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Implementation Review Group

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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Saint Lucia

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

Saint Lucia acceded to the Convention against Corruption on 18 November 2011. The country is also a party to the Inter-American Convention Against Corruption, to which it acceded on 23 January 2003.

As is the case with most member countries of the Commonwealth, the nation's appointed Governor-General represents the Queen of the United Kingdom of Great Britain and Northern Ireland, while executive power rests with the Prime Minister and the Cabinet of Ministers. The legislative branch is run by the bicameral Parliament.

The legal system of Saint Lucia is based on English common law and the Napoleonic Code. The highest judicial body is the Judicial Committee of the Privy Council, which is situated in the United Kingdom. Both common law and statutory law govern Saint Lucia.

The country follows a dualist legal tradition and treaties, once ratified, are not automatically incorporated into domestic law. The process of incorporating the provisions of an international treaty, when they are not consistent with or part of existing domestic law, requires the enactment of legislation.

The legal framework against corruption principally comprises the Constitution, the Criminal Code, the Integrity in Public Life Act, the Special Prosecutor Act, the Money-Laundering Prevention Act, the Proceeds of Crime Act, the Extradition Act and the Mutual Assistance in Criminal Matters Act.

Relevant institutions in the fight against corruption include the Royal Saint Lucia Police Force, the Attorney General's Chambers, the Office of the Director of Public Prosecutions, the Financial Intelligence Authority and the Integrity Commission.

The lowest court is the district or magistrate's court, which is a court of summary jurisdiction. The Eastern Caribbean Supreme Court, established in 1967 and seated in Castries, is responsible for the administration of justice in its member States, which include Saint Lucia. The Caribbean Court of Justice serves as the final court of appeal, replacing the Privy Council as the court of last resort in civil and criminal matters.

The country's criminal justice system is adversarial in nature. Criminal prosecutions are handled both by the police and the Director of Public Prosecutions, depending on the seriousness of the case. The law establishes which offences are considered summary and which are considered indictable, although generally speaking, summary offences are those that carry a maximum sentence of six months' imprisonment. For indictable offences, investigations are conducted by the police, and the resulting cases are prosecuted by the Director of Public Prosecutions and heard before the High Court. The Constitution guarantees a fair hearing within a reasonable time by an independent and impartial court (sect. 8).

2. Chapter III: criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

The offences criminalized in the Integrity in Public Life Act cover those committed by "persons in public life" (sect. 2 and schedule 1 of the Act), while the offences criminalized in the Special Prosecutor Act cover those committed by "public officers" and "public officials" (sect. 2 of the Act; cap. 1.01 of the Constitution). Although these terms are largely in compliance with article 2 of the Convention, they do not

include unpaid personnel and the scope of foreign public officials does not include officials of public international organizations.

Saint Lucia has criminalized passive bribery by national public officials (sect. 31 and schedule 2 of the Integrity in Public Life Act; schedule of the Special Prosecutor Act). Active bribery and active bribery of foreign public officials are criminalized only when committed by public officials (sect. 31 and schedule 2, paras. d and f, of the Integrity in Public Life Act; schedule, paras. h and j, of the Special Prosecutor Act).

Passive bribery by foreign public officials and active bribery of officials of public international organizations, as well as active and passive bribery in the private sector, are not criminalized in Saint Lucia.

Although active and passive trading in influence are not specifically criminalized, elements of such criminal conduct are covered by section 31 and schedule 2 of the Integrity in Public Life Act. Furthermore, the Special Prosecutor Act criminalizes the abuse by public officials of their real or supposed influence to obtain an undue advantage for themselves or other persons (schedule, para. d). Active and passive trading in influence by persons other than public officials are not criminalized.

Money-laundering, concealment (arts. 23 and 24)

The definition of proceeds of criminal conduct in section 2 of the Money-Laundering Prevention Act is in line with the corresponding definition in article 2 (e) of the Convention.

The conversion or transfer of proceeds of crime is criminalized in section 28 of the Money-Laundering Prevention Act. Domestic law does not establish any requirements with regard to the specific purpose for which the illicit origin of the property is concealed or disguised or require the person who converts or transfers the proceeds of crime to know that such property is the proceeds of crime in order for such conduct to constitute an offence.

