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**Convention against Corruption**

**“Pre-negotiation draft”**

**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### South Sudan

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

South Sudan acceded to the United Nations Convention against Corruption on 23 January 2015. The legal system follows the common law tradition. The Penal Code Act and Code of Criminal Procedure Act were promulgated in 2008 and were in the process of being revised during the joint meeting.

The main anti-corruption bodies of South Sudan are the Anti-Corruption Commission and the Civil Service Commission. As required by the Revitalized Agreement on the Resolution of the Conflict in South Sudan, the Anti-Corruption Commission is expected to undergo reform, which will give rise to the review of the legal and policy frameworks with the view to strengthening institutions of governance.

The Anti-Corruption Commission developed a National Strategic Plan for the period 2010–2014. Since the adoption of the Strategic Plan, a number of legislative measures have also been introduced, including the draft Anti-Corruption Bill and the Anti-Money Laundering and Counter-Terrorist Financing Act.

In general, owing to constraints with regard to data collection and the low number of investigations and prosecutions, no cases were reported to illustrate the implementation of the various provisions of the Convention. Hence, the effectiveness of the anti-corruption legislation could not be assessed in practice. The offences are criminalized in scattered provisions.

The draft Anti-Corruption Bill contains provisions on the majority of offences contained in chapter III; however, the text has remained in the adoption process since its issuance in 2013.

#### 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 definition of “public official” is provided in section 5 of the Penal Code Act; however, it does not cover parliamentarians. Sections 87 to 90 and 94 of the Code cover most of the elements of article 15 (a) of the Convention. However, the element of promising an undue advantage, indirect promise and benefits for third parties are not addressed in those provisions.

Sections 91 and 92 of the Penal Code Act provide for passive bribery, but they do not address the elements of the solicitation of a bribe and third-party beneficiaries. Article 16 is not implemented in current legislation.

Trading in influence is criminalized in sections 88 and 89 of the Penal Code Act but the element of promising is overlooked. The element of solicitation of an undue advantage for the public servant or for a third party does not appear clearly in the domestic law.

Bribery in the private sector is not criminalized in the current legislation.

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

Section 14 of the Anti-Money-Laundering and Counter-Terrorist Financing Act addresses the provisions of article 23, paragraph 1, of the Convention. Paragraph 2 of the same article is covered through section 5 of the same Act. South Sudan included a catch-all clause to ensure the widest possible range of predicate offences. Article 23, paragraph 2 (c), is covered by the Penal Code Act (sect. 7). The concealment or

continued retention of property is covered by section 14, paragraphs (b), (c) and (d), of the Anti-Money-Laundering and Counter-Terrorist Financing Act.

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

Sections 346, 347 and 348 of the Penal Code Act partly criminalize the embezzlement, misappropriation or other diversion of property by a public official; section 346 is limited to movable property and does not cover benefits for third parties.

Although the Penal Code Act provides for the criminalization of acts of public servants in dishonestly receiving money or property, South Sudan has not implemented the provisions of articles 19 and 20 of the Convention.

Provisions of sections 348 and 350 of the Penal Code Act provide only partially for the criminalization of embezzlement of property in the private sector through the concept of breach of trust.

*Obstruction of justice (art. 25)*

Part X, sections 128 to 155, of the Penal Code Act deals with offences related to the administration of justice; however, there is no specific provision on the obstruction of justice. Provisions of section 143 of the Penal Code Act are limited solely to arrest and escape and do not extend to any other judicial act or procedure.

*Liability of legal persons (art. 26)*

South Sudan provides for the liability of legal persons in section 15 of the Anti-Money-Laundering and Counter-Terrorist Financing Act, 2012, but only with regard to the offence of money-laundering. Subsections 15 (3) and (4) of the Act address the requirements of article 26, paragraph 3, of the Convention. The applicable sanctions are established in subsections 15(2) and (6) of the same Act.

*Participation and attempt (art. 27)*

Provisions of section 14, paragraph (a), of the Anti-Money Laundering and Counter-Terrorist Financing Act, 2012, and chapter IV of the Penal Code Act cover participation. Attempt is covered by sections 61 to 63 of the Penal Code Act and section 14, paragraph (e), of the Anti-Money Laundering and Counter-Terrorist Financing Act. Under the laws of South Sudan, conspiracy, as used in section 14, paragraph (e), of the Anti-Money Laundering and Counter-Terrorist Financing Act, includes preparation.

