bring the said crimes together, the court shall order the anticipated punishment of each crime and the punishments shall be enforced on him one after another, provided that the total period of imprisonment should not exceed twenty years.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **91. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one*

*answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 24. Concealment

### 92. Article 24

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(c) Enters into or participates in an arrangement or transaction knowing or having reason to believe that it facilitates (by whatever means) the acquisition, retention, use or control of funds and property derived directly or indirectly from those acts or omissions by or on behalf of another person.

(3) Knowledge or belief as an element of the offences in subsection 1 may be inferred from objective factual circumstances.

#### **Decree of the President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption**

**NO. 61**

**Date: 1388/12/27**

Based on the provisions of the Constitution of Afghanistan, in observance of the United Nations Convention against Corruption, and considering the recommendations of the National Conference held on 15 December 2009 in Kabul, in order to delegate more authorities to the High Office of Oversight, the following are approved.

**Article 10:** The High Office of Oversight shall register, verify and publish the

assets of public officials. Upon identification of concealment of truth, the perpetrator, regardless of his or her official status and position shall be referred to the Office of the Attorney General for investigation.

**Article 12:** The High Office of Oversight shall regularly assess the current and previous living standards of high level public officials and all other government employees (both civilian and military); and if their standard of living logically does not match with their legal income, the perpetrators shall be referred to the Office of the Attorney General for prosecution.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **93. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **25. Obstruction of justice**

### **94. Subparagraph (a) of article 25**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 384: A person who, for the purpose of presenting false testimony, requests or accepts a gift or something else and the person who offers the gift or acts as a mediator, shall be both sentenced to the anticipated punishment of the crime of bribery or the crime of false testimony, whichever punishment is more severe.

Article 385: The following persons shall be sentenced to the anticipated punishment of false testimony:

1. A person who compels a witness through coercion, seduction, or any other means to present false testimony even-though his intended aim is not fulfilled.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 95. Subparagraph (b) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 434: A person who threatens another to felony against the life of good of himself or someone else based on dishonoring or revelation of some secret affecting one's honor, in cases other than that mentioned in article 433 of this Law, the offender shall be sentenced to medium imprisonment.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 96. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **26. Liability of legal persons**

### **97. Paragraphs 1 and 2 of article 26**

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

*Has your country established one or more of the forms of liability referred to in the provision above? (Check one answer)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 96: (1) Legal persons, with the exception of State institutions, departments and enterprises, shall be held responsible for the crimes which their representatives, chiefs, and deputies commit in the performance of duty in the same and on account of legal persons.

(2) The court cannot sentence the legal person, except for cash punishment, to confiscation and security measures anticipated in this law.

(3) In cases where the law has anticipated the principal punishment for the crime committed something other than cash punishment, these punishments shall be substituted with cash punishment.

#### **Civil Procedure Law**

Article Three : It is within the jurisdiction of the courts in Afghanistan to hear civil actions.

#### **Acquirement Law**

Article1: (1) This law has been enacted to arrange related affair to acquire civil and

commercial rights of real and executive subjects.

(2) Civil and commercial rights of real and executive subjects should acquire according to Islamic Hanafi jurisprudence and decrees of this law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **98. Paragraph 3 of article 26**

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

*Has your country established one or more of the forms of liability referred to in the provision above?  
(Check one answer)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

(4) Conviction of legal person as above does not prevent application of the anticipated punishments of this Law in the case of the real person who has committed the crime.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **99. Paragraph 4 of article 26**

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

(3) In cases where the law has anticipated the principal punishment for the crime committed something other than cash punishment, these punishments shall be substituted with cash punishment.

### **Civil Procedure Law**

Article Three : It is within the jurisdiction of the courts in Afghanistan to hear civil actions.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (1) The criminal, in addition to the punishments fixed in this chapter, shall also be ordered to return the goods and to pay a cash fine equivalent to the embezzled goods or whatever he has taken into his possession from the State property.

### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

#### **Article 47 – Penalties applicable to corporate entities**

- 1) When the offence of money laundering is committed by an employee, agent or representative acting under their management or control, corporate entities, other than corporate entities owned by the Islamic Republic of Afghanistan, shall be liable to a fine of not less than 250,000 Afghani and not more than 1,250,000 Afghani, without prejudice to the conviction of those individuals as perpetrators of the offence or accessories to it.
- 2) Corporate entities may additionally be:
  - a. banned for a period not to exceed five years from directly or indirectly carrying on certain business activities;
  - b. dissolved if such corporation had been established for the purpose of committing the offence in question or it allowed its premises to be used for such purposes; and
  - c. Required to publicize the judgment in the press or in any other audiovisual media.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **100. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **27. Participation and attempt**

### **101. Paragraph 1 of article 27**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 39: A person is regarded an accomplice in the following Instances:

- (1) When he instigates a person to commit one of the acts comprising the crime and the crime takes place as a result of this instigation.
- (2) When he enters in to an agreement with another Person to commit a crime and the crime takes place as a result of this agreement.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 41: (1) The accomplice shall be sentenced to the punishment of the crime in which he has taken part, unless the Law has stipulated otherwise.

(2) In cases where the principal offender is not punished for any legal reason, this exemption does not obstruct the punishment of the accomplice.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **102. Paragraph 2 of article 27**

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 29: (1) Initiation of a crime is the starting of an act with The intention of committing a felony or misdemeanor, but Whose effects have been stopped or offset by reasons beyond the will of the doer.

(2) Only the decision to commit a crime or performance of Preliminary works is not considered initiation of crime.

(3) Any action with the intention of committing a crime Or misdemeanor, whose fulfillment is impossible due to factors related to the object of crime or the instruments used , is considered initiation of crime provided that the belief of the doer of the act with respect to producing the criminal effect is not arising from mistake or absolute ignorance.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 30: Initiator of felony shall be sentenced to the following Punishments, unless otherwise stipulated in the law:

1. In cases where the punishment for the crime itself Is death, continued imprisonment;
2. In cases where the punishment for the crime itself Is continued imprisonment, long imprisonment;
3. In cases where the punishment for the crime Itself is long imprisonment, medium imprisonment; Or, one half of the maximum punishment of the crime Itself

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**103. Paragraph 3 of article 27**

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 29:(2) Only the decision to commit a crime or performance of Preliminary works is not considered initiation of crime.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **104. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **29. Statute of limitations**

### **105. Article 29**

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Criminal Procedure Code Amendment (1974):**

Afghanistan has already provided under Article 10 and 12 of the Criminal

Procedure Code amendment, dated 1974 a long statute of limitations period, and this time-limit shall be reckoned from the day it was interrupted by the conduct of investigation, interrogation, trial, and collection of evidence.

**ARTICLE 10:** Except as otherwise provided by the law, a criminal case may not be initiated and if initiated shall be dismissed after the expiration of the following time-limits:

- ten years in felony case;
  - three years in misdemeanor case;
  - one year in petty-offenses;
- From the date of their commission.

**ARTICLE 12:** The time-limit set for terminating a criminal action shall be interrupted by the conduct of investigation, interrogation, trial, and the collection of evidence provided that such measures be taken in the presence of the accused or he be officially notified thereof. Expiration of the time-limit shall be reckoned from the day it was interrupted.

Should the time-limit for dismissing a criminal case be interrupted on several occasions, it shall be computed again from the last day of its termination.

## **106. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **30. Prosecution, adjudication and sanctions**

### **107. Paragraph 1 of article 30**

1. Each State Party shall make the commission of an offence established in accordance with this Convention

liable to sanctions that take into account the gravity of that offence.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 23: Crimes are classified to felony, misdemeanor and obscenity from the point of view of seriousness.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 24: Felony is a crime whose doer is sentenced to death or continued imprisonment or long imprisonment.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 25: Misdemeanor is a crime whose doer is sentenced to imprisonment Of more than three month up to five years, or cash fine of more than three thousand Afghanis.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 26: Obscenity is a crime whose doer is sentenced to imprisonment Of 24 hours to three months, or cash fine of up to three thousand Afghanis.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 49 – Aggravating circumstances**

When the offence is perpetrated by a member of a criminal organization or by a corporate

entity owned or controlled by such organization the penalty applicable in such cases shall be;

1. in the case of a natural persons shall not be less than five years and not more than 14 years and a fine of not less than 500,000 Afghani and not more than two million Afghani,
2. in case of a corporate entities, a fine of not less than two million Afghani and not more than 10 million Afghani.
3. The penal law on the aggravating circumstances shall be applicable on this law.

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For more information refer to the chart

**108. Paragraph 2 of article 30**

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 134:** Discovery of crimes shall be the duty of police, and investigation and filing the case against the accused in the court shall be the responsibility of the Attorney's Office, in accordance with the provisions of the law.

The Attorney's Office shall be part of the Executive organ and shall be independent in its performance.

The organization, authority as well as method of work of the Attorney's Office shall be regulated by law.

