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**Review of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Executive summary.....	2
Poland.....	2

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II. Executive summary

Poland

1. Introduction: Overview of the legal and institutional framework of Poland in the context of implementation of the United Nations Convention against Corruption

The United Nations Convention against Corruption was signed by Poland on 10 December 2003 and ratified on 12 May 2006. Following ratification and its entry into force on 14 September 2007, the Convention became an integral part of domestic law. Poland deposited its instrument of ratification with the Secretary-General of the United Nations on 15 September 2006.

A “Government Anti-corruption Programme for the years 2014-2019” was adopted by the Cabinet on 1 April 2014.

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)

Active bribery of national public officials is criminalized in article 229 PC and passive bribery in article 228 PC. Both articles contain a basic provision and provisions for less significant or aggravated cases.

The concepts of “domestic public official” and “person performing public functions” are defined in article 115, paragraphs 13 and 19 PC accordingly. The bribery offence occurs “in connection with the performance of public functions”.

Article 115, paragraph 19 PC excludes the application of the bribery offence to employees of state administrations performing exclusively “service type work”. The exception for “service type work” excludes persons who have no discretionary powers or powers to dispose public funds. The provision is specifically intended to apply to persons who, although employed in organizational units of public administration, perform tasks that are not linked in any way with acts of authority or power.

The reviewing experts noted that the expression “service type work” may create interpretation issues and loopholes in the application of the bribery provisions. They recommended that the Polish authorities amend the domestic legislation — or pursue its consistent interpretation — to ensure that the exception for “service type work” in the Penal Code definitions of “public official” and “a person performing public functions” does not result in an exception to the bribery offences for acts or omissions of a public official “in relation to the performance of official duties”.

Article 229 PC uses the words “give” and “promise to provide” a material and personal benefit. The national authorities explained that the “promise to provide” should be interpreted to include an offer, the latter term not being used in the Polish criminal legislation. The reviewing experts recommended that the national authorities continue to develop consistent jurisprudence for purposes of legal certainty to make a clear distinction between the offer and the promise of an undue advantage in the bribery provisions of the domestic legislation.

Articles 229, paragraph 5 and 228, paragraph 6 PC extend the scope of application of the bribery provisions to persons performing public functions in another country/foreign State or an international organization. The definition of “a person performing public functions” provided by article 115, paragraph 19 PC includes, inter alia, persons “whose rights and obligations within the scope of public activity are defined or recognized by a law or an international agreement binding on the Republic of Poland”. The reviewing experts identified as a good practice the fact that the foreign bribery offences are established domestically “in connection with the public functions” of the perpetrator in a foreign State or an international organization, and that their scope of application is not restricted to the “conduct of international business”.

Active and passive bribery in the private sector are criminalized through article 296a PC. This article refers to specific forms of impact of the act — or failure to act — of the bribe-taker, which may inflict material damage on an organizational unit carrying out business activity unit or may constitute an act of unfair competition or inadmissible act of preference in favour of a buyer, or a recipient of goods, services or other performance. The reviewing experts found that this wording sets additional requirements which restrict the scope of application of the domestic provision, as compared to article 21 of the Convention. Therefore they recommended the amendment of the domestic legislation to overcome such restrictive requirements.

Article 18 of the Convention is domesticated through articles 230a and 230 PC, as well as article 48 of the Act on sport (match-fixing cases). Similarly to the bribery provisions, the reviewing experts recommended that the national authorities continue to develop consistent jurisprudence for purposes of legal certainty to make a clear distinction between the offer and the promise of an undue advantage in the trading in influence provisions of the domestic legislation.

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

Money-laundering is criminalized by article 299 PC, based on an “all-crimes” approach. Self-laundering is covered by article 299 PC. The basic provision refers to the conduct of a person who, among others, undertakes actions that may obstruct or considerably hinder the assertion of the criminal origin of assets or property and their detection, seizure or adjudication of their forfeiture. The reviewing experts noted the restrictive requirement of “considerably hindering” the assertion of the criminal origin of the proceeds and recommended the deletion of the word “considerably”.

Article 24 of the Convention is implemented through section 299 PC.

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

Embezzlement in both the public and the private sectors is criminalized through articles 284 and 296 PC. Article 296 PC criminalizes the relevant act in a broad manner, in the sense that the management of property or business by exceeding powers granted to the perpetrator or by failing to perform duties is also covered as a punishable conduct.

