



# Pandora Papers: Is it illegal to setup an offshore company?

AHMAD FRAZ, FARHAT MAHMOOD AND HENNA AHSAN



Offshore companies refer to any business activity that takes place outside of the resident country. This term is usually used in the financial sectors to describe locations where regulations are different than that of the home country. Offshore locations are generally island nations, where entities set up their corporations, investments, and deposits e.g. British Virgin Islands, Seychelles, The Caribbean, Hong Kong and Belize.

There exists an impression that an offshore company is not a legal entity but this isn't the case because offshore company incorporation doesn't exclude the company from the law, instead, the company owner is bound by the laws of that location/country and hence matters such as compliance, accounting, filing, and licensing must all be taken earnestly. The benefits available to offshore companies include favorable tax laws, relaxed regulations, asset protection, some level of confidentiality and reduced risk due to diversified portfolio formation. But critics suggest that offshoring helps hide tax liabilities and money laundering.

Although offshore institutions can also be used for illicit purposes but they aren't considered illegal. Loopholes in the law allow people to legally avoid paying some taxes by moving their money or setting up companies in tax havens, but it is often seen as unethical. In Pakistan whenever an investigation based on leaked documents of offshore companies is released, the same question comes in the mind of the general people: is having an offshore company legal or illegal? Like elsewhere in Pakistan, the law requires the owners of such entities to declare them to the tax authorities and the Security and Exchange Commission of Pakistan (SECP). Once it is done, there should be no legal implications unless there exists a misrepresentation of facts.

About 2.94 terabyte data comprising 12 million documents from 14 sources uncover the offshore secrets of wealthy elites from more than 200 countries and territories. The investigative revelations were done by more than 600 journalists from around 150 media outlets residing in about 117 countries. Most of the data gathered and analyzed spans the period from 1996 to 2000 that exposed the hidden wealth, tax avoidance and,

## Registration procedure of offshore company:

1. Registration form
2. Support documents (i.e. Proof of ID - e.g. passport copy or national ID card, Proof of address, Professional reference written by a lawyer
3. Make the payment.

in some cases, money laundering by some of the world's rich and powerful people. The investigation took 18 months and was led by ICIJ-International Consortium of Investigative Journalists.

## Pandora papers comparison to other leaks:

1. Offshore Leaks (260 GB, 2013)
2. Panama papers (2.6 TB, 2016)
3. Panama papers (2.94 TB, 2021)

**Source:** International Consortium of Investigative Journalists (ICIJ)

It wouldn't be wrong to call Pandora Papers the world's largest investigation done so far. The famous 2016 Panama papers investigation was too based on the scrutiny of huge amount of data, about 2.6 terabytes, but the difference lies in the number of sources from which data has been gathered. The Pandora Papers information came from 14 providers that offer services in at least 38 jurisdictions while the Panama Papers investigation was based on documents from a single provider, the now-defunct Mossack Fonseca law firm. Further the Pandora Papers gathered information on more than 27,000 companies and 29,000 so-called ultimate beneficial owners which is more than twice the number of beneficial owners identified in the Panama Papers. The cache of almost 12 million files – dubbed the 'Pandora Papers' – is said to cover the activities of some 35 current or former world leaders, more than 400 public officials and 100 billionaires. There are twelve names of current head of states and 10 are former head of states from different countries in these papers, none of them were Pakistanis are available on Wikipedia.