Special law shall regulate discovery and investigation of crimes of duty by the armed forces, police and officials of national security.

#### **Decree of the President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption**

**NO. 61**

**Date: 1388/12/27**

Based on the provisions of the Constitution of Afghanistan, in observance of the United Nations Convention against Corruption, and considering the recommendations of the National Conference held on 15 December 2009 in Kabul, in order to delegate more authorities to the High Office of Oversight, the following are approved.

**Article 1:** In accordance with the provisions of Articles 23, 32 and 40 of the Interim Criminal Procedures Code for courts, professional members of the High Office of Oversight shall operate as judicial officers

*(Mamoorin-e-Zabt-e-Qazayee)* in issues related to corruption.

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 43- Exemption from liability for Financial Intelligence Unit**

No proceedings shall be instituted and no civil, administrative or criminal action may be

brought or any professional sanction taken against the Financial Intelligence Unit Director

General, officers, employees, agents and experts of the Financial Intelligence Unit who in

good faith carry out their duties in accordance with the provisions of the present law.

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

Article 45 – Undercover operations and controlled delivery

(1) No punishment may be imposed on competent judicial authority who, for the sole purpose of obtaining evidence relating to offences referred to in the present law, perform, in the manner specified in the following paragraph, acts which might be construed as elements constituting any of the offences referred to in articles 3, 48 and 50.

(2) The authorization of the competent judicial authority shall be obtained prior to any operation as described in the preceding paragraph. A detailed report shall be transmitted to that authority upon completion of the operation.

(3) The authority may, by substantiated ruling issued at the request of the competent judicial authority competent to investigate the predicate and money laundering offences] carrying out such operation, delay the freezing or seizure of the money, or any other funds and property or advantage, until the inquiries have been completed and, if necessary, order specific measures for the safe keeping thereof.

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For more information refer to the chart

### **109. Paragraph 3 of article 30**

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 134:** Discovery of crimes shall be the duty of police, and investigation and filing the case against the accused in the court shall be the responsibility of the Attorney's Office, in accordance with the provisions of the law.

The Attorney's Office shall be part of the Executive organ and shall be independent in its performance.

The organization, authority as well as method of work of the Attorney's Office shall be regulated by law.

Special law shall regulate discovery and investigation of crimes of duty by the armed forces, police and officials of national security.

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For more information refer to the chart

### **110. Paragraph 4 of article 30**

4. In the case of offences established in accordance with this Convention, each State Party shall take

appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 31:** Upon arrest, or to prove truth, every individual can appoint a defense attorney. Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law. In criminal cases, the state shall appoint a defense attorney for the indigent. Confidentiality of conversations, correspondence, and communications between the accused and their attorney shall be secure from any kind of violation. The duties and powers of defense attorneys shall be regulated by law.

#### **Interim Criminal Code For Courts Defense Counsel**

**Article 18:** (3) The suspect and the accused can be, in any case, assisted by a defense counsel of their choice.

#### **Interim Criminal Code For Courts Defense Counsel Presence**

**Article 38:** (1) The defense counsel has the right to be present at all times during the interrogation of the suspect.

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For more information refer to the chart

### **111. Paragraph 5 of article 30**

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **Interim Criminal Code For Courts Conditions**

**Article 91:** (1) Conditional release can be granted to a person serving a prison term as consequence of one of more crimes who, during the execution of the penalty, has behaved in such a way to demonstrate his social rehabilitation.

(2) This benefit can be granted only if the person has served three quarters of the term and at least nine months of imprisonment.

(3) In case of life sentence the benefit can be granted only after fifteen years of imprisonment.

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For more information refer to the chart

### **112. Paragraph 6 of article 30**

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

*Has your country established the procedures described above? (Check one answer)*

**(Y) Yes**

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (1) The criminal, in addition to the punishments fixed in this chapter, shall also be ordered to return the goods and to pay a cash fine equivalent to the embezzled goods or whatever he has taken into his possession from the State property.

(2) If the duration of imprisonment of the convict is more than three years, the convict shall be sentenced to debarment from his profession or separation from duty, too.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 268: (3) An official of public services who has been sentenced to debarment from his profession or separation from service, shall be accepted anew in employment or Government service after restoration of honor in accordance with the provisions of the Law of criminal

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For more information refer to the chart

### **113. Subparagraph 7 (a) of article 30**

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

*Has your country established the procedures described above? (Check one answer)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (2) If the duration of imprisonment of the convict is more than three years, the convict shall be sentenced to debarment from his profession or separation from duty, too.

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For more information refer to the chart

### **114. Subparagraph 7 (b) of article 30**

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

...

(b) Holding office in an enterprise owned in whole or in part by the State.

*Has your country established the procedures described above? (Check one answer)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (2) If the duration of imprisonment of the convict is more than three years, the convict shall be sentenced to debarment from his profession or separation from duty, too.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 113: (1) a person is sentenced to continued or long imprisonment of more than ten years shall also be deprived of the following rights and privileges:

1. State employment.
2. Service in the armed forces.
3. Membership of parliament, municipalities, provincial and local councils.
4. Participation in elections as an elector.
5. Use of State titles and decorations, both domestic and foreign.
6. Membership in boards of directors of companies and banks
7. Executorship, trusteeship and procuracy in transactions and claims.
8. Acting as witness in contracts and transactions during the period of conviction.
9. Concluding contracts with State departments and/or obtaining concession from the State.
10. Ownership on concession (license), editorship or chief-editorship of magazines and dailies.

11. Administration of goods and estate during the period of conviction, with the exception of dedication and will.
- (2) If the convicted person is enjoying any of the above rights and privileges at the time of issuance of the verdict, he shall be deprived of it at the instance of issuance of the verdict.

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For more information refer to the chart

### **116. Paragraph 10 of article 30**

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 268: (3) An official of public services who has been sentenced to debarment from his profession or separation from service, shall be accepted anew in employment or Government service after restoration of honor in accordance with the provisions of the Law of criminal

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For more information refer to the chart

### **117. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

**(Y) Yes**

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department

(AGO) and judicial branch.

4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

### **31. Freezing, seizure and confiscation**

#### **118. Subparagraph 1 (a) of article 31**

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 32 – Confiscation**

(1) In the event of a conviction for the offence of actual or attempted money-laundering, an order shall be issued by a competent court for the confiscation of funds and property:

b. constituting the proceeds of the offence, including funds and property Intermingled with such proceeds or derived from or exchanged from such proceeds

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **119. Subparagraph 1 (b) of article 31**

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

...

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

## **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

### **Article 32 – Confiscation**

1) In the event of a conviction for the offence of actual or attempted money-laundering, an order shall be issued by a competent court for the confiscation of funds and property:

- a. used or intended to be used to commit the offence,

## **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 119: (1) The court can in cases where the law has not anticipated confiscation as a punishment, order confiscation of goods obtained through commitment of crime or used during commitment or procured for use in the commitment of crime.

(2) Confiscation order in no case can interfere with the rights of another person of good will.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **120. Paragraph 2 of article 31**

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

## **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

### **Article 31 - Seizure of funds and property**

A competent court, on application of the prosecutor, may issue an order authorizing the prosecutor to seize funds and property associated with the offence that is the subject of an investigation of money laundering, as well as the proceeds of this offence and any evidence facilitating the identification of such funds and property or proceeds.

## **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

### **Article 33 – Confiscation orders**

When the offence which generated the proceeds cannot be prosecuted, either because the perpetrator or perpetrators are unknown or because there is a legal impediment to prosecution for that offence, the public prosecutor's office may

request the judge to have an order issued for the confiscation of the seized funds and property. The judge to whom the request is referred may issue a confiscation order if evidence is adduced that the aforesaid funds and property constitutes proceeds of crime as defined herein.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **121. Paragraph 3 of article 31**

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 30 – Freezing of funds and property and transactions**

1) If, by reason of the seriousness or urgency of the case, the Financial Intelligence Unit

considers it necessary, it may issue an order to freeze funds and property or a transaction for a period not exceeding seven days, which shall be communicated immediately to the funds

and property owner or reporting entity. If the Financial Intelligence Unit finds within the

time provided above that the reasons for suspicion of money laundering no longer exist, it

shall inform the funds and property owner or reporting entity that the freeze order has been

lifted.

2) The Financial Intelligence Unit may, during such seven day period, refer the matter to the prosecutor. During the determination by the prosecutor, the order to freeze the funds and property or execution of the transaction may be extended by the prosecutor up to an additional seven days, and the funds and property owner or reporting entity notified thereof.

The prosecutor shall act promptly to determine whether it is appropriate to submit an

application to a competent court for an order to freeze the funds and property or the

execution of the transaction. If an application has been submitted to the court, the order to freeze the funds and property or the execution of the transaction may be

extended for the same time periods.

3) If the prosecutor finds within the time provided above that the reasons for suspicion of money laundering no longer exist, it shall inform the funds and property owner or reporting entity that the freeze order has been lifted.