Article 19 of the Convention is fully implemented through section 231 PC.

Having considered the possibility to criminalize illicit enrichment, Poland has not established such an offence.

Obstruction of justice (art. 25)

Article 25(a) of the Convention is domesticated through articles 18, 232-240 and 245 PC. The reviewing experts noted that there is no stand-alone offence to punish the offering or giving of an undue advantage to induce false testimony or the production of evidence in a proceeding.

Article 25(b) of Convention is implemented through section 232 PC.

Liability of legal persons (art. 26)

The Act on Liability of Collective Entities for Offences Prohibited under Penalty (2002) provides for the liability of “collective entities”, which is of a *sui generis* nature: it is not considered as criminal liability, although it is adjudicated by a criminal court pursuant to the provisions of the CPC.

The review team noted that the requirement of the conviction of a natural person in order to impose liability on a legal person (article 4 of the Act) directly contravenes paragraph 3 of article 26 of the Convention, and, thus, severely hinders the effectiveness of the Act. The reviewing experts recommended the deletion of this requirement in the domestic legislation and the establishment of effective liability of legal persons that is not limited to cases where the natural person who perpetrated the offences is prosecuted or convicted.

The Act on Liability of Collective Subjects enumerates a list of pecuniary sanctions for bribery, trading in influence and money-laundering.

The national authorities acknowledged that there is no practice in implementing the Act. Apart from the problems posed by the requirement of prior conviction of a natural person, the reviewing experts identified the following issues: extremely low level of sanctions against legal persons; lack of legislation enabling the collection of evidence against legal persons for the commission of criminal offences; and loopholes that may be utilized to avoid the liability of a legal entity (for example, through merging with another entity). The review team recommended that the national authorities take measures to address such problems and ensure effective implementation of the relevant legislation.

Participation and attempt (art. 27)

The participation in the commission of a criminal offence is regulated in articles 18 and 19 PC. The attempt to commit a criminal offence is covered in articles 13-15 PC. Preparation of a criminal offence is subject to a penalty only when the law so provides. The preparation of corruption offences is not incriminated.

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

The review team found the sanctions applicable to persons who have committed corruption offences to be adequate and sufficiently dissuasive.

Under the Polish legal system, there is a wide range of public officials enjoying immunity from prosecution (parliamentarians, judges, prosecutors, members of the Tribunal of State, the President of the Supreme Chamber of Control, and the Commissioner for Citizens' Rights).

The reviewing experts recommended the adoption of legislative measures to ensure that investigative action aimed at securing evidence of committing a criminal offence, and particularly related to the lifting of bank secrecy, is allowed before the lifting of immunity takes place and that procedural immunity is narrowed to only criminal prosecution and would not be applicable to pretrial investigation stage.

Article 37 of the Convention is implemented through articles 60; 229, paragraph 6; 230a, paragraph 3; 250a, paragraph 4; 296a, paragraph 5; and 307 PC.

Article 229, paragraph 6 PC provides for impunity ("the perpetrator shall not be liable to punishment") if the material or personal benefit or a promise thereof were accepted by the person performing public functions and the perpetrator had reported this fact to the law-enforcement agency, revealing all essential circumstances of the offence before this authority learned of the offence. Similar "immunity clauses" are found in article 230a, paragraph 3 PC (active trading in influence — "the penalty is not imposed on the perpetrator") and article 296a, paragraph 5 PC (active bribery in the private sector — "the perpetrator shall not be subject to a penalty").

The reviewing experts encouraged the national authorities to consider whether an amendment in the text of the provisions in the form of optional wording ("may not be liable to punishment"; "the penalty may not be imposed on the perpetrator"; "the perpetrator may not be subject to a penalty" accordingly), coupled with the option of mitigating punishment/circumstances, could be conducive to a more flexible application of the provision on a case-by-case basis and could allow the public prosecutor to "weigh" in each case the level of cooperation of the perpetrator of active bribery.

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

Measures for the protection of witnesses are set forth in the CPC, article 20a of the Act on the Police and article 14 of the Act on the immunity witness. The review team identified the latter Act as a good practice as it provides modern solutions for the protection of immunity witness and his/her next of kin.