Head of states	Former head of states
Ilham Aliyev, President of Azerbaijan	César Gaviria, former President of Colombia.
Sebastián Piñera, President of Chile	Andrés Pastrana, former President of Colombia.
Denis Sassou Nguesso, President of the Republic of the Congo	Alfredo Cristiani, former President of El Salvador
Nicos Anastasiades, President of Cyprus	Francisco Flores Pérez, former President of El Salvador
Luis Abinader, President of the Dominican Republic	Porfirio Lobo Sosa, former President of Honduras
Guillermo Lasso, President of Ecuador	Ricardo Martinelli, former President of Panama
Ali Bongo Ondimba, President of Gabon	Ernesto Pérez Balladares, former President of Panama
Abdullah II, King of Jordan	Juan Carlos Varela, former President of Panama
Uhuru Kenyatta, President of Kenya	Horacio Cartes, former President of Paraguay
Milo Đukanović, President of Montenegro	Pedro Pablo Kuczynski, former President of Peru
Tamim bin Hamad Al Thani, Emir of Qatar	
Volodymyr Zelensky, President of Ukraine	

In Pakistan ICIJ media partner is a small media outlet “Center for Investigative Reporting” (CIRP) registered under Trust Act and ICIJ members in Pakistan include Aamir Latif, Ahmed Rashid and Umar Cheema. Umar Cheema and another journalist Fakhar Durrani, who is not listed as a member on ICIJ website, are the key players which contributed to unravel the network of these offshore companies in reference to Pakistan. The names exposed by these two journalists include politicians, generals, bureaucrats, businessmen, media houses owners and their facilitators. As per Umar Cheema they contacted most of these people during finalization of their findings for Pandora Papers and in most of the cases found unsatisfactory explanations.

A report by Statista.com lists the countries with the most number of politicians listed in the Pandora Papers shared by the ICIJ. According to its calculations, Ukraine tops the list with 38 members, followed by Russia, 19, and the UAE, 11. In all, over 300 current and former politicians have been implicated in this list, with the United Kingdom being the only European country to feature in the Top 10 list.

One can find both positive and negative examples of businesspersons in the Pandora papers . For example, on the positive side, Khalid Adamjee of the Adamjee Group, when contacted about his foreign assets (Catio Trust and Creek Resources Limited), he not only said they are declared in Pakistan, he also shared his wealth statement to prove this fact. Being a resident of Singapore, he is involved in international commodity trading, he said, and therefore he required such a structure for buying and sourcing globally.

# Where Politicians Are Named in the Pandora Papers

Countries with the most politicians included in the Pandora Papers release



Source: ICIJ

On the negative side. Bashir Dawood is one such example. In the Pandora Papers, he has been found, together with his wife, as the owner of three offshore companies: Green Ethics Ltd, S. Minor Investments Ltd and Garden Investments Ltd. Earlier. The Federal Board of Revenue made the highest recovery in its history from him in connection with a money laundering case for which he had used an offshore company. Therefore, all involved 700 persons of the Pandora box should be contacted about offshore-related queries in order to get explanation of their part of the story.

Australia, Britain and Pakistan vowed to investigate the revelations. Prime Minister of Pakistan is critically evaluating the situation and has set up a high-level committee under the Prime Minister's Inspection Commission to investigate the Pandora leaks. The development came soon after the leaks when PM Khan held a meeting with senior PTI leaders and federal ministers to discuss the matter and overall country's political situation. It has been learnt that National Accountability Bureau (NAB), Federal Investigation Agency (FIA) and other investigative bodies have been tasked to probe the matter and to bring the right facts in front of the nation.

An offshore company is not itself illegal, and in some transactions it is required for genuine reasons. At the same time the confidentiality provided by tax havens has misused by tax evaders, deceivers and money launderers.

<sup>1</sup> 700 Pakistanis named in the leaks including the current Finance Minister Shaukat Tarin, Senator Faisal Vawda, Pakistan Muslim League-Quaid leader and Federal Minister for Water Resources, Chaudhry Moonis Elahi, Ishaq Dar's son, PPP's Sharjeel Memon, the family of Minister for Industries and Production Khusro Bakhtiar, PTI leader Abdul Aleem Khan and Axaact CEO Shoaib Sheikh, Arif Naqvi of Abraaj group, along with the renowned businessmen, retired army generals and their family members have been named among those with alleged links to offshore companies.