4) If the Financial Intelligence Unit or the prosecutor does not act within the time provided above, the freeze order be considered lifted.

5) The term 'funds and property' referred to in this article shall include the categories set forth in subparagraphs (a) through. (d) Of paragraph (1) of Article 32.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **122. Paragraph 4 of article 31**

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 32 – Confiscation**

3) When the funds and property to be confiscated cannot be produced, confiscation may be ordered for funds and property of equivalent value, including any funds and property belonging directly or indirectly to a person convicted of a money laundering offence, or funds and property acquired from the person convicted by his spouse, cohabiter or dependent children, unless fair value has been paid for such funds and property.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **123. Paragraph 5 of article 31**

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 32 – Confiscation**

1) In the event of a conviction for the offence of actual or attempted money-laundering, an order shall be issued by a competent court for the confiscation of funds and property:

b. constituting the proceeds of the offence, including funds and property intermingled with such proceeds or derived from or exchanged from such proceeds,

3) When the funds and property to be confiscated cannot be produced, confiscation may be ordered for funds and property of equivalent value, including any funds and property belonging directly or indirectly to a person convicted of a money laundering offence, or funds and property acquired from the person convicted by his spouse, cohabiter or dependent children, unless fair value has been paid for such funds and property.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**124. Paragraph 6 of article 31**

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 32 – Confiscation**

1) In the event of a conviction for the offence of actual or attempted money-laundering, an order shall be issued by a competent court for the confiscation of funds and property:

b. constituting the proceeds of the offence, including funds and property intermingled with such proceeds or derived from or exchanged from such proceeds,

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **125. Paragraph 7 of article 31**

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 26 – Access to and exchange of information**

1) In the Financial Intelligence Unit may ask any reporting entity to submit, without

charge, any information, documentation and records, for the purposes of exercising its

functions as specified in this law, and any such reporting entity shall comply with such

request.

2) In order to perform its functions under this law and for no other purpose, the Financial Intelligence Unit shall, upon request or directly, be granted access to databases of the public authorities in the Islamic Republic of Afghanistan. Such authorities shall respond to such requests for information in an expeditious manner. In all cases, information thus obtained shall be used by the Financial Intelligence Unit only for purposes of exercising its functions as specified in this law.

3) The Financial Intelligence Unit, Da Afghanistan Bank, and the law enforcement authorities may exchange information on matters within the scope of this law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **126. Paragraph 8 of article 31**

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is

consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 32 – Confiscation**

3) When the funds and property to be confiscated cannot be produced, confiscation may be ordered for funds and property of equivalent value, including any funds and property belonging directly or indirectly to a person convicted of a money laundering offence, or funds and property acquired from the person convicted by his spouse, cohabiter or dependent children, unless fair value has been paid for such funds and property.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**127. Paragraph 9 of article 31**

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 128. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 32. Protection of witnesses, experts and victims

### 129. Paragraph 1 of article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

#### **Article Fourteen: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded.

(2) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **130. Subparagraph 2 (a) of article 32**

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article Fourteen: Informant and Witness Immunity**

(2) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **131. Subparagraph 2 (b) of article 32**

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

...

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(2) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**132. Paragraph 3 of article 32**

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Law of the Organization and Authority of the Courts of Islamic Republic of Afghanistan**

Article 24: Judicial powers and duties of the Supreme Court:

The Supreme Court shall have the following jurisdictions and duties within the scope of interpretation of laws and judicial issues:

4) resolving Courts' Conflict of Jurisdiction and submitting jurisdiction of resolving a case from one court to the other based on proposal by the AGO or party to the claim when reasonable grounds arise.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**133. Paragraph 4 of article 32**

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

*In your domestic legal system, do the provisions of this article also apply to victims insofar as they are witnesses? (Check one answer)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded

**The Constitution of Afghanistan**

Article 51: Any individual suffering damage without due cause from the administration shall deserve compensation, and shall appeal to a court for acquisition.

Except in conditions stipulated by law, the state shall not, without the order of an authoritative court, claim its rights.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **134. Paragraph 5 of article 32**

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

*Is your country in compliance with this provision? (Check one answer.)*

(P) Yes, in part

**Draft on Criminal Procedure Code (2012):**

Afghanistan under article 6 and 7 of the draft of New Criminal Procedure Code, approved by the government and it is currently pending in the National Assembly for approval, provided a wide and fair rights to the victims should be considered at all stages of criminal proceedings as well as to the defence.

## **Rights of the Victim and Plaintiff during the Legal Prosecution Stages**

### **Article 6:**

(1) During the legal prosecution of the case, the victim and plaintiff have the following rights:

1. Fair behavior, respect of their human dignity and personal honor;
2. Ensured Safety
3. Participating during legal prosecution of criminal case and directing special questions to accused in murder and battery crimes.
4. Requesting and reimbursing in and compensation accordance with the provisions of the law;
5. Access to information concerning the proceedings and prosecution results of the case in different stages of the legal prosecution;
6. Objections to judicial officers, experts, prosecutors and judges performances in accordance with the provisions of the law.
7. Access to necessary legal, physical, medical, psychological and social services.

(2) The police, prosecutor's office and court each shall, within their area of jurisdiction, take and enforce required measures to ensure that the victim has access to his or her rights set forth in clause (1) of this article.

## **Rights of Suspect, Accused and Defendant during different Legal Prosecution Stages**

### **Article 7:**

Suspects, accused and defendant are entitled to the following rights during the legal prosecution stages:

1. Understanding the crime they are being charged with and receiving descriptions regarding the accusation and case proceedings.
2. Immunity from arbitrary arrest or detention and the right to receive compensation for any loss in accordance with the provisions of this law.
3. Immunity from insults, contempt, psychological and physical torture and any kind of inhumane behavior.
4. Informing his/her family or relatives at the time of arrest by the arresting authority.
5. To freely give statements and provide reasons.
6. To provide evidence and witnesses; to question the witnesses who have testified against him/her and to ensure the presence of and to hear the witnesses who testify in his/her favor.
7. To remain silent and refuse to make any comments.
8. To assign a defense lawyer or have a legal aid provider in accordance with the provisions of the law.
9. To give comment about seized items and evidence;
10. To have a translator;
11. Access to a copy of materials of investigation and other documents on items related to the case and having enough time to prepare his/her defense statement;
12. To object the proceedings of judicial police officer, experts, prosecutor's office, and court;
13. The right to a hearing before the court to request a ruling on the legality of his/her detention.
14. To have free and confidential written or verbal communication with his/her

legal representative in accordance with this law..

15. The right to be prosecuted without delay in accordance with the law;
16. The right to an open trial in accordance with the provisions of law;
17. The right to be present at trial;
18. Closing statements before the court;
19. The right to disqualify witnesses;
20. The right to refuse judge, prosecutor, defense counsel and experts;

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **135. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **33. Protection of reporting persons**

### **136. Article 33**

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded

(2) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **137. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

**(Y) Yes**

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 34. Consequences of acts of corruption

### 138. Article 34

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

#### **Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded

(2) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

Chapter VII. Exemption from liability

Article 42 – Exemption from liability for bona fide reporting of suspicions

1) No proceedings for breach of banking or professional secrecy shall be instituted and

no civil, administrative or criminal action may be brought or any professional sanction taken

against any person who in good faith transmits information or submits reports in accordance with the provisions of the present law.

#### **Islamic Republic of Afghanistan Procurement Law, 2008**

##### **Contract Termination and Cancellation**

**Article 59:** The procurement contract terminates upon fulfillment of all of its terms, and shall provide for termination prior to contract fulfillment, including,

(a) Termination by the entity on the grounds of default by the contractor in the performance of the contract.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 139. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 35. Compensation for damage

### 140. Article 35

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 6: (1) If a person, who is punished in accordance with provisions of this law, has acquired a good through crime he shall be adjudged to return the good, and if the good should not be available, to return the same or its price to its owner.

(2) A person who inflicts a loss as a result of committing A crime shall be adjudged to compensation of the inflicted loss, too.

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 273: (1) The criminal, in addition to the punishments fixed in this chapter, shall also be ordered to return the goods and to pay a cash fine equivalent to the embezzled goods or whatever he has taken into his possession from the State

property.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **141. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

### **36. Specialized authorities**

#### **142. Article 36**

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption**

**NO. 61**

**Date: 1388/12/27**

Based on the provisions of the Constitution of Afghanistan, in observance of the United Nations Convention against Corruption, and considering the recommendations of the National Conference held on 15 December 2009 in Kabul, in order to delegate more authorities to the High Office of Oversight, the following are approved.

