



**Conference of the States Parties  
to the United Nations  
Convention against Corruption**

Distr.: General  
2 October 2015

Original: English

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**Implementation Review Group**

**Resumed sixth session**

St. Petersburg, Russian Federation, 3-4 November 2015

Agenda item 2

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

**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### Namibia

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

Namibia signed the Convention on 9 December 2003 (C.N.1422.2003.TREATIES-34) and it was ratified by Parliament on 27 April 2004. Namibia deposited its instrument of ratification with the Secretary-General on 3 August 2004 (C.N.793.2004.TREATIES-17).

Article 144 of the Constitution states that “[u]nless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.” Namibia follows a monist approach in that international law does not need to be translated into national law and consequently international treaties can be applied directly following an act of ratification.

Namibia is a common law State; the basis of the legal system is Roman-Dutch and English law. Common law offences can be altered or abolished by statute. The Constitution is the supreme law of the country. The criminal judicial system is an accusatorial one where the State has to prove all cases beyond reasonable doubt. No jury system applies within the Namibian legal system and the presiding officer(s) in each court determines the verdict. The Namibian criminal law is not entirely codified and the Criminal Procedure Act (CPA) prescribes the process to be followed in criminal cases. Common law offences still form a great part of the criminal justice system.

Key institutions in the fight against corruption include: the Prime Minister’s Office, National Assembly, Namibian Anti-Corruption Commission (ACC), Office of the Prosecutor-General, Ministry of Justice, Namibian Police Force (Nampol), Public Service Commission, Financial Intelligence Centre (FIC) and the judiciary.

#### 2. Chapter III: Criminalization and law enforcement

##### 2.1. Observations on the implementation of the articles under review

The definition of “public officer” in the Anti-Corruption Act 2003 (ACA), section 32 does not cover unpaid persons or other persons performing public functions or providing a public service (in accordance with UNCAC article 2). There is also some uncertainty whether all categories of persons holding legislative, administrative or judicial offices are covered.

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

Namibia has criminalized the bribery (active and passive) of public officials. The ACA prohibits the bribery of public officers, bribery in relation to auctions and bribery for giving assistance in relation to contracts (sections 33, 34, 38, 41, 42, 44 (1)(b) and the common law offence of bribery). Acts of indirect bribery and third-party beneficiaries are not covered in respect of all bribery offences under ACA.

Section 40, ACA criminalizes the active bribery of foreign public officials and officials or agent of public international organizations. However, third-party beneficiaries are not covered. Namibia is considering relevant amendments to explicitly criminalize passive transnational bribery.

Namibia has adopted measures to partially criminalize trading in influence (sections 35(1)-(3), 42, 33, 34, 38(b), ACA).

Namibia has criminalized bribery in the private sector (sections 33, 34, 35(1)-(3), 42, 44(1), 37, ACA).

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

Money-laundering is criminalized, principally in sections 4-6, Prevention of Organised Crime Act (POCA), section 1 (1), Financial Intelligence Act 2012 (FIA) and section 45, ACA. Participatory acts, including inducing, inciting, commanding, conspiring and attempt are covered (section 46, ACA and the inchoate offence of aiding and abetting under the common law). Namibia follows an “all crimes” approach to determining predicate offences, which include activities committed both within and outside Namibia; self-laundering is not precluded (sections 4-6, POCA, section 50, ACA).

Concealment is criminalized (section 45 (1) and 47, ACA; sections 4 and 5, POCA).

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

Namibia has partially criminalized embezzlement, misappropriation or other diversion of property by public officials through common law offences of theft and fraud.

The ACA criminalizes the abuse of functions by public officials (section 43, Corruptly using office or position for gratification).

Namibia has not criminalized illicit enrichment, but is considering adopting a relevant offence. Namibia has adopted measures to compel the disclosure of information concerning assets.

Namibia applies the common law offences of breach of fiduciary duty and fraud to deal with embezzlement of property in the private sector.

*Obstruction of justice (art. 25)*

Namibia has partially criminalized obstruction of justice to induce false testimony or to interfere in the giving of testimony or the production of evidence (sections 39 and 47, ACA).

Interference with justice or law enforcement officials is covered under the broad aspects of assaulting, resisting or obstructing officers (section 29, ACA). Other relevant provisions include section 47, ACA, section 89(3), POCA, sections 50(3), 53(5), 61(4) and 63, FIA, section 42(1)(i), CPA, and section 28, Magistrates Act 2003.