Entering into or becoming concerned in an arrangement that facilitates the acquisition, control, retention or use of the proceeds of criminal conduct on behalf of another person is also criminalized (sect. 29 of the Act). In order to constitute an offence, such conduct requires knowledge of the illicit origin of the proceeds.

The disguising and concealment of property, including of its disposition, location, movement, nature or ownership, or of any right with respect to property, is criminalized (sect. 28 (1) (b) and (3) of the Act).

Saint Lucia has criminalized the acquisition and use of property if the person is aware that such property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct (sect. 30 (1) of the Act). In the case of possession of criminal property, it suffices that the person has reasonable grounds to believe that the property is, in whole or in part, directly or indirectly, the proceeds of criminal conduct (sect. 30 (1A) of the Act). Self-laundering is also criminalized (sect. 28 of the Act).

Attempt to commit, participation in the commission of, and aiding, abetting, facilitating and counselling the commission of money-laundering are regulated in sections 29 (1) and 31 of the Act. Participation in an organized group for the purpose of facilitating a criminal offence or the commission of a criminal offence is criminalized (sect. 3 of the Anti-Gang Act).

In Saint Lucia, all indictable and summary offences, including those committed abroad, are considered predicate offences in accordance with the definition of "criminal conduct" (sect. 2 of the Money-Laundering Prevention Act).

Sections 28 and 30 of the Money-Laundering Prevention Act criminalize the concealment, disguising and possession of proceeds of criminal conduct, including by persons who did not participate in the offence.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Saint Lucia has criminalized the improper use and diversion of property by public officials (sect. 31 and schedule 2 of the Integrity in Public Life Act). Although embezzlement is not specifically covered, the fraudulent misappropriation of property through breach of trust is criminalized (sects. 203 and 205 of the Criminal Code); this excludes third-party benefits.

Saint Lucia has criminalized abuse of functions (sect. 31 and schedule 2 of the Integrity in Public Life Act; schedule of the Special Prosecutor Act).

The direct or indirect acquisition of property and other resources that are disproportionate to the legitimate sources of income of a public official is criminalized (sect. 31 and schedule 2 of the Integrity in Public Life Act; schedule of the Special Prosecutor Act).

The embezzlement of any type of property, including private funds, securities or anything of value, in the private sector is criminalized (sect. 197 of the Criminal Code).

Obstruction of justice (art. 25)

The use of any means, including those set out in article 25 of the Convention, to cause any person to disobey their duties as a witness or to disobey an order to produce evidence in judicial proceedings (sect. 375 of the Criminal Code) and the use of violence to deter a person from acting as a witness are criminalized (sect. 377 (a) of the Code). A general provision on aiding and abetting perjury exists (sect. 392 of the Code). Corruption of voters and jurors is also criminalized (sects. 410–416 of the Code).

Saint Lucia has also criminalized the use of violence or deceit with the intent to deter any person from acting in any official capacity (sects. 419 and 420 of the Criminal Code). Section 377 further criminalizes the use of violence to intimidate judicial officers, judges, magistrates, jurors, prosecutors and other parties in legal proceedings.

Liability of legal persons (art. 26)

The definition of a “person” in domestic law includes legal persons (sect. 34 of the Interpretation Act). However, the legislation does not always indicate the punishment applicable to legal persons.

Authorities confirmed that the liability of legal persons is independent of that of the natural persons who commit an offence.

At the time of the country visit, Saint Lucia had not convicted any legal persons for participation in offences established in accordance with the Convention.

Participation and attempt (art. 27)

Any person who instigates, commands or promotes the commission of a crime, even when the crime is committed abroad, commits the offence of aiding and abetting and is considered an accomplice (sects. 62 and 63 of the Criminal Code). Accomplices are subject to the same punishment as principal offenders (sect. 71 of the Criminal Code). A similar provision is contained in the Integrity in Public Life Act (sect. 31 and schedule 2) and the schedule of the Special Prosecutor Act.

Any attempt to commit a crime is punishable under section 77 of the Criminal Code, even when it would not have been possible to commit the offence. The attempted commission of an offence is also addressed in schedule 2 of the Integrity in Public Life Act.

The possession of equipment, instruments, materials or other devices with the intention that they be used in committing an offence that is likely to endanger life, or in committing forgery or a crime relating to money or any indictable offence

punishable by imprisonment for 10 years, is liable to punishment (sect. 80 of the Criminal Code).