Poland reported that whistle-blowers are subject to protection on the basis of general principles of labour law. Poland also referred to provisions protecting employees–whistle-blowers from retaliation, such as the anti-discrimination provisions and the provisions that prohibit mobbing in the place of employment.

However, the review team noted the lack of information in response to allegations that the national regulations on whistle-blowers protection are largely ineffective due to their disparate and vague application. In particular, the available research indicates that the effectiveness of the labour code provisions in practice is low. Moreover, the Labour Code covers only a part of working population.

One of the setbacks identified was the decision to withdraw the whistle-blowers protection from the Government Anti-corruption Programme 2014-2019. The reviewing experts encouraged the Polish authorities to amend the Programme and include the whistle-blowers protection as an indication of the high priority accorded

to it and the political will to improve the efficiency of legal protection for whistle-blowers.

Another recommendation of the review team was the development of specific legislation on the protection of reporting persons. The following considerations may be taken into account:

- The introduction of the concept of “protection of whistle-blowers”: specific legislation on the protection of reporting persons can be conducive to introducing this protection as a key concept in cases adjudicated by the courts, which — currently — end up as unfair dismissal cases;
- Retaliation against whistle-blowers should be *expresses verbis* forbidden and retributive actions should also be referred to as a form of discrimination in the legislative text;
- In terms of implementation, the burden of proof in whistle-blowing cases should be *expressis verbis* placed on the employer.

From an operational point of view, the review team identified as a good practice the development of an online and helpline reporting system, based on the Act on the Central Anti-Corruption Bureau, to enable Polish citizens and other persons with habitual residence in Poland to report corruption offences.

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

Criminal law provisions in Poland enable forfeiture in order to deprive offenders of the proceeds and instrumentalities of crime (there is no such penal measure as “confiscation of assets”).

The Polish legislation also provides for civil forfeiture pursuant to article 412 of the Civil Code.

The property subject to forfeiture is transferred to the State Treasury, which is responsible for its administration. The national authorities recognized the need for introducing and implementing more streamlined provisions on the administration of forfeited proceeds of crime or property, given that the State Treasury cannot obtain benefit of the forfeited assets. Consequently, the reviewing experts recommended the adoption and implementation of such measures.

Article 40 of the Convention is implemented domestically through article 105, paragraph 1, of the Banking Act. Poland acknowledged that the procedure for applying for bank records — although made *ex-parte* — may be subject to legal challenges, thus entailing delay in disclosure of these records with the net effect that progress of ongoing investigation may be seriously impaired. Therefore the review team recommended that effective legislative measures be implemented for disclosure of bank records to take place within a prescribed reasonable timeframe and for the possibility of legal challenges to be curtailed, to avoid unnecessary delays.

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

The period of limitation is determined by the length of imprisonment which can be imposed for the offence in question. Pursuant to article 102 PC, the period of limitation is prolonged in case of criminal proceedings instituted against the

offender. The review team found the statute of limitations periods adequate enough to serve the purposes of the proper administration of justice.

Article 41 of the Convention is implemented through articles 114 and 114a PC.

Jurisdiction (art. 42)

Jurisdiction based on the principle of territoriality is established in article 5 PC. Dual criminality is generally required to establish extra-territorial jurisdiction (with some exceptions).

According to article 110, paragraph 2 PC, the national criminal laws apply to foreigners committing offences abroad other than terrorist offences and those directed against the interests of the State and a Polish citizen or legal person, if, under the Polish penal law, such an offence is subject to a penalty exceeding two years of deprivation of liberty, and the perpetrator remains within the territory of the Republic of Poland and no decision on his extradition has been taken. The reviewing experts noted the use of this provision for the application of the axiom “aut dedere aut judicare”, but also highlighted the restriction posed by the threshold of two years of imprisonment, recommending its deletion.

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

According to article 58 of the Civil Code, any illegal activity, even if it takes the form of a contract or any other legal action, has no effect in the legal turnover. The same applies if the contract or other legal action was concluded due to the accepting/giving of the bribe. Article 17, paragraph 5, of the Act of Public Procurement Law stipulates that persons performing actions in connection with award procedures shall be subject to exclusion, if they have been legally sentenced for an offence committed in connection with contract award procedures, bribery, offences against economic turnover or any other offence committed with the aim of gaining financial profit.