**Article 8:** The High Office of Oversight shall, within three months after the issuance of this decree, propose and establish a Monitoring and Evaluation Committee, composed of Afghan and International experts within its organizational framework. The Committee is responsible to cooperate in setting benchmarks for institutions fighting corruption; and by monitoring and evaluation of anti-corruption efforts at the national level, and of the aid of donor countries and international organizations, and shall report to the President, Parliament, people and international community every six months.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **143. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 37. Cooperation with law enforcement authorities

### 144. Paragraph 1 of article 37

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded

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For more information refer to the chart

### 145. Paragraph 2 of article 37

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 145: When the court in examination of a case finds out that the conditions and circumstances of crime and criminal it the committed felony require compensation, it can

Change the anticipated punishments of the felony as follows:

(1) Death sentence to continued imprisonment or long imprisonment which should not be less than ten years.

(2) Long imprisonment to medium or short imprisonment which should not be less than six months.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 146: When the court in examination of a case finds out that the conditions and circumstances of crime and criminal in the committed misdemeanor require compassion, it can apply the provisions of article 144 of this Law.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 147: In all cases where the court extenuate the punishment in accordance with the provisions of articles 143, 144,145 and 146 of this Law, it is obliged to explain the excuses and circumstances, based on which the punishment has been extenuated, in the reasons for its verdict.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**146. Paragraph 3 of article 37**

3. Each State Party shall consider providing for the possibility, in accordance with the fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

**Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

**Article 42 – Exemption from liability for bona fide reporting of suspicions**

(1) No proceedings for breach of banking or professional secrecy shall be instituted and no civil, administrative or criminal action may be brought or any professional sanction taken against any person who in good faith transmits

information or submits reports in accordance with the provisions of the present law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **147. Paragraph 4 of article 37**

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

##### **Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 42 – Exemption from liability for bona fide reporting of suspicions :

(1) No proceedings for breach of banking or professional secrecy shall be instituted and no civil, administrative or criminal action may be brought or any professional sanction taken against any person who in good faith transmits information or submits reports in accordance with the provisions of the present law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 148. Paragraph 5 of article 37

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or staying in Afghanistan shall be considered As subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 14: (1) Provisions of this law shall be applied to persons who commit crime within the area of the Republican government of Afghanistan. The area of the Republican Government of Afghanistan encompasses any place under its jurisdiction.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 149. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 38. Cooperation between national authorities

### 150. Article 38

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- (a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or
- (b) Providing, upon request, to the latter authorities all necessary information.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **(a)- Interim Criminal Code For Courts**

##### **Chapter 3 Reporting of Crimes and Role of the Saranwal Reporting of Crimes**

**Article 21:** (1) Police are duty bound to report within 24 hours to the Primary Saranwal all the crimes they happen to know.

(2) Public officers are duty bound to report crimes ascertained in the performance of their duties.

(3) Private Citizens are duty bound to report to the judicial police or the Primary Saranwal only crimes against internal and external security.

#### **(b)- Interim Criminal Code For Courts**

##### **Judicial Police's Urgent Activities**

**Article 32:** (1) In case of flagrante delicto and whenever there are grounded reasons to believe that urgent action is needed to preserve the evidence the judicial police can, on their own initiative, conduct preliminary investigations which include:

- a. personal frisks or searches of premises and other places;
- b. seizure of objects and documents;
- c. inspection of persons and places, taking photos;
- d. Requesting the assistance of experts for performing activities which require special professional qualification.

(2) Immediately after having performed the above listed activities, the judicial police shall send a report to the Primary Saranwal.

(3) Defense Counsel of suspect and accused has the right to be present in investigation and interrogation phases according to art. 38 of this code.

#### **The Office of the President of Islamic Republic of Afghanistan Decree On the realization of contents of the historical speech of June 21, 2012 in the special session of National Assembly**

**Articale16:** As the provider of security and social order, the Attorney General must gain the trust of the general public. Therefore, all prosecutors in the country are ordered to fulfill their duties in such a manner that it will demonstrate correction and reform in them. Their conduct must become the impetus for reform

among government employees and members of the society. To this end, it is the duty of the High Office of Oversight and Anti-Corruption, ANP's Department of Criminal Investigation, National Security Directorate, and the Financial Inspection Directorate to cooperate with the Office of the Attorney General in obtaining grounds, evidences of crime. They must do so, not as a parallel institution, but as cooperatives. They must identify the violators of law and corruption people and introduce them to the Attorney General for prosecution.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **151. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **39. Cooperation between national authorities and the private sector**

### **152. Paragraph 1 of article 39**

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 26 – Access to and exchange of information

(1) In the Financial Intelligence Unit may ask any reporting entity to submit, without

charge, any information, documentation and records, for the purposes of exercising its

functions as specified in this law, and any such reporting entity shall comply with such

request.

(2) In order to perform its functions under this law and for no other purpose, the Financial Intelligence Unit shall, upon request or directly, be granted access to databases of the public authorities in the Islamic Republic of Afghanistan. Such authorities shall respond to such requests for information in an expeditious manner. In all cases, information thus obtained shall be used by the Financial Intelligence Unit only for purposes of exercising its functions as specified in this law.

(3) The Financial Intelligence Unit, Da Afghanistan Bank, and the law enforcement

authorities may exchange information on matters within the scope of this law.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 38 – Dissemination of reports

(1) Whenever reasonable grounds to suspect that an offence of money laundering has been committed, the Financial Intelligence Unit shall immediately forward for investigation a report on the facts, together with its opinion, to the prosecutor, which shall decide upon further action. That report shall be accompanied by any relevant documents, other than the actual suspicious transaction report.

**Decree of the President of the Islamic Republic of Afghanistan Regarding effective and practical fight against corruption**

**NO. 61**

**Date: 1388/12/27**

Based on the provisions of the Constitution of Afghanistan, in observance of the United Nations Convention against Corruption, and considering the recommendations of the National Conference held on 15 December 2009 in Kabul, in order to delegate more authorities to the High Office of Oversight, the following are approved.

**Article 2:** The High Office of Oversight, in order to ensure enforcement of the provision stated in Article One of this Decree, shall review and document all complaints and reports related to corruption including assessing its causes and all other aspects. If the action attributed to the individual is identified as crime within the provisions of the law, the High Office of Oversight shall refer the case to the Office of the Attorney General for investigation and prosecution.

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the**

## **Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

### **Cooperation of Offices**

**Article 11:** The offices are obliged to cooperate in the following areas with the High Office for Monitoring in order to achieve the objectives stipulated in this law:

- (1) Providing necessary facilities for the officials of the High Office for Monitoring while conducting assessment of concerned issues.
- (2) Providing the necessary documents, information and explanations for the officials of the High Office for Monitoring, as requested.
- (3) Assigning expert professionals in order to cooperate with the officials of the High Office for Monitoring while conducting assessments, as requested.
- (4) Providing reports about the implementation of the results of previous assessments.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **153. Paragraph 2 of article 39**

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Decree of the president of Islamic Republic of Afghanistan concerning the endorsement of the Law on Monitoring the Implementation of the Anti-Corruption Strategy**

**No. (63)**

**Date: July, 2008 (31/04/1387)**

### **Article 14: Informant and Witness Immunity**

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and according to the condition shall be rewarded.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 42 – Exemption from liability for bona fide reporting of suspicions:

(1) No proceedings for breach of banking or professional secrecy shall be

instituted and no civil, administrative or criminal action may be brought or any professional sanction taken against any person who in good faith transmits information or submits reports in accordance with the provisions of the present law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **154. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

#### **40. Bank secrecy**

##### **155. Article 40**

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

*Has your country adopted the mechanisms described above? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 26 – Access to and exchange of information

(1) In the Financial Intelligence Unit may ask any reporting entity to submit, without charge, any information, documentation and records, for the purposes of exercising its functions as specified in this law, and any such reporting entity shall comply with such request.

(2) In order to perform its functions under this law and for no other purpose, the Financial Intelligence Unit shall, upon request or directly, be granted access to databases of the public authorities in the Islamic Republic of Afghanistan. Such authorities shall respond to such requests for information in an expeditious manner. In all cases, information thus obtained shall be used by the Financial Intelligence Unit only for purposes of exercising its functions as specified in this law.

(3) The Financial Intelligence Unit, Da Afghanistan Bank, and the law enforcement authorities may exchange information on matters within the scope of this law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 156. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 41. Criminal record

### 157. Article 41

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y)** Yes

#### **The Constitution of Afghanistan**

Article 17: The state shall adopt necessary measures to foster education at all levels, develop religious teachings, regulate and improve the conditions of mosques, religious schools as well as religious centers.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 158. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

**(Y)** Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 42. Jurisdiction

### 159. Subparagraph 1 (a) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 14: (1) Provisions of this law shall be applied to persons Who commit crime within the area of the Republican government of Afghanistan. The area of the Republican Government of Afghanistan encompasses any place under its jurisdiction.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **160. Subparagraph 1 (b) of article 42**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

...

