

REPORT 04 OF 2021



House of the Federation

SENATE SECRETARIAT

**REPORT OF THE
SENATE STANDING COMMITTEE ON INTERIOR**

**“THE MUTUAL LEGAL ASSISTANCE (CRIMINAL MATTERS)
(AMENDMENT) BILL, 2021” MOVED BY MINISTER OF STATE
FOR PARLIAMENTARY AFFAIRS ON BEHALF OF
MINISTER FOR INTERIOR IN THE SENATE SITTING
HELD ON 18TH JUNE, 2021**

PRESENTED BY

**SENATOR MOHSIN AZIZ
Chairman
Standing Committee on Interior**

SENATE SECRETARIAT

Report of Senate Standing Committee on "The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021" moved by Minister of State for Parliamentary Affairs on behalf of Minister for Interior in the Senate sitting held on 18th June, 2021.

1. Chairman of Senate Standing Committee on Interior, have the Honour to present report on "**The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021" moved by Minister of State for Parliamentary Affairs on behalf of Minister for Interior in the Senate sitting held on 18th June, 2021.**

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House under Rule-98 of the Rules of Procedure and Conduct of Business in the Senate, 2012.

3. The composition of the Standing Committee on Interior is as under: -

1.	Senator Mohsin Aziz	Chairman
2.	Senator Syed Yousaf Raza Gillani (Leader of the Opposition)	Member
3.	Senator Rana Maqbool Ahmad	Member
4.	Senator Azam Nazeer Tarar	Member
5.	Senator Moula Bux Chandio	Member
6.	Senator Samina Mumtaz	Member
7.	Senator Faisal Saleem Rahman	Member
8.	Senator Shahadat Awan	Member
9.	Senator Fawzia Arshad	Member
10.	Senator Syed Faisal Ali Subzwari	Member
11.	Senator Dilawar Khan	Member
12.	Senator Sarfraz Ahmed Bugti	Member
13.	Senator Saifullah Abro	Member
14.	Minister for Interior	Ex-Officio Member

4. The Committee considered and discussed the Bill in its meetings held on 29th June, 2021 and 09th July, 2021. The final meeting was attended by the following Members: -

1.	Senator Mohsin Aziz	Chairman
2.	Senator Rana Maqbool Ahmad	Member
3.	Senator Azam Nazeer Tarar	Member
4.	Senator Moula Bux Chandio	Member
5.	Senator Samina Mumtaz	Member
6.	Senator Faisal Saleem Rahman	Member
7.	Senator Shahadat Awan	Member
8.	Senator Fawzia Arshad	Member
9.	Senator Syed Faisal Ali Subzwari	Member
10.	Senator Dilawar Khan	Member
11.	Senator Sarfraz Ahmed Bugti	Member
12.	Senator Saifullah Abro	Member

5. Director General, FATF stated that FATF has raised some deficiencies regarding International Cooperation as there was not proper and adequate act in this respect. In the light of the recommendations made by FATF, the Government of Pakistan enacted Mutual Legal Assistance Act, 2020 on 12th August, 2020. Pakistan submitted its follow up

Report in September, 2020 and submitted the reply of deficiencies in the light of newly enacted MLA Act, 2020. However, FATF downgraded the report submitted by Pakistan and again pointed out some deficiencies in the newly enacted MLA Act, 2020 and accordingly downgraded recommendations 37-38 from partially compliant to Non-compliant. Moreover, an action plan is also given to Pakistan in respect of amendments in MLA, 2020. The matter was discussed in the meeting of the Executive Committee of the Central Authority. After detailed deliberations with all the concerned authorities including Law and Justice Division, Ministry of Interior (FATF WING) devised the amendments in the light of FATF queries and action plan.

6. Senators Azam Nazir Tarar, Rana Maqbool Ahmed, Maula Bakhsh Chandio and Shahadat Syed Awan raised objections against the proposed amendments in "The Mutual Legal Assistance Act, 2020" especially on the composition and procedure of the "Central Authority".

7. Director General. FATF informed the Committee that confiscation order means an order made by a court in the Islamic Republic of Pakistan or a court of a country with whom the Islamic Republic of Pakistan has entered into reciprocal agreement for the confiscation of proceeds of instrumentalities of crime or terrorist property after criminal conviction or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on.

8. Senator Dilawar Khan put a question to the DG. FATF as to whether Pakistan will be deleted from the grey list of FATF if this legislation is made by the Parliament?

9. DG. FATF replied that with enactment of this legislation Pakistan might get cleared or not put in the black list at least.

10. Responding to queries on the Central Authority, Director General FATF informed that the Central Authority will work in accordance with the best practice all over the world. As far as the names of the countries who are signatories of such legislation with the FATF, include Sri Lanka, USA, UK, Malaysia, Indonesia and China. All these countries have single authority like Central Authority. It is also pertinent that Central Authority cannot act on its own but it will act on the directions of the Cabinet as it is quite clear in Section-13 and Section-14 of the Act. And secondly, Central Authority will get permission from the court before issuance of a Notice for confiscation of any property. It means that Central Authority acts like a post office. He further elaborated that the fundamental rights of a person will not be effected.

11. Senator Faisal Sabzwari raised a question as to whether it is a discretion of Central Authority to approach the court or not before issuance of the notice.

12. DG. FATF answered that Central Authority will act on genuine requests and approach the court and if there is no genuine request no action will be taken.

13. Senator Faisal Saleem Rahman was of the view that the matter of the Bill is national issue and if we can get rid of the grey list we should pass it.