A victim within the Polish criminal proceedings enjoys all rights of witness. The status of an injured person is regulated in articles 49-52 CPC.

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

The Central Anti-Corruption Bureau (CAB) is a special service operating under the Act of 9 June 2006 on the Central Anti-Corruption Bureau.

The Head of the CAB is appointed for a term of four years and recalled by the Prime Minister, following consultations with the President of the Republic of Poland, the Special Services Committee and the Parliamentary Committee for Special Services.

During the country visit, representatives from the civil society suggested that the Head of the CAB be appointed by a Parliament decision, on the proposal of the President of the Republic of Poland. This process is similar to the appointment of the Head of the National Audit Office, which, however, functions as a body with a constitutional mandate. The review team invited the national authorities to study these views and assess their applicability within the context of a future discussion on the role, mandates and effectiveness of the CAB.

Under article 2 of the Act on the Central Anti-Corruption Bureau, the Bureau deals with the identification, prevention and detection of a series of offences, prosecution of perpetrators, as well as control, analytical and preventive activities. It performs preliminary investigation tasks aimed at disclosing corruption offences and offences detrimental to the State's economy.

During the country visit, representatives from the civil society argued in favour of enhanced CAB efforts geared towards elaborating analytical criminological studies on the implementation of criminal law provisions against corruption.

The review team welcomed the existence and function of CAB as a special body against corruption and recommended the continuation of efforts towards enhancing its institutional efficiency. The reviewing experts favoured the delineation of the competences of the Bureau by making best use of existing resources (a practical problem reported during the country visit is that of ensuring the accuracy and veracity of assets and conflicts of interest declarations due to the high number of public officials under scrutiny). It is up to the Polish authorities to decide whether both law enforcement and preventive functions will remain within the mandate of the CAB or whether the Bureau will focus on law enforcement, pursuant to article 36 of the Convention, with enhanced preventive functions assigned to another body.

The General Inspector of Financial Information (GIFI) is responsible for carrying out tasks related to money-laundering and terrorist financing. Together with the Department of Financial Information, they create the Polish Financial Intelligence Unit located in the Ministry of Finance.

The responsibility for the prosecution of corruption offences rests with the prosecution service which supervises the investigations carried out by the CAB and the law enforcement authorities. Statute of 9 October 2009 amending the Prosecution Act separated the functions of the Prosecutor General from the Ministry of Justice. The aforementioned statute amending the 1985 Prosecution Act established the National Prosecution Council (NPC) as a designated self-government organ for securing and protecting prosecutorial independence. Specialized units against corruption have been created within the prosecution service.

The national authorities reported on domestic provisions facilitating cooperation between government institutions to combat crime, including corruption offences (mainly article 304 CPC). They also reported on the cooperation between government institutions and private sector entities (article 15, paragraph 3 CPC and, for money-laundering and financing of terrorism, chapter 4 of the Act on "counteracting money laundering and terrorism financing" of 16 November 2000).

The reviewing experts invited the national authorities to continue efforts aimed at enhancing interagency coordination in the fight against corruption, as well as cooperation between national authorities and the private sector for the same purpose.

2.2. Successes and good practices

- The fact that the foreign bribery offences are established domestically "in connection with the public functions" of the perpetrator in a foreign State or an

international organization, and that their scope of application is not restricted to “the conduct of international business”;

- The Act on the immunity witness which provides modern solutions for the protection of immunity witnesses and their next of kin;
- The development of an online and helpline reporting system, based on the Act on the Central Anti-Corruption Bureau, to enable Polish citizens and other persons with habitual residence in Poland to report corruption offences.