Attempt, aiding and abetting, counselling, procuring and conspiracy are also criminalized for money-laundering offences (sect. 31 of the Money-Laundering Prevention Act).

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Pursuant to the general judicial guidelines on sentencing (sect. 1102 of the Criminal Code), the gravity of the punishment must be commensurate with the gravity of the offence. Corruption offences under the Integrity in Public Life Act are punished with up to 10 years of imprisonment and a fine not exceeding 500,000 East Caribbean dollars, depending on the nature of the offence (sect. 31). Under the Special Prosecutor Act, punishments include fines of up to 1 million East Caribbean dollars and terms of imprisonment of up to 10 years (sect. 24).

There are no immunities for criminal acts committed by public officials in Saint Lucia. Section 42 of the Constitution establishes certain immunities for members of the Senate or the House of Assembly in relation to words spoken or written while undertaking their functions. Magistrates, prosecutors and clerks of the court are protected from damage claims for acts carried out in good faith in the exercise of their functions (sect. 1257 of the Criminal Code). Members of the Integrity Commission have functional immunity for any act carried out or omitted in good faith (sect. 43 of the Integrity in Public Life Act).

The Director of Public Prosecutions has the power to institute, undertake or discontinue any criminal proceedings at any stage before a judgment is delivered. In the exercise of his or her powers, the Director of Public Prosecutions is not subject to the direction or control of any other person or authority. At the time of the country visit, no prosecutions had been withheld by the Director of Public Prosecutions.

With few exceptions, all prosecutions under the Integrity in Public Life Act must be instituted with the written consent of the Director of Public Prosecutions or the Attorney General. The Special Prosecutor's functions will be subject to the powers of the Director of Public Prosecutions (sect. 8 of the Special Prosecutor Act).

In Saint Lucia, an accused person can be released upon reasonable conditions that are conducive to ensuring their appearance at trial or at pretrial proceedings (sect. 3 (5) of the Constitution). As a principle, defendants are entitled to bail, and the conditions of bail must be reasonable (sect. 592 of the Criminal Code). The granting of bail can be subject to certain requirements, such as the surrender of the defendant's passport or the obligation to report to a police station (sect. 601 of the Code). Bail can be denied if, inter alia, the court is satisfied that the defendant would fail to surrender to custody (sect. 593 (1) (a) of the Code).

The criteria for granting parole are regulated in section 1141 (6) of the Criminal Code and eligibility depends on the sentence imposed and the time served (sect. 1140 of the Code). The Constitution regulates the prerogative of mercy (sects. 74 and 75).

Public officers are liable to disciplinary action in respect of breaches of the Public Service Commission (Disciplinary Proceedings) Regulations and the Staff Orders for the Public Service of Saint Lucia, including when such officers plead guilty to a criminal charge. The Public Service Commission has the power to exercise disciplinary control over persons holding or acting in public office (sect. 86 of the Constitution). Public officials can be removed only after disciplinary proceedings and if their suspension or reassignment falls within the purview of the Public Service Commission or the head of department (regulation 5 of the Public Service Commission (Disciplinary Proceedings) Regulations).

Sections 26 and 32 of the Constitution establish criteria for disqualification from being appointed as a senator or a member of the House of Assembly, including being

under sentence of death or serving a sentence of imprisonment exceeding 12 months. The offices of other public officials become vacant if they are sentenced to a term of imprisonment of three years or more (sect. 1135 of the Criminal Code). These provisions do not apply to persons holding office in an enterprise owned in whole or in part by the State.

The rehabilitation of offenders is one of the aims of sentencing (sect. 1102 of the Criminal Code).

The Cabinet may award a portion of any penalty or fine imposed, or monies paid, to any person through whose instrumentality a conviction is obtained (sect. 1258 of the Criminal Code). The general rule established in section 1100 of the Criminal Code allows the court to mitigate the sentence of an offender if the offender has provided substantive cooperation in investigations or prosecutions. The Director of Public Prosecutions may direct that proceedings are stayed by his or her direction and withdraw any indictment or prefer to present a fresh indictment before the Court (sects. 651 and 652 of the Criminal Code). These powers might be utilised for the purposes contained in paragraph 3 of article 37 of the Convention.