14. After a detailed discussion in the meeting, Senators Azam Nazir Tarar, Rana Maqbool Ahmed, Maula Bakhsh Chandio and Shahadat Awan did not agree with the explanation presented by the DG. FATF and dissented with the proposed amendments and were of the point of view that The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021" was taken up in the meetings of the committee on 29th June and 09th July, 2021. The Committee required Minutes of the meeting of Standing Committee on Interior in

REPORT 04 OF 2021

National Assembly regarding the said Bill. It has been reported by the concerned officials that the Bill was not referred to the Standing Committee in National Assembly. As far as the amendments contained in the Bill are concerned, we oppose the same. Amendment in Section- 2 Clause (C) reconstitutes the Central Authority in a way limiting it to a single individual while excluding other relevant ministries as well as representatives of provincial governments. The amendment of Section-2 Clause (i) is also opposed on the ground the confiscating order without criminal conviction in Section-4 are vague and the amendment proposed in Section-5 is against the fundamental principle of natural justice.

15. Chairman Committee stated that the questions raised by Members of the committee have been well answered one by one by the government. He also clarified that the Central Authority is not the absolute forum to act rather it has to go through a procedure. If the Central Authority receives a request from some foreign country it will be sent to Cabinet and after its approval the request will be sent to the court for issuance of notice. He elaborated that issuance of notice under such process is not contravention to the fundamental human rights as per constitution of Pakistan. He stated that the committee has deliberated on the Bill in its two meetings and all members have expressed their views on all aspects. The government has categorically clarified all queries raised by the members.

16. Keeping in view the above, Chairman Committee put **"The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021"** to vote in the committee.

17. Seven (07) Members of the Committee, namely; Senators Samina Mumtaz, Faisal Saleem Rahman, Fawzia Arshad, Faisal Ali Subzwari, Dilawar Khan, Sarfraz Ahmed Bugti and Saifullah Abro voted in favour of **"The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021"** and Four (04) Members, namely; Senators Rana Maqbool Ahmad, Azam Nazeer Tarar, Shahadat Awan and Moula Bux Chandio voted against the Bill.

18. Keeping in view the above, the Committee recommends, with a vote of majority of the Members, that **"The Mutual Legal Assistance (Criminal Matters) (Amendment) Bill, 2021"** may be passed by the Senate as presented in the House.



(TANVIR AHMED)
D.G. / Secretary Committee



(SENATOR MOHSIN AZIZ)
Chairman
Senate Standing Committee on Interior

Islamabad, the
09th July, 2021

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

to amend the Mutual Legal Assistance (Criminal Matters) Act, 2020

WHEREAS it is expedient to amend the Mutual Legal Assistance (Criminal Matters) Act, 2020 (Act XXII of 2020), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**—(1) This Act shall be called the Mutual Legal Assistance (Criminal Matters) (Amendment) Act, 2021.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XXII of 2020.**— In the Mutual Legal Assistance (Criminal Matters) Act, 2020 (Act XXII of 2020), hereinafter referred to as the said Act, in section 2,—

(i) for clause (c), the following shall be substituted, namely:-

"(c) "central authority" means the secretary to the Ministry of Interior, Government of the Islamic Republic of Pakistan;"

(ii) in clause (i), for the word "after", the words "or for the property derived or obtained directly or indirectly from the offence of money laundering or property of corresponding value whether or not the order is based on", shall be substituted;" and

(iii) for clause (d), the following shall be substituted, namely:-

"(d) "criminal offence" means an offence punishable under the Pakistan Penal Code (Act XLV of 1860) or under any law for the time being in force in Pakistan or an offence against law of a foreign country which is subject matter of mutual legal assistance arrangements;"

3. **Amendment of section 4, Act XXII of 2020.**— In the said Act, in section 4,—

- (i) after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1A) All the request of mutual legal assistance shall be processed and decided by the central authority expeditiously.”; and

- (ii) in sub-section (2),—

(a) in clause (a), for the word “offence”, the word “matter” shall be substituted; and

(b) in clause (b), for the word “offence”, the word “matter” shall be substituted.

4. **Amendment of section 5, Act XXII of 2020.**— In the said Act, in section 5, in sub-section (1), for the colon, a full-stop shall be substituted and thereafter the existing proviso shall be omitted.

5. **Amendment of section 8, Act XXII of 2020.**— In the said Act, in section 8, in sub-section (1), for the words “investigations commenced or proceedings instituted”, the words “criminal matters”, shall be substituted.

6. **Amendment of section 17, Act XXII of 2020.**— In the said Act, in section 17, in sub-section (1), clause (d) shall be omitted.

7. **Amendment of section 18, Act XXII of 2020.**— In the said Act, in section 18, in sub-section (1), for the words “Unless otherwise authorized by law”, the words “Under the said Act”, shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Subject: **AMENDMENT IN MUTUAL LEGAL ASSISTANCE (CRIMINAL MATTER) AMENDMENT) ACT, 2021.**

Increase in transnational organized crime has made it necessary for international community and Pakistan to improve effectiveness of legal instruments. Lack of uniformity in law and weak coordination mechanism between countries affects combating of crimes across borders. In order to overcome these challenges, essential legal cover was required. International cooperation in criminal matters through mutual legal assistance and extradition is intended to bridge existing gaps in respective countries toward effective law enforcement. The requested state will provide mutual legal support to the requesting state by executing necessary actions on its territory in any specific criminal case warranting shared assistance.



(Sheikh Rashid Ahmed)

Minister of Interior