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

The provisions of section 15 of the Anti-Money-Laundering and Counter-Terrorist Financing Act take into account the gravity of related offences while establishing liability. Sections 88 to 105 of the Penal Code Act are applied at the discretion of the judge.

Article 30, paragraph 2, is covered in the Constitutional Post Holders Privileges and Emoluments Act, 2010. Although the law provides only for procedural immunity, it is not specified which officials enjoy such immunity. Similarly, it is not clear of the procedures for waiving the immunity and whether an appropriate balance between the immunity and the punishment on corrupt officials is stricken. The issue of prosecutorial discretion is also not clearly addressed in the law.

Provisions of sections 123 to 139 of the Code of Criminal Procedure Act and section 19 (6) of the Transitional Constitution address the issues of release pending trial and of ensuring the presence of the defendant at subsequent criminal proceedings. The aspect of gravity of the offence is not clearly referred to in sections 285 and 286 of the Code of Criminal Procedure Act in the case of pardon by the President.

The legislation does not provide for the removal, suspension or reassignment of a public official accused of an offence covered by the Convention, although, during the joint meeting, the authorities explained that this was done in practice.

Article 30, paragraph 7, does not seem to be implemented. Section 46 (1) (e) of the National Elections Act, 2012, addresses only the issue of elected officials and not those officials likely to hold positions in public corporations or bodies. No information was provided on the reintegration of offenders into society.

Section 199 of the Code of Criminal Procedure Act offers tender of pardon to offenders or suspects in corruption cases in return for their cooperation with the Public Prosecution Attorney investigating the offences. Neither mitigation of punishment nor protection of cooperating offenders is provided for.

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

South Sudan reported significant challenges in terms of protection of witnesses and reporting persons, in particular with regard to the deficiency of legislation and relevant measures. Section 195 of the Code of Criminal Procedure Act and section 44 of the Anti-Corruption Commission Act afford limited protection for witnesses, such as protection from a proceeding or disciplinary action, or from intimidation by language or gestures. There are no other measures or evidentiary rules to protect witnesses from retaliation. Meanwhile, their relatives and other persons close to them are not subject to any protection. South Sudan indicated that it could enter into agreements or arrangements with other States regarding the relocation of persons on a case-by-case basis, but that had not been implemented in practice. Victims are covered, in principle, to the same extent as witnesses. Pursuant to section 224 (2) of the Code of Criminal Procedure Act, the statements of complainants can be heard by Court, which implies that the views and concerns of victims may be considered. Nevertheless, there are no specific rules in this regard. South Sudan adopted operational guidelines on reporting corruption in 2010. Reporting persons are protected from any prosecution arising from reporting, and employees are immune from disciplinary measures, discrimination, termination of service or demotion (sect. 34, Anti-Corruption Commission Act).

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

Section 8 (c) of the Penal Code Act provides for forfeiture of property as a possible sanction. Upon the conclusion of any trial, the magistrate or court may issue a confiscation order (Code of Criminal Procedure Act, sect. 119). However, the scope of “proceeds of crime” is not defined. Neither the Penal Code Act nor the Code of Criminal Procedure Act provides explicitly for value-based confiscation or confiscation of instrumentalities used in or destined for use in corruption offences. However, South Sudan noted that the purposes of value-based confiscation could be achieved in practice in the form of fine. There are no concrete rules regarding the confiscation of intermingled, transformed or converted property, and income and benefits derived therefrom.

Chapter VII of the Code of Criminal Procedure Act deals with investigation of criminal cases, but asset tracing is not specifically mentioned. Search and seizure of stolen property are envisaged under chapter IX of the Code of Criminal Procedure Act, according to which police may seize property subject to further disposal orders by the Public Prosecution Attorney, magistrate or court. South Sudan does not provide for non-conviction-based confiscation, although property of persons absconding could be seized (Code of Criminal Procedure Act, sect. 98).

The Public Prosecution Attorney or the court may issue orders for the proper custody of property pending conclusion of investigation or trial (Code of Criminal Procedure Act, sects. 117 and 118). In such cases, property subject to speedy or natural decay may be sold or properly disposed of. However, no specific practical examples were reported in that regard.

Forfeiture of unexplained assets is not addressed in the legislation, although illicit enrichment is foreseen under the Anti-Corruption Bill (2013, pending adoption), according to which the burden of proof on assets subject to confiscation will be reversed. Protection of bona fide third parties, such as an innocent purchaser, is set forth in the Code of Criminal Procedure Act (sects. 120 and 298).