Protection of witnesses and reporting persons (arts. 32 and 33)

Saint Lucia does not have any witness protection legislation or programmes. Although certain evidentiary protection measures are in place (sect. 29 of the Evidence Act), they do not seem to be sufficient to ensure the safety of witnesses, experts and victims. A Witness Protection Bill was in preparation at the time of the country visit.

Saint Lucia provides protection from unjustified treatment to persons who report acts of corruption. Any person who makes a complaint to the Integrity Commission in good faith and reasonably believing that it is substantially true, where in the circumstances it is reasonable to make the complaint, is protected from reprisals and civil and criminal suits (sect. 33 of the Integrity in Public Life Act). Section 26 of the Special Prosecutor Act provides protection against legal and work-related reprisals to any person who makes a complaint in good faith.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Proceeds of crime and tainted property are defined in section 2 of the Proceeds of Crime Act. The concept of tainted property is in line with the definition of proceeds of crime established in article 2 of the Convention. Offences under the Integrity in Public Life Act and the Money-Laundering Prevention Act, as well as indictable offences and offences triable both summarily and on indictment in Saint Lucia, are included as “relevant offences” and are therefore considered criminal conduct for the purposes of the Proceeds of Crime Act.

On conviction, tainted property can be forfeited to the Crown, and benefits derived from the commission of the criminal conduct can be confiscated (sects. 4, 9 and 17 of the Proceeds of Crime Act).

Property used or destined for use in an offence may be forfeited (sect. 2 of the Proceeds of Crime Act; sect. 80 of the Criminal Code).

The measures listed in part 3 of the Proceeds of Crime Act enable the authorities to take provisional measures for the identification, tracing and seizure of proceeds of crime. Those measures include search warrants (sects. 24–27 of the Act; sect. 624 of the Criminal Code), restraining orders (sects. 30 and 31 of the Act) and production and inspection orders (sect. 41 of the Act). The freezing of suspected proceeds of crime is regulated in section 23 of the Money-Laundering Prevention Act.

Although the police and magistrates must take reasonable care to ensure that seized property is preserved (sect. 28 of the Proceeds of Crime Act; sect. 626 of the Criminal Code), Saint Lucia has not established a system for the administration of frozen, seized or confiscated property.

Value-based forfeiture is possible under certain circumstances, such as when property has been commingled (sect. 14 of the Proceeds of Crime Act). The equivalent value of transformed, converted and intermingled property, as well as income or other benefits derived from such proceeds of crime, may also be forfeited.

The provisions of the Money-Laundering Prevention Act have effect notwithstanding any secrecy obligations (sect. 35). The Act also protects from liability financial institutions and persons engaged in other business activities who disclose information to the Financial Intelligence Authority in breach of an enactment or contract (sect. 16).

In cases where the value of all the ascertainable property of the convicted person exceeds the value of all his or her ascertainable property prior to the commission of the offence, the court may infer that such increase is tainted property and order its forfeiture (sect. 9 (2) of the Proceeds of Crime Act). Proceedings for the forfeiture and confiscation of proceeds of crime are considered civil rather than criminal for the purposes of determining the burden or standard of proof (sect. 62 of the Act).

The rights of bona fide third parties are protected in seizure, restraint and confiscation proceedings (sects. 9, 12, 29 and 38 of the Proceeds of Crime Act).

Secrecy obligations are overridden by the provisions contained in the Money-Laundering Prevention Act. The Financial Intelligence Authority has broad powers to obtain information from financial institutions and persons engaged in business activity (sect. 6 of the Act).

Statute of limitations; criminal record (arts. 29 and 41)

With respect to summary offences, the period of limitation for making a complaint is six months if no other time limit is prescribed (sect. 671 of the Criminal Code). Certain offences are exempted from that period of limitation, although corruption is not among them. Once the period has elapsed, the offence can be tried only if it is also triable on indictment (sect. 774 of the Criminal Code). There is no period of limitation for offences triable on indictment; however, not all corruption offences are triable on indictment. It was concluded that the limit of six months could present an obstacle to the effective prosecution of certain offences.

Foreign convictions are taken into consideration in Saint Lucia when the Criminal Records Office of Saint Lucia has records of the conviction and dual criminality exists (sect. 4 of the Criminal Records (Rehabilitation of Offenders) Act).