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 14: (2) Afghan air-planes and ships, whether inside or Outside Afghanistan, are considered from the area of Afghanistan, unless they are, according to general Principles of international law, subject (to authority) of a foreign state.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **161. Subparagraph 2 (a) of article 42**

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

*Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 17: (1) Provisions of this law are applicable to any Persons who commit a crime against Afghan or Afghanistan's interests outside of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**162. Subparagraph 2 (b) of article 42**

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

*Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 11: Persons who are not subjects of Afghanistan but are Residing or staying in Afghanistan shall be considered as subjects of Afghanistan for the purposes of this Law, unless otherwise specified in the law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**163. Subparagraph 2 (c) of article 42**

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such

offence when:

...

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

*Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)*

**(Y) Yes**

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 18: Any Afghan who discharges of an act outside Afghanistan which is considered crime according to the provisions of this law shall be punished in accordance with the Provisions of this law in case of returning to Afghanistan, Provided that the said act is punishable under the laws of the country in which it was committed.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 3 – Money laundering offence**

(1) A person commits the offence of money laundering if the person:

(a) Conceals, disguises, converts, transfers, removes from or brings into the Islamic Republic of Afghanistan funds and property, knowing or having reason to believe that it is derived directly or indirectly from acts or omissions:

- (i) in the Islamic Republic of Afghanistan which constitute an offence against any law of the Islamic Republic of Afghanistan; or
- (ii) outside the Islamic Republic of Afghanistan which constituted an offence in the place where they occurred and which, had they occurred in the Islamic Republic of Afghanistan, would have constituted an offence against the law of the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**164. Subparagraph 2 (d) of article 42**

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(d) The offence is committed against the State Party.

*Has your country adopted measures to establish its jurisdiction as described above? (Check one answer)*

**(Y) Yes**

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 17: (1) Provisions of this law are applicable to any Persons who commit a crime against Afghan or Afghanistan's interests outside of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**165. Paragraph 3 of article 42**

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

*Is your country in compliance with this provision? (Check one answer)*

(Y) Yes

**The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**166. Paragraph 4 of article 42**

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

**Article 14:** (1) Provisions of this law shall be applied to persons Who commit

crime within the area of the Republican government of Afghanistan. The area of the Republican Government of Afghanistan encompasses any place under its jurisdiction.

(2) Afghan air-planes and ships, whether inside or Outside Afghanistan, are considered from the area of Afghanistan, unless they are, according to general Principles of international law, subject (to authority) of a foreign state.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **167. Paragraph 5 of article 42**

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

C. serving judicial documents.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **168. Paragraph 6 of article 42**

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

*Has your country adopted any grounds of criminal jurisdiction other than those described above? (Check one answer)*

(Y) Yes

## **Official Publication of the Government of the Republic of Afghanistan Penal Code**

Article 14: (1) Provisions of this law shall be applied to persons Who commit crime within the area of the Republican government of Afghanistan. The area of the Republican Government of Afghanistan encompasses any place under its jurisdiction.

### **The Constitution of Afghanistan**

**Article 120:** The authority of the judicial organ shall include consideration of all cases filed by real or incorporeal persons, including the state, as plaintiffs or defendants, before the court in accordance with the provisions of the law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **169. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **IV. International cooperation**

### **44. Extradition**

#### **170. Paragraph 1 of article 44**

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 59 – Dual criminality

Under the present law, and the Law on Combating the Financing of Terrorism , extradition shall be carried out only if the offence giving rise to extradition or a similar offence is provided for under the legislation of the requesting State and of the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **171. Paragraph 2 of article 44**

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

*Has your country adopted and implemented the measures described above? (Check one answer)*

(Y) Yes

**The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **172. Paragraph 3 of article 44**

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

*Has your country adopted and implemented the measures described above? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 52 – Refusal to execute requests

(1) A request for mutual assistance may be refused only:

C. if the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of the Islamic Republic of Afghanistan;

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **173. Paragraph 4 of article 44**

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **174. Paragraph 5 of article 44**

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

*Does your country make extradition conditional on the existence of a treaty? (Check one answer)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

#### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **175. Paragraph 6 of article 44**

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

*Does your country make extradition conditional on the existence of a treaty? (Check one answer)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 176. Paragraph 7 of article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

### **The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 177. Paragraph 8 of article 44

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 52 – Refusal to execute requests**

(1) A request for mutual assistance may be refused only:

- A. if it was not made by a competent authority according to the legislation of the requesting country or if it was not transmitted in the proper manner;
- B. if its execution is likely to prejudice the law and order, sovereignty, security or fundamental principles of the law of the Islamic Republic of Afghanistan;
- C. if the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of the Islamic Republic of Afghanistan;
- D. if the measures requested, or any other measures having similar effects,

are not permitted by the legislation of the Islamic Republic of Afghanistan or if, under the legislation of Afghanistan, they are not applicable to the offence referred to in the request; E. if the decision whose execution is being requested is not enforceable under the legislation of the Islamic Republic of Afghanistan;

F. if there are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status; or

G. if the request relates to an offence of a political nature or is motivated by Political considerations.

(2) Bank secrecy may not be invoked as a ground for refusal to comply with the request.

(3) The public prosecutor's office may appeal against a court's decision to refuse compliance within [?] days following such decision.

(4) The Government of the Islamic Republic of Afghanistan shall promptly inform the foreign Government of the grounds for refusal to comply with its request.

### The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

#### Article 71– Simplified extradition procedure

With regard to the offences provided for under the present law or the Law on Combating the Financing of Terrorism, the Islamic Republic of Afghanistan may grant extradition after receipt of a request for provisional arrest, provided that the person whose extradition is requested explicitly consents thereto.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 178. Paragraph 9 of article 44

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### The Constitution of Afghanistan

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

#### The Constitution of Afghanistan

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 57 – Requests for Extradition

(2) The procedures and principles laid down in the extradition treaty in force or mutual agreement between the requesting State and the Islamic Republic of Afghanistan, or any applicable international convention to which the Islamic Republic of Afghanistan is a party, shall be applied.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **179. Paragraph 10 of article 44**

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 58. Precautionary Measurement

If the public prosecutor's office determines that the circumstances warrant, it shall take appropriate steps to ensure the presence of the person covered by the request for extradition. The court in its discretion, or upon request from the public prosecutor's office, may place the subject of the extradition request under judicial control or in detention.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **180. Paragraph 11 of article 44**

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 62 – Duty to extradite or to refer to prosecutor in International Law

If the Islamic Republic of Afghanistan refuses extradition, it shall refer the case to its competent authorities in order that proceedings may be instituted against the person concerned in respect of the offence which gave rise to the request.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 53 – Request for Investigatory Measures

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **181. Paragraph 12 of article 44**

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**The Constitution of Afghanistan**

**Article 28:** No citizen of Afghanistan accused of a crime shall be extradited to a foreign state without reciprocal arrangements as well as international treaties to which Afghanistan has joined. No Afghan shall be deprived of

citizenship or sentenced to domestic or foreign exile.

**Official Publication of the Government of the Republic of Afghanistan Penal Code**

**Article 19:** With the exception of cases included in articles (6 and 7) of this law, punitive claims cannot be launched against a person who proves that foreign courts have acquitted him in respect of the crime under reference or that he has been convicted and the final pronouncement

Has been implemented upon him, or that the punitive Claim has been dropped in accordance with the law before the pronouncement of the final judgment or punishment of the convict.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**182. Paragraph 13 of article 44**

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article 54

– Requests for provisional measures

(2) Should it refuse to comply with measures not provided for under its legislation, the court to which a request for the execution of provisional measures ordered abroad is referred may replace them by measures which are provided for under that legislation and whose effects correspond most closely to the measures whose execution is being sought.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**183. Paragraph 14 of article 44**

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 25:** Innocence is the original state.

The accused shall be innocent until proven guilty by the order of an authoritative court.

#### **The Constitution of Afghanistan**

**Article 27:** No deed shall be considered a crime unless ruled by a law promulgated prior to commitment of the offense.

No one shall be pursued, arrested, or detained without due process of law.

No one shall be punished without the decision of an authoritative court taken in accordance with the provisions of the law, promulgated prior to commitment of the offense.

#### **The Constitution of Afghanistan**

**Article 29:** Persecution of human beings shall be forbidden.

No one shall be allowed to or order torture, even for discovering the truth from another individual who is under investigation, arrest, detention or has been convicted to be punished.

Punishment contrary to human dignity shall be prohibited.

#### **The Constitution of Afghanistan**

**Article 30:** A statement, confession or testimony obtained from an accused or of another individual by means of compulsion shall be invalid.

Confession to a crime is a voluntary admission before an authorized court by an accused in a sound state of mind.

#### **The Constitution of Afghanistan**

**Article 31:** Upon arrest, or to prove truth, every individual can appoint a defense attorney.

Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law.

In criminal cases, the state shall appoint a defense attorney for the indigent.

Confidentiality of conversations, correspondence, and communications between the accused and their attorney shall be secure from any kind of violation.