*Liability of legal persons (art. 26)*

Namibian law provides for criminal, civil and administrative liability of legal persons, which is established irrespective of the liability of the natural persons involved. The Namibian legal framework allows for the imposition of criminal and non-criminal sanctions, including monetary sanctions, against legal persons. Civil and administrative penalties for corporations are contained in the Companies Act, 2004 and the Close Corporation Act, 1998.

*Participation and attempt (art. 27)*

Sections 46, ACA, 5 POCA and 286-287, CPA, as well as the inchoate offence of aiding and abetting, cover participation and attempts to commit offences. The mere preparation of an offence, outside the acts of aiding and abetting, is not criminalized.

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

The applicable penalties for corruption-related offences are determined on the basis of the gravity of the crime. All corruption-related offences are sanctioned with various years of imprisonment.

Apart from the President of the country, who cannot be charged criminally for any act or omission during his tenure of office (Article 31, Constitution), no public officials, as defined in the UNCAC, are afforded any criminal immunities.

The Prosecutor-General has the discretion to decide whether to proceed with a prosecution or to withdraw it, subject to the provisions of the Constitution (Article 88(2)). Section 4 CPA sets out the Prosecutor-General's powers to withdraw charges before the accused has pleaded, and to stop proceedings thereafter. A prosecution can only be stopped with the written consent of the Prosecutor-General or any other authorized person. There are no prosecution guidelines, but the Prosecutor General's office has issued and circulated to prosecutors guidelines setting out the charges in corruption cases. In the last 2-3 years, there have only been four cases of decisions not to prosecute, which did not involve corruption matters, and no complaints were filed against such decisions.

Sections 62, 63 and 65, CPA regulate conditions for bail to ensure the presence of the defendant at subsequent criminal proceedings.

Section 97, Prison Services Act 1998 and sections 106 and 110, Correctional Services Act of 2012 regulate early release and parole.

Disciplinary measures, including the possibility of dismissal, suspension and reassignment of accused persons, may be taken on the basis of disciplinary procedures, which may run in parallel to the criminal process (section 26, Public Service Act 1995 (PSA)).

Convicted persons are disqualified from becoming members of the National Assembly (article 47, Constitution) and from the Public Service (sections 26(12) and 26(18), PSA). The disqualification from serving in a State-owned enterprise (SOE) based on a prior conviction is addressed in the relevant legislation of each SOE.

Rehabilitation and welfare services are available to all prisoners, even prior to their release (sections 321 and 322(1), CPA; section 275, Prison Services Act).

Limited measures to protect cooperating defendants are in place (sections 48, 52, 54(4), ACA; 9(1), POCA; 45, FIA). There are no statutory provisions dealing with the mitigation of punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence, although cooperation may be taken into account during sentencing. Immunity from prosecution may be afforded and has been given to cooperators in criminal matters (but not in corruption cases to-date). Namibian authorities indicated that a plea bargaining system could allow the prosecution to more speedily and effectively dispose of cases.

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

Section 52, ACA provides limited protections for informers and information (witnesses and whistle-blowers). Limited protection measures for witnesses and reporting persons are also contained in sections 54(4), ACA; 45 and 50, FIA; 175 and 208, CPA; and 98, POCA. A draft Witness and Whistleblower Protection Bill has been approved by Cabinet, and Namibia reported that it will use the Convention as basis for agreements with other States in implementing this legislation once passed. Namibia does not have a witness protection programme and faces self-reported challenges in this area.

While the protection of victims is not addressed, the CPA allows for the views and concerns of victims to be presented and considered during criminal proceedings (sections 305, 326).

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

Namibia provides for conviction- and value-based confiscation of proceeds of crime and instrumentalities used, but not destined for use, in offences (sections 18, 20, 32, 37 POCA). An Asset Forfeit Unit established in the Office of the Prosecutor-General handles asset forfeiture through civil litigation. Instrumentalities of crime are subject to limited confiscation measures in relation only to serious offences enumerated in Schedule 1, POCA. Various provisions, primarily in POCA, ACA, CPA and FIA, address the identification, tracing, freezing or seizure of proceeds and instruments by relevant authorities; the same laws also address the administration of frozen, seized or confiscated property by competent authorities. Provisions to overcome bank secrecy are found in POCA (section 9(5)), FIA (sections 44(1), 3(g)), ACA (sections 26, 27)), CPA (sections 20, 21)), as well as the Banking Institutions Act. The law establishes evidentiary presumptions in confiscation matters (sections 22, 36 POCA, 26 ACA).