Jurisdiction (art. 42)

As a general principle, the courts of Saint Lucia have jurisdiction over offences committed within its territory and within 3 miles of any part thereof (sect. 1086 of the Criminal Code). Except for cases of money-laundering, where dual criminality is required, Saint Lucia has not adopted the active or passive personality principle or established jurisdiction over offences when the alleged offender is present in its territory and is not extradited.

The country's jurisdiction does not specifically include crimes committed on vessels flying the flag of Saint Lucia or aircraft registered under its laws.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Upon handing down a conviction for the offence of money-laundering, the court may, in addition to any other penalty, order the suspension or revocation of the licence to operate (sect. 33B of the Money-Laundering Prevention Act). Contracts can be rescinded only in instances where there has been a material breach by one of the parties.

Public procurement contracts may be terminated if they are no longer in the public interest, such as in cases of corruption, and tenders may be suspended in cases of corruption (sects. 94 (2) and 114 (1) of the Public Procurement Act).

Any person who has sustained an injury may initiate an action for civil remedy (sect. 1207 of the Criminal Code). Compensation can also be awarded in criminal proceedings (sect. 1210 of the Code).

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

In Saint Lucia, the Office of the Director of Public Prosecutions, the Royal Saint Lucia Police Force and the Attorney General's Chambers have law enforcement mandates. Investigations into corruption under the Integrity in Public Life Act are handled by the Integrity Commission. At the time of the country visit, Saint Lucia had recently enacted legislation on the appointment of the Special Prosecutor to investigate and prosecute corruption among public officers and officials. However, the Special Prosecutor had not yet been appointed.

Pursuant to section 8 of the Integrity in Public Life Act, the Integrity Commission performs its functions independently and its members are appointed by the Governor General, acting in accordance with the advice of the Prime Minister, who must consult the leader of the opposition (sect. 118 of the Constitution). Members of the House of Assembly and former public servants cannot be appointed as members of the Commission (sect. 3 of the Integrity in Public Life Act). All expenses incurred by the Commission are charged to the Consolidated Fund (sect. 39 of the Act). The Special Prosecutor will be appointed by the Judicial and Legal Services Commission after consultation with the Attorney General (sect. 4 (1) of the Special Prosecutor Act), and his or her staff will be appointed by the Judicial and Legal Services Commission or the Public Service Commission, depending on their role (sects. 16 and 17 of the Special Prosecutor Act). The Parliament is to allocate funds for the Special Prosecutor (sect. 21 of the Special Prosecutor Act).

In accordance with section 40 of the Integrity in Public Life Act, the police are obliged to assist the Integrity Commission when requested. The Financial Intelligence Authority may disseminate information to the Customs and Excise Department, the Inland Revenue Department, the Commissioner of Police and the Director of Public Prosecutions (sect. 5 (2) (e) of the Money-Laundering Prevention Act). A number of national agencies have signed memorandums of understanding to enhance national cooperation. Inter-agency cooperation is also promoted through the establishment of commissions composed of high-level representatives of various institutions.

The Financial Intelligence Authority is mandated to issue guidelines for financial institutions or persons engaged in business activity on compliance with the Money-Laundering Prevention Act (sect. 6 (1) (f) of the Act) and has carried out training activities for private sector personnel.

Any person in Saint Lucia may make a complaint to the Integrity Commission if he or she believes that a person in public life has committed an act of corruption (sect. 32 of the Integrity in Public Life Act).

2.3. Challenges in implementation

To further strengthen anti-corruption measures, it is recommended that Saint Lucia:

- Include unpaid personnel in the definition of "public official" and officials of public international organizations in the definition of "foreign officials" (general recommendation).
- Criminalize active bribery when it is committed by persons other than public officials (art. 15 (a)).
- Criminalize active bribery of foreign public officials when it is committed by persons other than public officials, and include officials of public international organizations in the scope of the offence (art. 16, para. 1).
- Consider criminalizing passive bribery by foreign public officials and officials of public international organizations (art. 16, para. 2).