Pursuant to the Code of Criminal Procedure Act (sect. 104), the Public Prosecution Attorney or a magistrate or court may issue a search warrant for any document, which may include bank, financial or commercial records. However, specific rules in this area are not available. Bank secrecy obligations can be overridden by section 22 of the Anti-Money-Laundering and Counter-Terrorist Financing Act. Although section 24 of the Anti-Corruption Commission Act grants the Commission the power to search bank accounts, such a power is not utilized in practice.

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

Section 47 of the Code of Criminal Procedure Act provides for a statute of limitations period of 10 years, 5 years or 2 years, depending on the gravity of the offence. The possible suspension of the statute of limitations where the alleged offender has evaded the administration of justice is not addressed.

Courts cannot consider prior foreign convictions in domestic criminal proceedings on corruption offences established under the Convention.

*Jurisdiction (art. 42)*

The jurisdictional reach covers offences committed within South Sudan, including those committed on all South Sudanese vessels and aircraft (Penal Code Act, sect. 6). It also applies to offences committed against South Sudan outside its territory, or in relation to any offence committed either wholly or in part in South Sudan, including abetment. The Penal Code Act does not explicitly provide for personal jurisdiction but infers it subject to the satisfaction of dual criminality (Penal Code Act, sect. 7). In addition, South Sudan does not establish jurisdiction over offences committed against its nationals.

There are no rules providing for jurisdiction on corruption offences committed abroad by an offender present in South Sudan, including South Sudanese nationals, when extradition is refused. Consultation and coordination with other States in exercising jurisdiction are not explicitly provided for in the legislation but may be conducted in practice through various practitioners' networks, such as the International Criminal Police Organization (INTERPOL).

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

South Sudan does not have adequate provisions addressing different consequences of corruption, although the principle that illegal or unlawful contracts are void may apply in this context (Contract Act, sect. 44). Injured persons can claim compensation for damages caused by corruption and the Court may also order the payment of compensation on its own motion (Code of Criminal Procedure Act, sect. 290).

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

Pursuant to the Constitution (Article 144) and the Anti-Corruption Commission Act (sect. 9), the Anti-Corruption Commission is empowered to investigate and prosecute corruption cases. Independence of the Commission is provided for in the legislation. The removal procedure for the leadership of the Commission is provided for by the Constitution (Article. 143 (3)) and the Anti-Corruption Commission Act (sect. 17 (3)). Owing to the lack of resources, it was reported that the Commission had an inadequate budget for its activities and for personnel training.

The Anti-Corruption Commission has a function of collaborating with national professional scientific institutions and organizations (Anti-Corruption Commission Act, sect. 9). Certain public officials, including accounting officers, are obliged to

report corrupt conduct to the Commission (Anti-Corruption Commission Act, sect. 34). However, challenges were reported in the light of the enforcement and implementation of the above provisions.

The anti-corruption forums<sup>1</sup> were established to promote partnership between national authorities and other stakeholders, such as the private sector, in the fight against corruption. South Sudan has not reported other measures to promote cooperation between national authorities and entities of the private sector, in particular financial institutions. The Anti-Corruption Commission encourages the reporting of corruption, including anonymously, according to its operational reporting guidelines (2010). However, only a telephone number for which a toll is charged is available for such reporting.

## **2.2. Successes and good practices**

- The legislative and institutional reforms, including the National Strategic Plan, demonstrate the Government's commitment to combating corruption.

## **2.3. Challenges in implementation**

To further strengthen existing anti-corruption measures, it is recommended that South Sudan:

- Continue to develop the country's criminal statistics system in order to be able to systematically produce consolidated statistical data at each stage of proceedings;
- Extend the scope of the relevant definition of public officials and provide for appropriate sanctions for offences involving parliamentarians (art. 15);
- Amend the domestic law to include provisions on promising an undue advantage, indirect promise and benefits for third parties (arts. 15, 16 and 18);
- Criminalize active bribery of foreign public officials and consider the inclusion of passive bribery of such officials in legislation (art. 16);
- Expand the offences of embezzlement and misappropriation or other diversion of property to include immovable property and benefits for third parties (art. 17);
- Consider criminalizing the indirect commission of trading in influence, advantages for third parties and intangible benefits. Also consider extending the scope of undue advantages to all categories of advantages (art. 18);
- Consider criminalizing abuse of functions, illicit enrichment, bribery in the private sector and embezzlement of property in the private sector and ensure that they encompass the elements provided for by the Convention (arts. 19–22);
- Consider addressing concealment in a generic provision apart from the Anti-Money-Laundering and Counter-Terrorist Financing Act (art. 24);
- Include a general provision on obstruction of justice in domestic legislation, in accordance with the Convention (art. 25);
- Establish the liability of legal persons for participation in corruption offences in accordance with the requirements of article 26 of the Convention;
- Consider criminalizing preparatory acts for all corruption offences (art. 27);
- Provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice (art. 29);