The duties and powers of defense attorneys shall be regulated by law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **184. Paragraph 15 of article 44**

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article

##### **60 – Mandatory grounds for refusal**

(1) Extradition shall not be granted:

A. if there are substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **185. Paragraph 16 of article 44**

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article 57

– Requests for Extradition

(1) Requests for the extradition of persons wanted for prosecution in a foreign State shall be executed in the case of the offences provided for in articles 3, [48

and 49] of the present law and Article 2 of the Law on Combating the Financing of Terrorism, or for the purpose of the enforcement of a sentence in respect of any such offence.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### **186. Paragraph 17 of article 44**

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article  
53 – Request for Investigatory Measures

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law  
Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article**

refer to the table of cases in the general information part.

### 187. Paragraph 18 of article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 57 – Requests for Extradition

(1) Requests for the extradition of persons wanted for prosecution in a foreign State shall be executed in the case of the offences provided for in articles 3, [48 and 49] of the present law and Article 2 of the Law on Combating the Financing of Terrorism, or for the purpose of the enforcement of a sentence in respect of any such offence.

(2) The procedures and principles laid down in the extradition treaty in force or mutual agreement between the requesting State and the Islamic Republic of Afghanistan, or any applicable international convention to which the Islamic Republic of Afghanistan is a party, shall be applied.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 188. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination

## 45. Transfer of sentenced persons

### 189. Article 45

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

#### **Official Publication of the Government of the Republic of Afghanistan Penal Code**

**Article 20:** The period of arrest and imprisonment that the accused or convict has spent outside Afghanistan as a result of Application of punitive verdicts shall be deducted from the duration of the punishment to which the person will be sentenced for commitment of the same crime in Afghanistan or from the punishment that is being implemented upon him.

#### **The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

##### **Article 59 – Dual criminality**

Under the present law, and the Law on Combating the Financing of Terrorism , extradition shall be carried out only if the offence giving rise to extradition or a similar offence is provided for under the legislation of the requesting State and of the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 190. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect

- corruption related crimes
- 3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
- 4. Sharing of international experiences in the fight against corruption
- 5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 46. Mutual legal assistance

### 191. Paragraph 1 of article 46

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;

C. serving judicial documents;

D. carrying out searches and seizures;

E. examining objects and sites;

F. providing information and evidentiary items;

G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article

53 – Request for Investigatory Measures

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 192. Paragraph 2 of article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

*Is your country in compliance with this provision? (Check one answer)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article  
53 – Request for Investigatory Measures

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;

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For more information refer to the chart

## 193. Subparagraphs 3 (a) to 3 (i) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;

- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;

*Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

**Article 51 Requests for mutual assistance**

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article

**53 – Request for Investigatory Measures**

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 194. Subparagraphs 3 (j) and 3 (k) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

...

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

*Can your country afford the forms of mutual legal assistance listed in the provision above? (Check one answer)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 30 – Freezing of funds and property and transactions

1) If, by reason of the seriousness or urgency of the case, the Financial Intelligence Unit

considers it necessary, it may issue an order to freeze funds and property or a transaction for a period not exceeding seven days, which shall be communicated immediately to the funds

and property owner or reporting entity. If the Financial Intelligence Unit finds within the

time provided above that the reasons for suspicion of money laundering no longer exist, it

shall inform the funds and property owner or reporting entity that the freeze order has been lifted.

2) The Financial Intelligence Unit may, during such seven day period, refer the matter to the prosecutor. During the determination by the prosecutor, the order to freeze the funds and property or execution of the transaction may be extended by the prosecutor up to an additional seven days, and the funds and property owner or reporting entity notified thereof.

The prosecutor shall act promptly to determine whether it is appropriate to submit an

application to a competent court for an order to freeze the funds and property or the

execution of the transaction. If an application has been submitted to the court, the order to freeze the funds and property or the execution of the transaction may be extended for the same time periods.

3) If the prosecutor finds within the time provided above that the reasons for suspicion of money laundering no longer exist, it shall inform the funds and property owner or reporting entity that the freeze order has been lifted.

4) If the Financial Intelligence Unit or the prosecutor does not act within the time provided above, the freeze order be considered lifted.

5) The term ‘funds and property’ referred to in this article shall include the

categories set forth in subparagraphs (a) through. (d) Of paragraph (1) of Article 32.

### The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

#### Article 31 - Seizure of funds and property

A competent court, on application of the prosecutor, may issue an order authorizing the prosecutor to seize funds and property associated with the offence that is the subject of an investigation of money laundering, as well as the proceeds of this offence and any evidence facilitating the identification of such funds and property or proceeds.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 195. Paragraph 4 of article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

*Is it possible for your country to transmit information as described above?*

(Y) Yes

### The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

#### Article 27 – Relationships with foreign counterparts

(1)The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for that

purpose, conclude cooperation or other agreements with such units

(2)Upon receipt of a request for information or transmission from a foreign financial intelligence unit regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner within the scope of the powers conferred by this law.

(3)Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**196. Paragraph 5 of article 46**

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 69 – Requirement of confidentiality

Where a request requires that its existence and substance be kept confidential, such requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **197. Paragraph 8 of article 46**

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 52 – Refusal to execute requests

(2) Bank secrecy may not be invoked as a ground for refusal to comply with the request.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **198. Subparagraph 9 (a) of article 46**

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

- (1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:
- A. gathering evidence or taking statements from persons;
  - B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  - C. serving judicial documents;
  - D. carrying out searches and seizures;
  - E. examining objects and sites;
  - F. providing information and evidentiary items;
  - G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **199. Subparagraph 9 (b) of article 46**

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

- (1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:
- A. gathering evidence or taking statements from persons;
  - B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  - C. serving judicial documents;
  - D. carrying out searches and seizures;

- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

## The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

### Article 52 – Refusal to execute requests

(1) A request for mutual assistance may be refused only:

- A. if it was not made by a competent authority according to the legislation of the requesting country or if it was not transmitted in the proper manner;
- B. if its execution is likely to prejudice the law and order, sovereignty, security or fundamental principles of the law of the Islamic Republic of Afghanistan;
- C. if the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of the Islamic Republic of Afghanistan;
- D. if the measures requested, or any other measures having similar effects, are not permitted by the legislation of the Islamic Republic of Afghanistan or if, under the legislation of Afghanistan, they are not applicable to the offence referred to in the request;
- E. if the decision whose execution is being requested is not enforceable under the legislation of the Islamic Republic of Afghanistan;
- F. if there are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status; or
- G. if the request relates to an offence of a political nature or is motivated by Political considerations.

(2) Bank secrecy may not be invoked as a ground for refusal to comply with the request.

(3) The public prosecutor's office may appeal against a court's decision to refuse compliance within [?] days following such decision.

(4) The Government of the Islamic Republic of Afghanistan shall promptly inform the foreign Government of the grounds for refusal to comply with its request.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 200. Subparagraph 9 (c) of article 46

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **201. Paragraph 10 of article 46**

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;
  
- (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

## Article 71– Simplified extradition procedure

With regard to the offences provided for under the present law or the Law on Combating the Financing of Terrorism, the Islamic Republic of Afghanistan may grant extradition after receipt of a request for provisional arrest, provided that the person whose extradition is requested explicitly consents thereto.

## The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

### Article 57 – Requests for Extradition

(1) Requests for the extradition of persons wanted for prosecution in a foreign State shall be executed in the case of the offences provided for in articles 3, [48 and 49] of the present law and Article 2 of the Law on Combating the Financing of Terrorism, or for the purpose of the enforcement of a sentence in respect of any such offence.

(2) The procedures and principles laid down in the extradition treaty in force or mutual agreement between the requesting State and the Islamic Republic of Afghanistan, or any applicable international convention to which the Islamic Republic of Afghanistan is a party, shall be applied.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 202. Paragraph 11 of article 46

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

**(a)**-The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

### Article 58. Precautionary Measurement

If the public prosecutor's office determines that the circumstances warrant, it shall

take appropriate steps to ensure the presence of the person covered by the request for extradition. The court in its discretion, or upon request from the public prosecutor's office, may place the subject of the extradition request under judicial control or in detention.

**(b)-The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 58. Precautionary Measurement**

If the public prosecutor's office determines that the circumstances warrant, it shall take appropriate steps to ensure the presence of the person covered by the request for extradition. The court in its discretion, or upon request from the public prosecutor's office, may place the subject of the extradition request under judicial control or in detention.