- Adopt an offence of embezzlement of property by public officials, including for the benefit of third parties, more closely aligned with article 17 of the Convention.
- Consider criminalizing active and passive trading in influence when they are committed by persons other than public officials (art. 18).
- Consider criminalizing bribery in the private sector, as defined in article 21 of the Convention.
- Establish the liability of legal persons for participation in all offences established in accordance with the Convention and stipulate the applicable sanctions in its legislation (art. 26, paras. 1 and 4).
- Establish a longer statute of limitations period for the commencement of proceedings for offences established in accordance with the Convention (art. 29).
- Consider establishing procedures for the disqualification of persons convicted of offences established in accordance with the Convention from holding office in enterprises owned in whole or in part by the State (art. 30, para. 7).
- Adopt measures to regulate the administration by the competent authorities of frozen, seized and confiscated property (art. 31, para. 3).
- Take appropriate measures to provide effective protection for witnesses, experts and victims, as well as cooperating offenders, including by enacting specific legislation, and consider entering into agreements or arrangements with other States for the relocation of such persons (arts. 32 and 37, para. 4).
- Continue strengthening 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 the Convention (art. 33).
- Operationalize the Special Prosecutor's Office by providing it with the necessary capacity, resources and independence; with a view to the second cycle review, consider strengthening the corruption prevention functions of the established authorities (art. 36).
- Consider entering into agreements or arrangements with other States concerning the provision of protection to persons who provide substantial cooperation to the competent authorities (art. 37, para. 5).
- Establish jurisdiction over offences established in accordance with the Convention when the offence is committed on board a vessel that is flying its flag or an aircraft registered under its laws (art. 42, para. 1).
- Consider establishing jurisdiction when an offence other than money-laundering is committed against or by a national of Saint Lucia or against Saint Lucia outside of its territory and within 3 miles of any part thereof (art. 42, para. 2).
- Consider taking measures to establish jurisdiction over the offences established in accordance with the Convention when the alleged offender is present in its territory and it does not extradite him or her (art. 42, para. 4).

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

Saint Lucia has requested the following forms of technical assistance relating to chapter III:

- The development of programmes for the rehabilitation and reintegration of convicted persons into society (art. 30).
- The development and implementation of witness, expert and victim protection programmes (art. 32).

3. Chapter IV: international cooperation

3.1. Observations on the implementation of the articles under review

Extradition, transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is governed by the Extradition Act. The Act applies to extradition involving Commonwealth member countries designated by order of the Minister of Foreign Affairs, subject to a negative resolution of the Parliament (part 2, sect. 32); countries with which an extradition treaty exists, unless the Minister has decided otherwise (part 3); and non-treaty foreign States to which the Attorney General may grant extradition, upon application by that foreign State, provided that the Minister has previously declared the entry into force of the Act in respect of that foreign State and the conditions in sections 39 and 40 are met. Accordingly, although in principle Saint Lucia requires a treaty for extradition, in the absence thereof the Extradition Act provides a basis for the Attorney General to consider extradition upon application by a foreign State, provided that the strict requirements of sections 39 and 40 are met. The surrender of fugitives is also possible under the Backing of Warrants Act and the Caribbean Community Arrest Warrant Treaty Act.

The Extradition Act (sects. 3 and 39) limits extraditable offences to those listed in a schedule, which includes some but not all mandatory offences under the Convention. At the time of the country visit, the Act was under revision to remedy deficiencies, particularly those identified in the mutual evaluation carried out by the Caribbean Financial Action Task Force.¹

Saint Lucia has two bilateral extradition treaties – one with the United States of America (1996) and one with France (2016) – as well as multilateral treaties such as the Caribbean Community Arrest Warrant Treaty. Saint Lucia does not consider the Convention as a legal basis for extradition.

Since 2019, Saint Lucia has refused only one incoming extradition request, on humanitarian grounds.

The Attorney General's Chambers is responsible for receiving and acting on requests (sects. 21 and 22 of the Extradition Act). Extradition guidelines that take into account the degree of urgency of the request have been implemented by the Chambers.

Dual criminality is required for extradition under the Extradition Act for offences punishable by a term of imprisonment of one year or more, irrespective of the terminology used for the offence (sect. 3 of the Act).

Sections 6 and 8 of the Extradition Act set out the grounds on which Saint Lucia may refuse to grant extradition; those grounds do not include offences involving fiscal matters. Section 6 of the Act provides that extradition cannot be granted for political offences.