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<sup>1</sup> After the direct dialogue, the authorities of South Sudan informed that the anti-corruption forums were not operational.

- Ensure that the offences established in accordance with the Convention are liable to appropriate sanctions (art. 30);
- Ensure the effective investigation, prosecution and adjudication of corruption offences (art. 30), bearing in mind the balance between immunities and prosecution as required by article 30, paragraph 2;
- Adequately regulate the aspect of gravity of the offence (art. 30, para. 5);
- Consider establishing procedures for the disqualification of persons convicted of offences established in accordance with the Convention from holding public office (art. 30, para. 7 (a));
- Consider prohibiting persons convicted of corruption offences from holding office in an enterprise owned in whole or in part by the State (art. 30, para. 7 (b));
- Adopt additional legislative measures on the confiscation of proceeds of crime and properties, equipment and instrumentalities used or destined for use in criminal offences, including by explicitly providing the scope of “proceeds of crime”, and prescribing relevant rules regarding transformed, converted or intermingled proceeds of crime, income and benefits derived therefrom (art. 31, paras. 1 and 4–6);
- Continue strengthening measures in asset-tracing and the administration of frozen, seized and confiscated assets (art. 31, paras. 2 and 3);
- Consider further measures, such as adopting the Anti-Corruption Bill (2013), to oblige offenders to undertake the burden of proof in demonstrating the lawful origin of alleged property liable to confiscation (art. 31, para. 8);
- Adopt additional measures to ensure that bank secrecy obligations can be overridden in corruption cases (arts. 31, para. 7, and 40);
- Adopt measures to enhance the protection of witnesses, experts and victims, as well as cooperating offenders, in corruption cases and ensure that appropriate mechanisms are set up for the protection of reporting persons, in particular those outside the public sector (arts. 32, 33 and 37);
- Take further measures to address the consequences of corruption, including promulgating detailed rules on annulling contracts in relation to the commission of corruption offences and other remedial action (art. 34);
- Continue efforts to enhance the capacity and resources of the Anti-Corruption Commission, and take appropriate measures to safeguard its independence (art. 36);
- Continue taking measures to encourage persons who participate or who have participated in the commission of a corruption offence to provide information to the competent authorities, including considering providing for the possibility of mitigating the punishment of a cooperating accused person and considering entering into agreements or arrangements with other States regarding the potential provision of appropriate treatment to cooperating offenders (art. 37);
- Continue taking measures to facilitate the reporting of corrupt conduct, including by addressing challenges in this regard, such as retaliation, and providing multiple reporting channels (arts. 38 and 39);
- Consider taking into account any previous foreign convictions of an alleged offender in adjudicating corruption offences in domestic cases (art. 41);
- Consider establishing jurisdiction over offences covered under article 42, paragraph 2 (a), of the Convention;
- Take measures to establish its jurisdiction over corruption offences committed abroad when the alleged offender is present in South Sudan and it does not

extradite such person solely on the ground that he or she is one of its nationals (art. 42, para. 3);

- Consider establishing jurisdiction over corruption offences committed abroad by an offender present in South Sudan when extradition is not rendered, pursuant to the principle of *aut dedere aut judicare* (art. 42, para. 4);
- Consider taking further actions to foster consultation and coordination with foreign States in exercising jurisdiction (art. 42, para. 5).

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

South Sudan requires the following technical assistance to implement the above recommendations:

- Assistance in establishing a national criminal record database permitting the regular publication of statistical data (art. 41);
- Legislative assistance (arts. 15–34, 36 and 37, 39, 41 and 42);
- Summary of good practices and lessons learned, on-site assistance by relevant experts and the development of an action plan for implementation (arts. 15–42);
- Capacity-building programmes for identifying and tracing property, the administration of frozen, seized or confiscated property, the protection of witnesses, experts and reporting persons, the promotion of cooperation between national authorities and the private sector, the removal of bank secrecy requirements and the exercise of jurisdiction (arts. 31, 32, 33, 39, 40 and 42).