Provisions in CPA, FIA and the Banking Institutions Act 1998 enable information pertaining to bank records to be disclosed for investigative purposes. ACC routinely issues summons for bank records under section 26 ACA and obtains relevant records. Such information is also regularly obtained by the FIC.

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

The period of limitations for corruption-related offences is twenty years from the date the offence was committed (section 18, CPA).

There is no legislative basis for judicial authorities to take into account previous foreign (as opposed to domestic) convictions.

*Jurisdiction (art. 42)*

Namibia has established jurisdiction over offences committed in its territory (sections 64, FIA; 50(1) ACA; 8, POCA), but not for all offences on board of vessels or airplanes.

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

The consequences of corruption are addressed in sections 36(16), FIA and 13, Tender Board Regulations 1996.

Compensation for damages may be obtained (sections 32(3), 39, POCA, 326(1), CPA). Moreover, as a matter of practice damages are claimed through the mechanisms of the civil procedural laws.

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

Sections 2 and 3, ACA establish the ACC as an agency within the Public Service and provide for a measure of independence of the Commission in the appointment of the Director and Staff. The ACC has its own budget (N\$48,581,000 during 2013/14), which is allocated by the Ministry of Finance. Staff training is conducted at the instance of the Director of the ACC as required; details were provided during the country visit.

Other relevant institutions include the Organized Crime and Criminal Intelligence Unit (specialized money-laundering unit) within the Police, a specialized prosecution unit within Office of the Prosecutor General for extradition and mutual legal assistance, and the FIC in the Bank of Namibia.

Cooperation between national authorities is ensured primarily through inter-agency memoranda of agreements. Relevant provisions are found in sections 31, 48, 3, ACA; 56, FIA; 88, POCA; 64 (4), Banking Institutions Act 1998. Institutions also cooperate through staff exchanges, sharing of resources, skills and capacity, operational synergies and information exchange. There is no general duty to cooperate by public officials and members of the public (sections Section 21(5) and 48 ACA).

Namibia's FIC responds to requests for information from law enforcement agencies and foreign financial intelligence units and receives and analyses suspicious transaction and activity reports (STRs/SARs) from accountable institutions, reporting institutions and others. The ACC conducts seminars and workshops for the private sector on how to report corruption incidents. Banks and financial institutions cooperate regularly with the FIC and ACC. Relevant laws include sections 9(1), POCA; 33, 45, 50, FIA; 17(1), Financial Intelligence Regulations 2009.

Measures to encourage the reporting of corruption incidents (including anonymously) have been established (sections 48(2), ACA; 204, CPA). The ACC has a 24-hour toll-free telephone hotline and also accepts reports by e-mail, fax, telephone, in writing, in person and orally. Civil society and non-governmental organizations are active partners of government and the ACC when it comes to the collection of information, raising awareness and educational programmes. Police

informants are rewarded financially to provide information and cooperation in criminal matters, and rewards are publicly announced in the media.

## 2.2. Successes and good practices

In general, the following are highlights of the successful experiences and good practices in the implementation of Chapter III of the Convention:

- Namibia is commended for the extensive effort and commitment, including at the highest level of government, to the preparation and facilitation of the review process, in particular the knowledge by relevant officials of the Convention and their apparent receptiveness to implementing the review results.
- Effective coordination mechanisms among national authorities (for example, through the work of the FIC), including high-level support for the implementation of the Convention and the anti-corruption agenda.

## 2.3. Challenges in implementation

To further enhance existing anti-corruption measures it is recommended that Namibia:

- Amend its legislation to adopt a definition of “public official” in line with UNCAC (art. 2).
- Amend its legislation to cover acts of indirect bribery and third-party beneficiaries for all bribery offences under ACA (art. 15).
- Cover third-party beneficiaries in its (active) transnational bribery offence (art. 16(1)). The reviewers welcome indications that Namibia is considering explicitly criminalizing passive transnational bribery.
- Adopt measures to criminalize embezzlement, misappropriation or other diversion of property by public officials (art. 17).
- Consider, in the context of its ongoing reforms, adopting measures to more fully criminalize trading in influence (art. 18).
- Consider criminalizing illicit enrichment in light of Constitutional principles and existing disclosure requirements (art. 20).
- The reviewers welcome indications by Namibia that it endeavours to adopt measures to criminalize embezzlement of property in the private sector (art. 22).
- Amend its legislation to bring it more closely in line with article 25(a).
- Consider whether the sanctions applicable to legal persons are sufficiently effective and dissuasive or should be enhanced in context of ongoing legal reforms (art. 26).
- Consider providing for an interruption or suspension of the period of limitations when criminal proceedings are filed (art. 29).
- Clarify provisions for the direct confiscation of proceeds and especially instruments in POCA, and ensure that instruments (including instruments

destined for use in offences) are subject to freezing, seizing and confiscation to the full extent (art. 31).

- Take steps towards the swift adoption of the Witness and Whistleblower Protection Bill, to cover witnesses, experts, victims and also cooperating defendants, and incorporate physical protection and evidentiary measures in line with UNCAC (arts. 32, 33, 37).
- Take steps to enhance the independence of the ACC and continue to invest in training and recruitment of skilled investigative and other staff of the relevant law enforcement agencies, including the Anti-Corruption Commission, the prosecution service and the police (art. 36).
- Continue to consider establishing a specialization in the judiciary on corruption-related matters, to address the backlog of cases and delays in the administration of justice. Moreover, further training and capacity-building on corruption cases for investigators, prosecutors and members of the judiciary is recommended (art. 36).
- Although not required under the Convention, consider adopting a relevant framework on plea bargaining in the context of ongoing legal reforms (art. 37).
- Consider adopting, in the context of ongoing legal reforms and sections 21(5) and 48 ACA, a general duty to cooperate by public officials and members of the public (art. 38).
- Consider adopting a legislative basis for the judicial authorities to take into account previous foreign convictions (art. 41).
- Establish jurisdiction for all offences committed on board of vessels or airplanes (art. 42(1)(b)) and in cases where extradition of nationals is refused (art. 42(3)). Also consider establishing jurisdiction in cases of passive personality (art. 42(2)(a)) and offences against the State (art. 42(2)(d)).

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

- Summary of good practices/lessons learned (arts. 16, 20, 21, 30, 31, 32, 33, 36, 37, 39).
- Model legislation, agreements or arrangements (arts. 20, 22, 32, 33, 37).
- Legislative drafting/legal advice (arts. 20, 21, 22, 30, 31, 32, 33, 36, 37, 39).
- Development of an action plan for implementation (arts. 31, 32, 33, 36, 37).
- Capacity-building programmes (art. 31, 32, 33, 37, 39).
- On-site assistance by an anti-corruption expert (arts. 16, 20, 21, 30, 32, 33, 36, 39).

### 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)*

The primary legislation governing extradition is the Extradition Act 1996 (EA). Extradition is rendered on the basis of an agreement or by designation/proclamation of countries. The extradition to designated countries or on the grounds of reciprocity does not require a treaty basis. Namibia has not applied this Convention as the legal basis for extradition in respect to offences under the Convention, although it could do so in principle. Three extradition treaties have been signed (China, Angola, Zimbabwe). Extradition arrangements are also facilitated through the SADC and African Union frameworks, the Joint Permanent Commissions (used inter alia to discuss conclusion of bilateral treaties for extradition and mutual legal assistance) as well as the Commonwealth (London) Scheme on Extradition.

Dual criminality is a requirement for extradition, which may be effected for offences punishable by a minimum of one-year imprisonment under the laws of both the requesting and requested countries (section 3(1), EA). This covers offences established under the Convention. Namibia takes a conduct-based approach in considering whether dual criminality is satisfied rather than considering the strict terminology of offences (section 3(2)(b), EA). Extradition is limited to the extent that not all offences under the Convention are criminalized.

The conditions and grounds for refusal are found in the extradition treaties and sections 3(1) and 5, EA. One such ground for refusal is that the conviction was obtained in the absence of the defendant, which has presented challenges in practice.

Expedited and simplified extradition arrangements are in place under the London Scheme. However, in practice the burden of proof (beyond a reasonable doubt) for extradition impedes incoming and outgoing requests (Hans-Jurgen Gunther Koch v. The State, SA 13/2005, 29.11.2006). Amendments to the EA were being considered that would ease evidentiary requirements while safeguarding due process rights, as well as the promulgation of timelines or procedures to expedite extradition matters.