2.3. Challenges in implementation

- Continue to develop consistent jurisprudence for purposes of legal certainty to make a clear distinction between the offer and the promise of an undue advantage in the bribery and trading in influence provisions of the domestic legislation;
- Take measures to amend the domestic legislation — or pursue its consistent interpretation — to ensure that the exception for “service type work” in the Penal Code definitions of “public official” and “a person performing public functions” does not result in an exception to the bribery offences for acts or omissions of a public official “in relation to the performance of official duties”;
- Amend the domestic legislation to overcome problems that may be posed by existing requirements which restrict the scope of application of article 296a PC on the criminalization of bribery in the private sector (act — or failure to act — of the bribe-taker, which may inflict material damage on an organizational unit carrying out business activity unit or may constitute an act of unfair competition or inadmissible act of preference in favour of a buyer, or a recipient of goods, services or other performance);
- Amend the domestic legislation along the lines of removing the word “considerably” in article 299 PC while describing the conduct of “undertaking other actions that may hinder the assertion of criminal origin” of the proceeds (money-laundering);
- Consider including a provision in the national legislation establishing a specific stand-alone offence that explicitly covers the offering or giving of an undue advantage to induce false testimony or the production of evidence in a proceeding;
- Delete the requirement of a conviction of a natural person in order to impose liability on a legal person and establish effective liability of legal persons that is not limited to cases where the natural person who perpetrated the offences is prosecuted or convicted;
- Take measures to ensure the effective implementation of the domestic legislation on the liability of legal persons, particularly through increasing sanctions, enabling the collection of evidence against legal persons for the commission of criminal offences and preventing loopholes that may be utilized to avoid the liability of a legal entity;
- Take legislative measures to ensure that investigative action aimed at securing evidence of committing a criminal offence, and particularly related to the

lifting of bank secrecy, is allowed before the lifting of immunity takes place and that procedural immunity is narrowed to only criminal prosecution and would not be applicable to pretrial investigation stage;

- Adopt and implement measures to ensure more effective and efficient administration of forfeited proceeds of crime or property;
- Explore the possibility of amending the Government Anti-corruption Programme 2014-2019 to include the whistle-blowers protection; and to develop specific legislation on the protection of reporting persons. Considerations to be taken into account when developing — and implementing — such legislation are mentioned above;
- Enhance the efforts of the Central Anti-Corruption Bureau geared towards elaborating analytical criminological studies on the implementation of criminal law provisions against corruption;
- Study and assess the applicability of suggestions on the establishment of high standards of appointment of the Head of the CAB, involving a Parliament decision on the proposal of the President of the Republic of Poland;
- Continue efforts towards enhancing the institutional efficiency of the CAB; delineate the competences of the Bureau taking into account the need for best use of existing resources; and, on that basis, decide whether both law enforcement and preventive functions will remain within the mandate of the CAB or whether the Bureau will focus on law enforcement, pursuant to article 36 of the Convention;
- Consider whether an amendment in the form of optional wording in the text of the “immunity clauses” contained in article 229, paragraph 6, article 230a, paragraph 3 and article 296a, paragraph 5 PC (“may not be liable to punishment”, “the penalty may not be imposed on the perpetrator”, “the perpetrator may not be subject to a penalty” accordingly), coupled with the option of mitigating punishment/circumstances, could be conducive to a more flexible application of the provision on a case-by-case basis and could allow the public prosecutor to “weigh” in each case the level of cooperation of the perpetrator of active bribery;
- Continue efforts aimed at enhancing interagency coordination in the fight against corruption, as well as cooperation between national authorities and the private sector for the same purpose;
- Implement effective legislative measures for the disclosure of bank records within a prescribed reasonable time frame and for the possibility of legal challenges to be curtailed to avoid unnecessary delays; and
- Amend the domestic legislation (article 110, paragraph 2 PC) along the lines of removing the threshold of two years of imprisonment for the establishment of domestic criminal jurisdiction for prosecution purposes in lieu of extradition.

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)*

In Poland, extradition is regulated in the Constitution, the CPC and in applicable bilateral and multilateral treaties or agreements. With regard to other Member States of the European Union, the surrender of fugitives is carried out in line with the requirements of the European Council Framework Decision of 13 June 2002 on the European Arrest Warrant (EAW).

Poland may grant extradition with or without a treaty. In the absence of a treaty, extradition is possible on the basis of reciprocity. Poland considers the Convention a legal basis for extradition.

The absence of dual criminality, which is determined on the basis of the “underlying conduct” approach (good practice), is an absolute reason for refusal of extradition. The reviewing experts recommended the adoption of a more flexible approach, in line with article 44, paragraph 2, of the Convention.

The offence should carry a penalty of deprivation of liberty for not less than one year. All Convention offences constitute extraditable offences.