### **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)*

There are no specific provisions governing international cooperation in the domestic legislation. South Sudan does not have a case management or information system in place and could not provide relevant statistical information during the review process. Scattered provisions on extradition are in place, but only with respect to money-laundering.

South Sudan applies the dual criminality requirement in a flexible manner and based on the underlying conduct in accordance with its obligations under the Convention. No specific provision on accessory extradition is contained in the law, but South Sudan reported that such extradition is enforceable in practice through direct application of the Convention. No legal definition of “political offence” was found in the current legislation. A decision in relation to such offences would therefore be taken on an *ad hoc* basis.

South Sudan does not make extradition conditional on the existence of a treaty and could use reciprocity or the Convention as a legal basis for cooperation. No comprehensive domestic law exists on the minimum penalty requirement, nor on the conditions, procedures or grounds for refusal. Hence, no reference to fiscal matters as grounds for refusal exists in the legislation. No legal provision or practice exists on the expedition of procedures and simplification of evidentiary requirements, on taking into custody a person whose extradition is sought and who is present in the territory of South Sudan, or on taking other appropriate measures to ensure the presence of such a person at extradition proceedings.

South Sudan does not extradite its own nationals. In the same vein, no provisions exist on the extradition of nationals conditional to their return after trial. Enforcement of a foreign sentence if extradition is refused based on nationality is not provided for under domestic law. Section 19 of the Transitional Constitution guarantees fair treatment at



all stages of the proceedings, as does section 6 of the Code of Criminal Procedures Act.

Consultations could be done in practice without the need for specific legislation. It was noted during the joint meeting that no bilateral agreements had been signed by South Sudan on extradition matters.

Article 45 of the Convention has not been implemented, as regulations provided for in section 76 of the Prisons Service Act refer only to transfers of prisoners domestically; international agreements have not been concluded.

South Sudan does not have provisions to allow for the transfer of criminal proceedings and has not entered into any such agreements or arrangements with other States.

*Mutual legal assistance (art. 46)*

South Sudan does not have domestic legislation or guidelines on mutual legal assistance, and specific provisions addressing the requirements of article 46 are lacking. However, it could use the Convention as a legal basis for mutual legal assistance.

In the absence of legislation, mutual legal assistance has been provided in accordance with a number of principles established in the Code of Criminal Procedure Act and in practice. South Sudan is not yet party to bilateral mutual legal assistance treaties. It could not be clarified whether dual criminality was a requirement for the provision of mutual legal assistance.

Regarding the purposes for which mutual legal assistance could be requested, domestic law does not define specific types of procedural action. Spontaneous transmission of information is possible through the direct application of the Convention and South Sudan does it through its informal networks. Bank secrecy is not mentioned in domestic legislation; however, it has been overridden in practice. South Sudan could, in practice, render assistance that does not involve coercive action. No information was provided on the implementation of article 46, paragraphs 10 to 12, of the Convention.

Although the notification had not yet been received, it was reported that the Ministry of Justice was performing the functions of the central authority, and English was designated as the language for mutual legal assistance. At the time of finalizing the review, it was reported that oral requests could be accepted if they involved non-coercive measures and were followed by a written request.

South Sudan reported that, in urgent circumstances, requests for mutual legal assistance and related communications could be made through INTERPOL.

South Sudan does not have explicit provisions to permit an individual in its territory to be heard as a witness or expert by videoconference by another State party. It also does not have rules on the use of information or evidence furnished by requested States parties or on the confidential maintenance of the fact and substance of the requests. In addition, South Sudan has no clear grounds for refusing mutual legal assistance and reasons are not required to be given for any refusal. Other mutual legal assistance issues that have not been addressed in South Sudan include the time frame for executing mutual legal assistance requests, notification of the status of a request, consultation provided before refusing requests, safe conduct for any witness or expert, expenses, and spontaneous sharing of information. Specific mutual legal assistance practices were not reported.

So far, South Sudan has not concluded any bilateral mutual legal assistance agreements with other States.