Namibia can and does extradite its citizens. However, extradition of nationals may also be refused in the discretion of the Minister of Justice. The *aut dedere aut judicare* obligation is partially established (section 6, EA). Although in most cases the extradition of Namibian citizens was reportedly authorized, there have been no prosecutions in lieu of extradition to-date. Although extradition, sought for purposes of enforcing a sentence, would not be refused on the basis of nationality, this is not specified in the legislation.

Fair treatment guarantees enshrined in the Constitution and domestic legislation (principally, articles 6-8, 11, 12(1)(a) Constitution; sections 11(6)-(7), 13, 17(1), 20, EA) have been invoked in extradition cases (Mwilima & Others v. Government of the Republic of Namibia & Others 2001 NR 307 (HC)).

Namibia consults with requesting States as a matter of practice before extradition is refused.

There have been no reported incoming requests in corruption cases to-date. In 2014 Namibia received six requests not involving offences under the Convention and made no outgoing requests.

Namibia requires a treaty basis for the transfer of sentenced persons (section 2, Transfer of Convicted Offenders Act 2005). No such agreements have been entered into, but the adoption of ad hoc agreements has been considered.

Namibia has considered, but not adopted, measures on the transfer of criminal proceedings.

*Mutual legal assistance (art. 46)*

The International Co-operation in Criminal Matters Act 2000 (ICCMA) provides the legal framework for mutual legal assistance (MLA). The Act is under review to bring it more closely in line with the Convention. Namibia has concluded three bilateral MLA treaties (China, Angola, Zimbabwe). Namibia is also party to the SADC Protocol on Mutual Legal Assistance in Criminal Matters, as well as the Scheme for Mutual Assistance Within the Commonwealth (Harare Scheme). Namibia does not require a treaty for MLA and can provide assistance by designation/proclamation, on the basis of reciprocity and on the basis of the Convention.

There have been no incoming MLA requests in corruption-related cases. More generally, in matters not related to corruption, Namibia received 10 incoming MLA requests in 2014 and made 6 outgoing requests. Namibia has not refused any MLA requests in the last 2-3 years.

Namibia does not require dual criminality in the context of MLA.

As central authority, Namibia's Ministry of Justice communicates with other central authorities in matters related to MLA, although a formal notification to the United Nations has not been made. However, in practice direct communication and cooperation between designated central authorities is possible and accepted. Requests are frequently received through INTERPOL and are required to be made in writing in English, but no notification to the United Nations has been made.

The Minister of Justice has wide discretion to grant or refuse requests, including on the grounds set forth in the article 6 of the SADC Protocol on Mutual Legal Assistance In Criminal Matters. However, these grounds are not spelled out in ICCMA. Namibia honours requests for confidentiality as a matter of practice.

Namibia can share information spontaneously and has done so in the past. There is no domestic legislation on confidentiality of information received spontaneously; in practice Namibia treats all incoming requests as confidential.

There have been no cases where prisoners or detained persons have been transferred for purposes of MLA. In principle such transfers could be effected in the same manner as with any other witness, though the relevant protective measures are not specified.

Namibia's legislation does not allow for videoconferencing. In principle Namibian authorities could reach an agreement for a foreign judicial authority to conduct a domestic hearing, although there has been no experience in this regard.

The customary length of time for responding to MLA requests is expected not to exceed three months. There are reported domestic coordination problems and limited capacity in responding to requests.

As a matter of practice, Namibia consults with requesting States before refusing or postponing assistance.

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

Namibia's law enforcement authorities cooperate through a variety of networks and informal channels. Namibia participates in regional and international fora such as INTERPOL and the Southern African Regional Police Chiefs Commission (SARPCCO), as well as in regional fora dealing with AML/CFT issues, such as the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and the Financial Action Task Force on Money Laundering and Terrorism Financing (FATF). Nampol participates in the STAR INTERPOL focal points network. Namibia also cooperates through the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) and generates informal contacts through the Southern African Forum against Corruption (SAFAC).

Nampol is also part of the steering committee for the establishment of the African Police Cooperation Organization (AFRIPOL), a body supported by INTERPOL and affiliated with the African Union, aimed at coordinating police cooperation at the African level.