Article 55 of the Constitution prohibits the extradition of nationals. However, the extradition of a Polish citizen may be granted upon a request made by a foreign State or an international judicial body if such a possibility stems from an international treaty ratified by Poland.

None of the offences established pursuant to the Convention is deemed a political offence. With regard to extradition requests relating to fiscal matters, Poland does not deny extradition requests on the sole ground that they involve fiscal matters. The grounds for refusal of an extradition request, both mandatory and optional, are prescribed in article 604 CPC.

The length of extradition proceedings is dependent on the matter of the case. Simple cases and cases adjudicated according to simplified procedures are usually carried out approximately within three months from the time of submission of the extradition request. Other extradition cases could take up to two years to be completed, depending on their complexity.

Poland is bound by the European Convention on Extradition and its two Additional Protocols, as well as multilateral and bilateral treaties providing a basis for extradition.

The reviewing experts highlighted the need for a more systematic approach in compiling statistical data on extradition cases and encouraged the national authorities to continue efforts in this regard.

The transfer of sentenced persons is regulated in articles 608-611f CPC. Poland is a party to the Council of Europe Convention on the Transfer of Sentenced Persons and its Additional Protocol.

The transfer of criminal proceedings is regulated in Chapter 63 CPC (articles 590-592).

Mutual legal assistance (art. 46)

The CPC governs mutual legal assistance (MLA) in the absence of a treaty. The lack of dual criminality is a discretionary ground for refusal of an MLA request. MLA may be provided for coercive and non-coercive measures, but court authorization is required for coercive measures.

The Ministry of Justice has been designated as the central authority to receive requests for mutual legal assistance.

The grounds for refusal of MLA requests are foreseen in article 588 CPC. Bank secrecy and fiscal matters, when relating to acts of corruption, are not grounds to deny an MLA request.

With regard to the execution of MLA requests, the Polish law shall be applied. However, if these agencies require special proceedings or some special form of assistance, their wishes should be honoured, unless this is in conflict with the principles of the domestic legal order.

Poland is bound by the United Nations Convention against Transnational Organized Crime and other regional instruments providing the legal basis for MLA. Bilateral treaties with 42 countries were reported.

Similarly to extradition, the reviewing experts reiterated their encouragement to the national authorities to put in place and render fully operational information system compiling in a systematic manner information on MLA cases, with a view to facilitating the monitoring of such cases and assessing the effectiveness of implementation of MLA arrangements.

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

Poland has taken measures to facilitate the exchange of information with foreign law enforcement counterparts. Bilateral and multilateral agreements are in place for the exchange of information in connection with investigations and the exchange of personnel to share information on best practices. Poland is also a member of Europol, INTERPOL, the Camden Asset Recovery Inter Agency Network and the Egmont Group. The CAB is a member of the European Partners against Corruption/European Anti-Corruption Network.

Poland considers the United Nations Convention against Corruption a legal basis for law enforcement cooperation in respect of the offences covered by the Convention.

The conduct of joint investigations is regulated in articles 589b-589f CPC. The Prosecutor General is authorized domestically to enter an agreement with the competent authority of another State for the establishment of a joint investigative team.

The law enforcement authorities, and in cases of corruption offences the CAB as well, are empowered to use special investigative techniques. Poland has concluded several agreements authorizing the use of such techniques in the investigation of organized crime and corruption. In the absence of agreements, decisions can be made on a case-by-case basis.

3.2. Successes and good practices

- The comprehensive legal framework (provisions of CPC) on international cooperation in criminal matters;
- The interpretation of the double criminality requirement focusing on the underlying conduct and not the legal denomination of the offence.

3.3. Challenges in implementation

- Explore the possibility of relaxing the strict application of the double criminality requirement in cases of Convention-based offences that go beyond those relating to the execution of European Arrest Warrants, in line with article 44, paragraph 2, of the Convention against Corruption;
 - Continue efforts to put in place and render fully operational information system compiling in a systematic manner information on extradition and mutual legal assistance cases, with a view to facilitating the monitoring of such cases and assessing in a more efficient manner the effectiveness of implementation of international cooperation arrangements;
 - Continue to explore further opportunities to actively engage in bilateral and multilateral agreements with foreign countries (particularly non-European countries), with the aim to enhance the effectiveness of international cooperation in criminal matters.
-