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

The Anti-Corruption Commission is able to cooperate with foreign counterparts and authorities pursuant to the Anti-Corruption Commission Act (sect. 9 (g)). Mutual legal assistance channels can be used for cooperation among law enforcement agencies. South Sudan is a member of the Asset Recovery Inter-Agency Network for Eastern Africa and INTERPOL. However, it was reported that various challenges existed in practical law enforcement cooperation, including the lack of an explicit legal basis for different forms of cooperation and the lack of means to respond to offences committed through the use of modern technology. South Sudan has not entered into any agreements or arrangements with other States on direct cooperation between their law enforcement agencies. South Sudan may consider the Convention as the basis for such cooperation, but it has never been applied in practice. It was reported that, at the time of the review, no mechanism existed for joint investigations. The reviewers welcomed recognition by South Sudan of the need to adopt specific legislation on special investigative techniques.

### **3.2. Successes and good practices**

No successes or good practices have been identified.

### **3.3. Challenges in implementation**

To further strengthen existing anti-corruption measures, it is recommended that South Sudan:

- Continue to make the efforts necessary to establish a case management system and make it fully operational, in order to systematically gather information relating to cases of international cooperation (arts. 44–46);
- Enhance efforts to put in place comprehensive domestic legislation with a view to establishing necessary substantive and procedural requirements for extradition and mutual legal assistance proceedings in line with the requirements of the Convention and giving practical effect to future agreements or arrangements on extradition and mutual legal assistance (arts. 44 and 46 in general and, in particular, arts. 44, paras. 1 and 14–17, and 46, paras. 1 and 2);
- Consider explicitly granting extradition in the absence of dual criminality and allowing accessory extradition (art. 44, paras. 2 and 3);
- Endeavour to use the Convention as a legal basis for extradition while encouraging the national authorities to continue their ongoing efforts to conclude agreements or arrangements on extradition (art. 44, paras. 6 (b) and 18);
- Endeavour to establish expedited extradition procedures and simplified evidentiary requirements (art. 44, para. 9);
- Take appropriate measures to ensure the full implementation of the requirements of article 44, paragraph 10, of the Convention;
- Clearly establish the jurisdiction of its courts and implement the procedures necessary to prosecute its nationals if extradition is refused, and consider the possibility of authorizing temporary extradition or extradition for the purposes of enforcing a sentence (art. 44, paras. 11–13);
- Provide for mandatory consultation with the requesting States parties before refusing an international cooperation request and before postponing the execution thereof (art. 44, para. 17, and art. 46, para. 26);
- Consider enhancing efforts to put in place domestic legislation with a view to giving practical effect to the consideration of possible agreements or arrangements on the transfer of sentenced persons (art. 45);

- Consider producing internal guidelines on processing mutual legal assistance requests with a view to enhancing the capacity of relevant institutions and agencies in charge of international cooperation (art. 46);
- Afford the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to offences covered by the Convention and for which a legal person may be liable and establish clear grounds for refusal (art. 46, para. 2);
- Specifically incorporate the requirements stipulated in article 46, paragraphs 3 to 5, 8 to 12, 14, 15 and 17 to 29, in its domestic legislation and ensure that they are followed in cases of mutual legal assistance provided to other States parties on the basis of the Convention;
- Notify the Secretary-General of the United Nations of the central authority responsible for mutual legal assistance, as well as the language or languages acceptable to South Sudan (art. 46, paras. 13 and 14);
- Strengthen the central authority's capacity and ensure that it is mandated to send and receive international cooperation requests (art. 46, para. 13);
- Consider the possibility of concluding additional bilateral multilateral agreements or arrangements to enhance mutual legal assistance (art. 46, para. 30);
- Consider transferring proceedings for the prosecution of corruption offences to other States where appropriate (art. 47);
- Take measures to address existing challenges in law enforcement cooperation and consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between law enforcement agencies, including on the use of joint investigations (arts. 48 and 49);
- Adopt legislation providing for special investigative techniques and promote the use of such techniques in international cooperation (art. 50).

#### **3.4. Technical assistance needs identified to improve implementation of the Convention**

South Sudan requires the following technical assistance to implement the above recommendations:

- Legislative assistance to improve laws on international cooperation (arts. 44–50);
- Development of treaties and agreements (arts. 44, 46, 48, 49 and 50);
- Assistance to build the expertise of the central authority and to coordinate the judicial and prosecution authorities in relation to international cooperation (arts. 44 and 46–50);
- Summary of good practices and lessons learned, on-site assistance by a relevant expert and the development of an action plan for implementation (arts. 44–49);
- Assistance in developing and maintaining mechanisms to facilitate research/ data-gathering and analysis concerning international cooperation (arts. 44–50).