Nampol has entered into several bilateral agreements with other police forces and services, within and outside the SADC region to cooperate in the fight against crime, through the exchange of information on new emerging crime threats and crime trends. Specifically, Nampol has entered into bilateral agreements and established Permanent Joint Commissions on Defence and Security with Zambia, Angola and Botswana. In addition, Namibia and South Africa have established a Public Safety Committee to cooperate in the fields of defence and security, including the exchange of information on the activities and movement of elements involved in crime.

Namibia has posted liaison officers in South Africa, Angola and Botswana pursuant to SARPCCO resolutions. Zimbabwean police officers and international experts have been posted in Namibia, including an asset forfeiture advisor placed in the Prosecutor-General's office. The ACC engages in trainings at the regional level and staff exchanges with foreign counterparts.

Namibia has not used the Convention as a basis for direct law enforcement cooperation, but could in principle do so.

Joint investigative bodies have been established in criminal matters with Angola, Botswana, Zambia and South Africa, by mutual agreement or through INTERPOL. In corruption matters, joint investigative bodies may be established by agreement on a case by case basis. Joint investigations have been conducted through SARPCCO, also involving corruption.

Namibia's law enforcement authorities may conduct a range of special investigative techniques, including undercover operations, surveillance and controlled delivery under relevant domestic legislation (CPA, Police Act, ACA, POCA, FIA, Income

Tax Act, ICCMA, EA, and Prevention and Combating of Terrorist and Proliferation Activities Act). There appears to be some operational risk in conducting such techniques.

### 3.2. Successes and good practices

- Namibia flexibly applies the dual criminality requirement for extradition.
- Namibia's authorities engage in a wide range of law enforcement cooperation in particular at the regional level and through INTERPOL through a variety of frameworks, agreements and arrangements; in particular, the informal cooperation by Nampol, the ACC, FIC and other law enforcement authorities at the international level are positively noted.

### 3.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- Consider specifying in the Extradition Act that extradition may be affected on the basis of a multilateral agreement, such as the present Convention or, in the absence of an agreement, on the basis of reciprocity or by proclamation (art. 44).
- Notify the United Nations of indications that Namibia accepts UNCAC as a legal basis for extradition (art. 44(5)).
- Consider monitoring the application of section 5(2)(a), EA, which provides grounds for refusal in cases involving convictions obtained in absentia (art. 44(8)).
- Continue to take steps towards the adoption of amendments to the EA that would ease evidentiary requirements while safeguarding due process rights, as well as the promulgation of timelines or procedures to expedite extradition matters (art. 44(9)).
- Fully establish the *aut dedere aut judicare* obligation (art. 44(11)).
- Consider adopting measures providing that Namibia would consider the enforcement of a foreign sentence in cases where extradition of nationals is refused (art. 44(13)).
- Continue to ensure that the fair treatment guarantees enshrined in its Constitution and domestic legislation are enforced in extradition cases (art. 44(14)).
- Consider adopting extradition guidelines or procedures to inter alia more formally address the duty to consult before refusing extradition (art. 44(17)).
- Consider adopting guidelines on international cooperation, including timeframes to be followed and procedural steps to be taken, and publishing them on its website, in order to guide requesting States on Namibia's requirements for international cooperation (art. 46, in particular paras. 15-17, 19, 24 and 26)).
- Consider clarifying its practice on confidentiality of information shared spontaneously in the context of the ongoing revision of ICCMA (art. 46(5)).

- Consider specifying the matter of prisoner transfer for purposes of MLA (art. 46(10-11)).
- Make the requisite notification of its central authority and acceptable language for MLA to the United Nations (art. 46(13-14)).
- Consider specifying confidentiality matters in its law or procedure, in the context of the ongoing review of its legislation (art. 46(20)).
- Consider clarifying grounds for refusal of MLA (art. 46(21-23)).
- Clarify the practice on costs in its legislation or procedures (art. 46(28)).
- Engage in further capacity-building on international cooperation, by investing in training, user sensitization, learning from international good practices, further enhancement of its data management system, and the development and publication on its website of guidelines on international cooperation (art. 46(24)).
- Consider strengthening its legal regime on special investigative techniques, including ensuring that the evidence derived is admissible in a court of law (art. 50).

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

- Summary of good practices/lessons learned (arts. 44, 46, 47, 48, 50).
  - Model treaties/legal advice (art. 44).
  - On-site assistance by a relevant expert (arts. 44, 46, 50).
  - Capacity-building programmes (arts. 44, 46, 47, 50).
-