Section 12 of the Act provides that a person sought for extradition must be brought before a magistrate as soon as practicable after apprehension. Section 31 provides for judicial discharge for delayed surrender, that is, where a person remains in custody awaiting surrender for two months after the first day he or she could have been surrendered.

The Act does not restrict the extradition of Saint Lucian nationals, and Saint Lucia has extradited two nationals since 2019.

Basic measures are in place to ensure the fair treatment of persons wanted for extradition (sects. 6 and 8 of the Act). The country's legislation does not specifically refer to discriminatory grounds for refusing extradition on the basis of ethnic origin (sect. 6 (1) of the Act).

The Act does not contain provisions on accessory extradition.

¹ The Extradition (Amendment) Act No. 10 of 2023 was adopted following the country visit.

Saint Lucia consults with requesting States as a matter of practice before refusing to grant extradition.

Saint Lucia has signed one bilateral agreement on the transfer of sentenced persons, with the United Kingdom. However, the agreement is not yet in force.

There is no law or practice on the transfer of criminal proceedings, and there have been no cases requiring such agreements.

Mutual legal assistance (art. 46)

The Mutual Assistance in Criminal Matters Act provides a basic framework for the provision of mutual legal assistance.² The Act applies to mutual assistance involving member countries of the Commonwealth (sect. 4) and countries with which Saint Lucia has signed mutual legal assistance treaties that have been incorporated under the Act by way of regulations (sect. 29). Accordingly, a treaty is required in order to render assistance to countries outside the Commonwealth, although Saint Lucia may also provide assistance in the absence of a treaty on the basis of the principle of reciprocity. The country has not refused any incoming requests for mutual legal assistance since 2019.

Saint Lucia has signed bilateral mutual legal assistance treaties with the United States (1996) and France (2016). Saint Lucia also is a party to the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters and the Caribbean Community Agreement on the Return or Sharing of Recovered Assets. The country does not recognize the Convention as a basis for mutual legal assistance.

The absence of dual criminality is a mandatory ground for refusal (sect. 18 (2) of the Mutual Assistance in Criminal Matters Act). There are no measures on the provision of non-coercive assistance in the absence of dual criminality. Saint Lucia does not recognize the right to refuse requests of a *de minimis* nature and such matters are decided on a case-by-case basis.

Given that Saint Lucia has not criminalized all offences under the Convention, there may be limitations on the provision of assistance for offences involving legal persons owing to the dual criminality requirement. The country is not precluded from sharing information relating to criminal matters spontaneously.

Sections 10 and 23 of the Mutual Assistance in Criminal Matters Act provide for the transfer of prisoners for mutual legal assistance purposes. Saint Lucia must refuse requests for the transfer of prisoners if the consent of the prisoner is not obtained (sect. 18 (2) (g) of the Act). The Act does not address the obligation to return a prisoner without delay or provide for safe passage in respect of prior offences.

The Attorney General's Chambers is the central authority for mutual legal assistance under the Convention (sect. 3 of the Mutual Assistance in Criminal Matters Act). Pursuant to the treaties that Saint Lucia has signed, the central authority should promptly execute requests or, when appropriate, transmit them to the relevant authority; mutual legal assistance guidelines further provide for the timely execution, tracking and follow-up of requests. Requests are received through diplomatic channels, and Saint Lucia accepts advance copies in electronic format or through the International Criminal Police Organization (INTERPOL) if they are followed up in writing within a reasonable time period (sect. 17 of the Act). The required content of requests is stipulated in the Act (sect. 17 (1) and schedule).

Mandatory and optional grounds for refusal are contained in section 18 of the Mutual Assistance in Criminal Matters Act. This includes the possibility of refusing assistance that would impose an excessive burden on the resources of Saint Lucia (sect. 18 (3) (c)). The Act does not establish bank secrecy as a ground for refusing assistance or provide for the refusal of assistance for offences involving fiscal matters.

² The Mutual Assistance in Criminal Matters (Amendment) Act No. 11 of 2023 was adopted following the country visit.

Reasons must be given for any refusal to provide assistance, except in the case of requests for prisoner transfer (sect. 18 (6) and (7)).

Section 12 (b) of the Mutual Assistance in Criminal Matters Act sets out limitations on the use of evidence. However, the Act does not provide for the safe passage of witnesses and experts in respect of prior acts or omissions.