**(c)-The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 73 – Allocation of Costs**

Costs incurred in complying with requests provided for under the present Law or the Law on Combating the Financing of Terrorism shall be borne by the requesting country unless otherwise agreed with the Islamic Republic of Afghanistan.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 51 Requests for mutual assistance**

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;

**(d)- Official Publication of the Government of the Republic of Afghanistan Penal Code**

**Article 20:** The period of arrest and imprisonment that the accused or convict has spent outside Afghanistan as a result of Application of punitive verdicts shall be deducted from the duration of the punishment to which the person will be sentenced for commitment of the same crime in Afghanistan or from the punishment that is being implemented upon him.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 203. Paragraph 12 of article 46

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article 72

– Restriction on the use of evidence

The communication or use by the Islamic Republic of Afghanistan, except with the prior consent of the foreign Government, for investigations or proceedings other than those specified in the foreign request, of evidentiary facts contained therein, shall be prohibited. Such other investigations or proceedings shall be invalidated, if this Article is violated.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 204. Paragraph 13 of article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

*Has your country established a central authority(ies) as described above? (Check one answer)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 67 – Handling of requests

(1) The [Minister of Foreign Affairs of the Islamic Republic of Afghanistan, after verifying that the request has been made in the proper manner, shall forward it to the public prosecutor's office at the place where the investigations are to be conducted or where the proceeds or funds and property in question are situated or where the person whose extradition is being requested is located. (2)

The public prosecutor's office shall refer the matter to the officials competent to deal with requests for investigation or to the court competent to deal with requests relating to provisional measures, confiscations or extradition.

(3) A judicial officer or a public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 65 – Transmission of requests

(1) Requests sent by competent foreign authorities with a view to establishing money laundering offences, terrorist financing offenses as referred to in the Law on Combating the Financing of Terrorist Financing, or to enforcing or ordering provisional measures or confiscations or for purposes of extradition shall be transmitted through diplomatic channels. (2)

In urgent cases, such requests may be sent through the International Criminal Police Organization (ICPO/Interpol) or directly by the foreign authorities to the judicial authorities of the Islamic Republic of Afghanistan, either by post or by any other, more rapid means of transmission leaving a written or materially equivalent record. In such cases, no official response shall be forwarded regarding the request unless notice is given through diplomatic channels. Requests and their annexes shall be accompanied by a translation in a language acceptable to the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

**205. Paragraph 14 of article 46**

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

*Is your country in compliance with this provision with regard to the communication of requests for mutual*

*legal assistance? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 65 – Transmission of requests

(1) Requests sent by competent foreign authorities with a view to establishing money laundering offences, terrorist financing offenses as referred to in the Law on Combating the Financing of Terrorist Financing, or to enforcing or ordering provisional measures or confiscations or for purposes of extradition shall be transmitted through diplomatic channels. (2) In urgent cases, such requests may be sent through the International Criminal Police Organization (ICPO/Interpol) or directly by the foreign authorities to the judicial authorities of the Islamic Republic of Afghanistan, either by post or by any other, more rapid means of transmission leaving a written or materially equivalent record. In such cases, no official response shall be forwarded regarding the request unless notice is given through diplomatic channels. Requests and their annexes shall be accompanied by a translation in a language acceptable to the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **206. Paragraphs 15 and 16 of article 46**

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- (e) Where possible, the identity, location and nationality of any person concerned; and
- (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 66 – Content of requests

- (1) Requests shall specify:
- A. Name and the authority requesting the measure;
  - B. Name and the requested authority;
  - C. the purpose of the request and any relevant contextual remarks;
  - D. the facts in support of the request;
  - E. any known details that may facilitate identification of the persons concerned, in particular marital status, nationality, address and occupation;
  - F. any information necessary for identifying and tracing the persons, instrumentalities, proceeds or funds and property in question; and
  - G. the text of the statutory provision establishing the offence or, where applicable, a statement of the law applicable to the offence and an indication of the penalty that can be imposed for the offence.
- (2) In addition, requests shall include the following particulars in certain specific cases:
- A. in the case of requests for the taking of provisional measures: a description of the measures sought;
  - B. in the case of requests for the making of a confiscation order: a statement of the relevant facts and arguments to enable the judicial authorities to order the confiscation under domestic law;
  - C. in the case of requests for the enforcement of orders relating to provisional measures or confiscations:
    - i. a certified true copy of the order, and a statement of the grounds on whose basis the order was made if they are not indicated in the order itself;
    - ii. A document certifying that the order is enforceable and not subject to ordinary means of appeal; and
    - iii. An indication of the extent to which the order is to be enforced and, where applicable, the amount of the sum for which recovery is to be sought in the item or items of funds and property; and d. Where necessary and if possible, any information concerning third-party rights of claim on the instrumentalities, proceeds, funds and property or other things in question.
- (3) In the case of requests for extradition, if the person has been convicted of an offence: the original or a certified true copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable and the extent to which the sentence remains to be served.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **207. Paragraph 17 of article 46**

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 67 – Handling of requests

(1) The [Minister of Foreign Affairs of the Islamic Republic of Afghanistan, after verifying that the request has been made in the proper manner, shall forward it to the public prosecutor's office at the place where the investigations are to be conducted or where the proceeds or funds and property in question are situated or where the person whose extradition is being requested is located. (2)

The public prosecutor's office shall refer the matter to the officials competent to deal with requests for investigation or to the court competent to deal with requests relating to provisional measures, confiscations or extradition.

(3) A judicial officer or a public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 65 – Transmission of requests

(1) Requests sent by competent foreign authorities with a view to establishing money laundering offences, terrorist financing offenses as referred to in the Law on Combating the Financing of Terrorist Financing ,or to enforcing or ordering provisional measures or confiscations or for purposes of extradition shall be transmitted through diplomatic channels. (2) In

urgent cases, such requests may be sent through the International Criminal Police Organization (ICPO/Interpol) or directly by the foreign authorities to the judicial authorities of the Islamic Republic of Afghanistan, either by post or by any other, more rapid means of transmission leaving a written or materially equivalent record. In such cases, no official response shall be forwarded regarding the request unless notice is given through diplomatic channels. Requests and their annexes shall be accompanied by a translation in a language acceptable to the Islamic Republic of Afghanistan.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **208. Paragraph 18 of article 46**

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

*Does your country permit hearings of individuals mentioned above to take place by video conference as described above? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 68 – Additional information The Ministry of Foreign Affairs shall, *ex officio* or at the request of the court to which the matter is referred, be entitled to request, through diplomatic channels or directly, the competent foreign authority to provide all additional information necessary for complying with the request or facilitating compliance therewith.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 67 – Handling of requests

(3) A judicial officer or a public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **209. Paragraph 19 of article 46**

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

#### Article 69 – Requirement of confidentiality

Where a request requires that its existence and substance be kept confidential, such requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### 210. Paragraph 20 of article 46

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 69 – Requirement of confidentiality

Where a request requires that its existence and substance be kept confidential, such requirement shall be observed except to the extent necessary to give effect to the request. If that is not possible, the requesting authorities shall be promptly informed to that effect.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### 211. Paragraph 21 of article 46

21. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;
- (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;
- (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
- (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

*Does your country's legal system recognize any ground for refusal? (Check one answer)*

**(Y) Yes**

**(a)- The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

**(b)- The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 52 – Refusal to execute requests**

(1) A request for mutual assistance may be refused only:

- A. if it was not made by a competent authority according to the legislation of the requesting country or if it was not transmitted in the proper manner;

**(c)- The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 52 – Refusal to execute requests**

(1) A request for mutual assistance may be refused only:

- C. if the offence to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of the Islamic Republic of Afghanistan;

**(d)- The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 52 – Refusal to execute requests**

(1) A request for mutual assistance may be refused only:

- A. if it was not made by a competent authority according to the legislation of the requesting country or if it was not transmitted in the proper manner;
- B. if its execution is likely to prejudice the law and order, sovereignty, security or fundamental principles of the law of the Islamic Republic of Afghanistan;
- D. if the measures requested, or any other measures having similar effects, are not permitted by the legislation of the Islamic Republic of Afghanistan or if, under the legislation of Afghanistan, they are not applicable to the

offence referred to in the request; E. if the decision whose execution is being requested is not enforceable under the legislation of the Islamic Republic of Afghanistan;

F. if there are substantial grounds for believing that the measure or order being sought is directed at the person in question solely on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status; or

G. if the request relates to an offence of a political nature or is motivated by Political considerations.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **212. Paragraph 22 of article 46**

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 52 – Refusal to execute requests

(2) Bank secrecy may not be invoked as a ground for refusal to comply with the request.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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For more information refer to the chart

### 213. Paragraph 23 of article 46

23. Reasons shall be given for any refusal of mutual legal assistance.

*Is your country in compliance with this provision? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 52 – Refusal to execute requests

(4) The Government of the Islamic Republic of Afghanistan shall promptly inform the foreign Government of the grounds for refusal to comply with its request.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 214. Paragraph 24 of article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records

showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **215. Paragraph 25 of article 46**

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 70 – Postponement

The public prosecutor's office may postpone referring the matter to the police authorities or to the court only if the measure or order sought could interfere with ongoing investigations or proceedings. It shall immediately inform the requesting authority accordingly by diplomatic channels or directly.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **216. Paragraph 26 of article 46**

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the

principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **217. Paragraph 27 of article 46**

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Chapter

VII. Exemption from liability

Article 42 – Exemption from liability for bona fide reporting of suspicions

(1) No proceedings for breach of banking or professional secrecy shall be instituted and

no civil, administrative or criminal action may be brought or any professional sanction taken

against any person who in good faith transmits information or submits reports in accordance with the provisions of the present law.

### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state

agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **218. Paragraph 28 of article 46**

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 73 – Allocation of Costs

Costs incurred in complying with requests provided for under the present Law or the Law on Combating the Financing of Terrorism shall be borne by the requesting country unless

otherwise agreed with the Islamic Republic of Afghanistan.

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For more information refer to the chart

### **219. Subparagraph 29 (a) of article 46**

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

## Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### 220. Subparagraph 29 (b) of article 46

29. The requested State Party:

...

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(1) The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for that purpose, conclude cooperation or other agreements with such units.

(2) Upon receipt of a request for information or transmission from a foreign financial intelligence unit regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner within the scope of the powers conferred by this law.

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **221. Paragraph 30 of article 46**

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **222. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **47. Transfer of criminal proceedings**

## 223. Article 47

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 224. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## 48. Law enforcement cooperation

### 225. Subparagraph 1 (a) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(1) The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for that purpose, conclude cooperation or other agreements with such units.

(2) Upon receipt of a request for information or transmission from a foreign financial intelligence unit regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner within the scope of the powers conferred by this law.

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **226. Subparagraph 1 (b) of article 48**

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 51 Requests for mutual assistance**

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 66 – Content of requests**

(1) Requests shall specify:

- E. any known details that may facilitate identification of the persons concerned, in particular marital status, nationality, address and occupation;
- G. the text of the statutory provision establishing the offence or, where applicable, a statement of the law applicable to the offence and an indication of the penalty that can be imposed for the offence.

**The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law**

**Article 63 – Surrender of funds and property**

(1) Within the limits authorized under the national legislation and subject to the rights of third parties, all funds and property found in the territory of the Islamic Republic of Afghanistan that has been acquired as a result of the offence committed or that may be required as evidence shall be surrendered to the requesting State if extradition is granted, upon request by that state.

(2) The funds and property in question may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to can't be carried out.

(3) Should the funds and property be liable to seizure or confiscation in the territory of the Islamic Republic of Afghanistan, the State may temporarily retain it

or hand it over.

(4) Where the national legislation or the rights of third parties so require, any funds and property so surrendered shall be returned to the Islamic Republic of Afghanistan free of charge, after the completion of the proceedings, if the Islamic Republic of Afghanistan so requests.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **227. Subparagraph 1 (c) of article 48**

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article 53 – Request for Investigatory Measures

(1) Investigatory measures shall be undertaken in conformity with the legislation of the Islamic Republic of Afghanistan unless the competent foreign authorities have requested that a specific procedure compatible with the legislation of the Islamic Republic of Afghanistan be followed.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
  
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and

records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **228. Subparagraph 1 (d) of article 48**

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 51 Requests for mutual assistance

(1) Upon application by a foreign State, requests for mutual assistance in connection with offences provided in the present law and in the Law on Combating the Financing of Terrorism shall be executed in accordance with the principles set out in this Chapter. Mutual assistance may include in particular:

- A. gathering evidence or taking statements from persons;
- B. providing assistance to make detained persons or others available to the judicial authorities of the requesting State in order to give evidence or assist in investigations;
- C. serving judicial documents;
- D. carrying out searches and seizures;
- E. examining objects and sites;
- F. providing information and evidentiary items;
- G. providing originals or certified copies of relevant documents and records, including bank statements, accounting documents, and records showing the operations of a company or its business activity.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## 229. Subparagraph 1 (e) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(1) The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for that purpose, conclude cooperation or other agreements with such units.

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For more information refer to the chart

## 230. Subparagraph 1 (f) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

...

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 27 – Relationships with foreign counterparts

(1) The Financial Intelligence Unit may, spontaneously or on request, provide, receive or exchange information with foreign financial intelligence units and foreign counterparts performing similar functions with respect to reports of suspicious transactions, provided that this is done on a reciprocal basis, and that such counterparts are subject to similar requirements of confidentiality. It may, for

that purpose, conclude cooperation or other agreements with such units.

(2) Upon receipt of a request for information or transmission from a foreign financial intelligence unit regarding a report of a suspicious transaction, the Financial Intelligence Unit shall respond to that request in an expeditious manner within the scope of the powers conferred by this law.

(3) Prior to forwarding personal data to foreign authorities the Financial Intelligence Unit shall obtain assurances that such information will be protected by the same confidentiality provisions as apply to similar information from domestic sources obtained by the foreign financial intelligence unit and that the foreign authority shall use the data solely for the purposes stipulated by this Law.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **231. Paragraph 2 of article 48**

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

*Has your country entered into bilateral or multilateral agreements or arrangements on direct cooperation with law enforcement agencies of other States parties? (Check one answer.)*

(Y) Yes

#### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **232. Paragraph 3 of article 48**

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

*Is your country in compliance with this provision? (Check one answer.)*

(Y) Yes

### **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

## **233. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **49. Joint investigations**

### **234. Article 49**

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

*Has your country adopted and implemented the measures described above? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article 53

– Request for Investigatory Measures

(1) Investigatory measures shall be undertaken in conformity with the legislation of the Islamic Republic of Afghanistan unless the competent foreign authorities have requested that a specific procedure compatible with the legislation of the Islamic Republic of Afghanistan be followed.

(2) A judicial officer or public official appointed by the competent foreign authority may attend the execution of the measures, depending on whether they are carried out by a judicial officer or by a public official.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **235. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch

## **50. Special investigative techniques**

### **236. Paragraph 1 of article 50**

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

*Has your country adopted and implemented the measures described above? (Check one answer.)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law Article

72 – Restriction on the use of evidence

The communication or use by the Islamic Republic of Afghanistan,, except with the prior consent of the foreign Government,. For investigations or proceedings other than those specified in the foreign request, of evidentiary facts contained therein, shall be prohibited,. Such other investigations or proceedings shall be invalidated, if this Article is violated.

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 45 – Undercover operations and controlled delivery

1) No punishment may be imposed on competent judicial authority who, for the sole purpose of obtaining evidence relating to offences referred to in the present law, perform, in the manner specified in the following paragraph, acts which might be construed as elements constituting any of the offences referred to in articles 3, 48 and 50.

2) The authorization of the competent judicial authority shall be obtained prior to any operation as described in the preceding paragraph. A detailed report shall be transmitted to that authority upon completion of the operation.

3) The authority may, by substantiated ruling issued at the request of the competent judicial authority competent to investigate the predicate and money laundering offences] carrying out such operation, delay the freezing or seizure of the money, or any other funds and property or advantage, until the inquiries have been completed and, if necessary, order specific measures for the safe keeping thereof.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **237. Paragraph 2 of article 50**

2. For the purpose of investigating the offences covered by this Convention, States parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

*Is your country in compliance with this provision? (Check one answer.)*

**(Y) Yes**

## **The Constitution of Afghanistan**

**Article 7:** The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights.

The state shall prevent all kinds of terrorist activities, cultivation and smuggling of narcotics, and production and use of intoxicants.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **238. Paragraph 3 of article 50**

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

*Has your country adopted and implemented the measures described above? (Check one answer)*

**(Y) Yes**

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law  
Article 54 – Requests for provisional measures

(2) Should it refuse to comply with measures not provided for under its legislation, the court to which a request for the execution of provisional measures ordered abroad is referred may replace them by measures which are provided for under that legislation and whose effects correspond most closely to the measures whose execution is being sought.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

### **239. Paragraph 4 of article 50**

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

*Has your country adopted and implemented the measures described above? (Check one answer)*

(Y) Yes

The Islamic Republic of Afghanistan Anti-Money Laundering and Proceeds of Crime Law

Article 63 – Surrender of funds and property

(1) Within the limits authorized under the national legislation and subject to the rights of third parties, all funds and property found in the territory of the Islamic Republic of Afghanistan that has been acquired as a result of the offence committed or that may be required as evidence shall be surrendered to the requesting State if extradition is granted, upon request by that state.

(2) The funds and property in question may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to can't be carried out.

(3) Should the funds and property be liable to seizure or confiscation in the territory of the Islamic Republic of Afghanistan, the State may temporarily retain it or hand it over.

(4) Where the national legislation or the rights of third parties so require, any funds and property so surrendered shall be returned to the Islamic Republic of Afghanistan free of charge, after the completion of the proceedings, if the Islamic Republic of Afghanistan so requests.

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**For the specific activities, actions and achievement relevant to this article refer to the table of cases in the general information part.**

#### 240. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

*Do you require technical assistance for the (full) implementation of the article under review? (Check one answer)*

(Y) Yes

1. Facilitating the public awareness through mass media
2. Technical and modern equipment are required to investigate and detect corruption related crimes
3. Professional capacity building of the detection & investigation department (AGO) and judicial branch.
4. Sharing of international experiences in the fight against corruption
5. Sharing of international experiences and facilitating effective coordination methods between detection & investigation department and judicial branch