Although there is no requirement under the Act for Saint Lucia to abide by any requests to preserve confidentiality, clear provisions are in place in the central authority and the executing agencies to adhere to confidentiality restrictions, as established in the mutual legal assistance guidelines. Case officers are vetted and required to sign an oath of confidentiality.

The possibility of providing assistance through videoconferencing is addressed in the mutual legal assistance guidelines.

The Mutual Assistance in Criminal Matters Act does not regulate the ordinary costs of mutual legal assistance. In case of extraordinary expenses, Saint Lucia must consult the requesting State and may refuse assistance if appropriate (sect. 18 (4)).

The Act does not provide for consultations to be held before assistance is refused.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

The Financial Intelligence Authority can exchange information spontaneously and upon request through bilateral and multilateral mechanisms such as the Egmont Group of Financial Intelligence Units (sect. 5 (2) (g) of the Money-Laundering Prevention Act) and bilateral memorandums of understanding (if required by foreign counterparts) (sect. 5 (2) (h)). The Royal Saint Lucia Police Force is a member of INTERPOL, the Asset Recovery Inter-Agency Network for the Caribbean and the Caribbean Customs Law Enforcement Council and can also share information that is available domestically with those entities and with foreign counterparts, without the need for a formal legal framework or agreement. Other cooperation platforms include the Regional Security System Treaty, and the Joint Regional Communications Centre and the Regional Intelligence Fusion Centre of the Caribbean Community.

Saint Lucia can consider the Convention as a basis for mutual law enforcement cooperation on the basis of a relevant statutory instrument and on condition of reciprocity.

The country has not entered into any bilateral or multilateral agreements or arrangements on joint investigations.

With the exception of controlled delivery, special investigative techniques may be used in accordance with the Criminal Code (sect. 624 (4)) and the Interception of Communications Act. Evidence derived from such techniques is admissible in accordance with the Interception of Communications Act (sects. 18 and 25).

3.3. Challenges in implementation

To further strengthen anti-corruption measures, it is recommended that Saint Lucia:

- Ensure that all Convention offences are included as extraditable offences under the Extradition Act, in particular in the context of ongoing revisions to the Act (art. 44, paras. 1 and 7).
- Consider recognizing the Convention as a legal basis for extradition or, alternatively, relaxing the strict requirements for extradition to be granted in the absence of a treaty; alternatively, Saint Lucia is encouraged to conclude additional treaties to enhance the effectiveness of extradition (art. 44, para. 6).
- Continue efforts to expedite extradition procedures and to simplify evidentiary requirements, subject to domestic law (art. 44, para. 9).

- Consider including ethnic origin among the other discriminatory grounds on the basis of which a request for extradition should be refused (art. 44, para. 15).
- Consider recognizing the Convention as a legal basis for mutual legal assistance and expanding the scope of countries to which assistance may be granted under the Mutual Assistance in Criminal Matters Act beyond member countries of the Commonwealth and designated treaty countries (art. 46, para. 1).
- In assessing dual criminality requirements, ensure that assistance is not refused for offences under the Convention that are not criminalized domestically, and adopt measures to provide for non-coercive assistance to be rendered in the absence of dual criminality; consider specifying a threshold for matters to be considered de minimis (art. 46, para. 9).
- In cases of prisoner transfer pursuant to the Mutual Assistance in Criminal Matters Act, provide for the safe passage of prisoners in respect of prior offences and the obligation to return prisoners without delay (art. 46, paras. 11 and 12).
- Stipulate that reasons must be given for any refusal to provide assistance, including in cases of prisoner transfer (art. 46, para. 23).
- Provide for consultations to be held before assistance is refused (art. 46, para. 26).
- Provide for safe passage in respect of prior acts or omissions to witnesses and experts in criminal proceedings (art. 46, para. 27).
- Regulate the costs of mutual legal assistance in line with the Convention (art. 46, para. 28).

Saint Lucia is further encouraged to:

- Consider recognizing accessory extradition (art. 44, para. 3).
 - Consider including the practice of consulting with a requesting State before refusing extradition in its extradition guidelines (art. 44, para. 17).
 - Consider adopting provisions on the use of controlled delivery in cases involving Convention offences (art. 50).
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