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

**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### Yemen

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

Yemen signed the Convention on 11 December 2003. It was ratified by the Yemeni Parliament under Law No. 47 of 2005. Yemen deposited its instrument of ratification with the Secretary-General of the United Nations on 7 November 2005.

It can be inferred from Article 6 of the Constitution, that the Yemeni legal system is a dual system as regards the relationship between the national and international laws, and treaties are not implemented in and of themselves but must be integrated into the Yemeni legislation.

Yemen applies the civil law. The national legal framework against corruption includes provisions from several laws, in particular the Criminal Code, the Code of Criminal Procedures and the Anti-Corruption Act, as well as the Money Laundering and Terrorism Financing Act and the Public Funds Recovery Act.

The judiciary is an independent authority and the public prosecution service is one of its components. Courts are divided into criminal and civil courts, each comprised of courts of first instance and courts of appeal, all of which are topped by the Supreme Court. Criminal proceedings take place according to the accusatory system and consist of an investigation phase and a trial phase.

Yemen has several anti-corruption authorities and agencies, the most important of which are the National Anti-Corruption Commission, the Central Monitoring and Accountability Authority, and the public finance prosecutors and courts, which specialize in corruption cases involving public funds. In addition, there are the Economic Security and Anti-Corruption Department of the National Security Agency, the Public Finances Investigations Department in the Ministry of the Interior (police force), the Financial Intelligence Unit, and the National Money Laundering and Terrorism Financing Committee.

#### 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)*

Article 154 of the Criminal Code criminalizes bribing a public official where the promise or offer is rejected. Where the offer or promise is accepted, article 155 applies. The penalties applicable to the briber and the intermediary are the same as those applicable to a public official who accepts a bribe, which are set forth in article 151 of the Criminal Code. Article 155 does not explicitly cover the giving of bribes for the benefit of another person or entity, however.

Article 151 of the Criminal Code criminalizes the solicitation or acceptance by a public official of a gift or an advantage of any sort, or the promise thereof, in order that the official act, or refrain from acting, in breach of his or her official duties. Article 151 does not explicitly cover the solicitation of bribes by a public official for the benefit of another person or entity, however.

By applying the relevant provisions of the Criminal Code, article 30(5) of the Anti-Corruption Act criminalizes the bribery of foreign public officials and officials of public international organizations. This does not explicitly cover the giving of bribes for the benefit of another person or entity, however.

Yemen has not criminalized the solicitation or acceptance of an undue advantage by a foreign public official or by an official of a public international organization. It has prepared a draft law that includes the criminalization of such conduct, however.

Article 159 of the Criminal Code criminalizes the solicitation, acceptance or receipt by a public official or by any other person of a gift or promise for himself or herself or for another person in order that the public official or the person in question abuse his or her influence. It does not make explicit reference to the phrase “directly or indirectly”, however.

There is no specific provision on the bribery of a public official or any other person in order that he or she abuse his or her real or supposed influence with a view to obtaining an undue advantage from an administration or public authority. Yemen is considering criminalizing such acts separately by preparing a draft law, however. Nonetheless, such acts can be prosecuted under provisions of article 22 of the Criminal Code related to incitement when read in conjunction with article 159 if the promise, offering or giving of the bribe is accepted. However, Yemeni legislation does not criminalize such acts where the promise, offering or giving of the bribe is not accepted.

Yemen does not criminalize the promise, offering or giving of bribes in the private sector; there is a proposal to amend both the Criminal Code and the Corruption Act in order to criminalize such acts, however.

Article 158 of the Criminal Code criminalizes the acceptance and solicitation of bribes in the private sector; it requires the offender to be “an employee” who has solicited the bribe without the knowledge or approval of his or her employer, however.

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

It is an offence to launder the proceeds of crime under article 3 of the Money Laundering and Terrorism Financing Act, as amended by Law No. 17 of 2013. The same article also makes it an offence to attempt to commit such acts and all forms of participation in such acts.

Predicate offences include all offences punishable under the provisions of the laws in force, in addition to a list of offences including corruption, bribery and embezzlement of public and private funds.

The Criminal Code makes the “concealment of items obtained through an offence or items used in the commission of an offence” a special offence pursuant to article 183(2) in the event that no agreement was concluded before the commission of the predicate offence. Where such an agreement was concluded, the person who committed the offence of concealment is prosecuted as a participant in the predicate offence in accordance with article 23 of the Criminal Code.

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

Article 162 of the Criminal Code criminalizes embezzlement by a public official of property entrusted to him or her by virtue of his or her office. It does not cover misappropriation or diversion, however; nor does it explicitly criminalize embezzlement for the benefit of another person or entity.

Articles 162, 163 and 164 of the Criminal Code criminalize the abuse of functions in various forms, including the abuse of a public function to appropriate funds belonging to the State or any agency, public institution or body thereof.

The reviewing experts are of the opinion that Law No. 30 of 2006 on financial disclosure criminalizes “illicit enrichment” by senior State officials, but that the definition of illicit enrichment under Yemeni law differs from that used in the Convention; under article 6 of the above-mentioned law, the crime of illicit enrichment can be proven only where evidence can be provided that a senior State official to whom that law applies is carrying out prohibited acts. The Yemeni authorities have stated that the law criminalizes “illicit enrichment” with regard to all public officials, despite the fact that the obligation to disclose one’s assets applies to three categories only: senior State officials, senior administrative officials and financial officials. The authorities also noted that the conditions set forth in article 6 apply only in cases where prohibited activities are being carried out, whereas in cases of illicit enrichment no conditions are imposed.

The embezzlement of property in the private sector is criminalized under article 318 of the Criminal Code. Yemeni legislation covers the embezzlement of movable assets only, however, and does not cover immovable property.

*Obstruction of justice (art. 25)*

Article 181 of the Criminal Code criminalizes the use of physical force or threats, or the promise or offer of a gift or advantage of any kind, in order to induce another to refrain from giving testimony or to give false testimony, even where the offender does not achieve his or her objective. This provision also applies to experts and interpreters. This article does not explicitly cover intimidation or the giving of bribes. Where an offender achieves his or her objective of securing a false testimony, he or she is punishable as an abettor under the general principles of the Criminal Code for having participated in the offence of false testimony (art. 24 in conjunction with art. 179).

Yemeni legislation does not criminalize the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage in order to incite a person to give testimony. Article 181 criminalizes the use of physical force or threats or the offering of a gift or advantage of any kind where the relevant evidence is provided only through witness testimony.

Article 171 of the Criminal Code criminalizes the use of physical force or threats against a public official during or by virtue of the exercise of his or her duties or functions.

*Liability of legal persons (art. 26)*

The civil and criminal liability of legal persons is established under article 2 of the Criminal Code and article 36 of the Civil Code.

Yemeni legislation does not state explicitly that the liability of legal persons is without prejudice to the criminal liability of natural persons who commit an offence.

Yemen does not ensure that legal persons held liable are subject to adequate sanctions. With regard to criminal offences, however, legal persons receive the same judgment as natural persons, and the sanctions that can be applied are deemed sufficient.

*Participation and attempt (art. 27)*

Articles 21 to 24 of the Criminal Code cover participation, and articles 18 and 19 of the same law cover attempt, which is criminalized with regard to all offences.

The act of preparing to commit an offence is not criminalized in Yemeni law.

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

Yemen has adopted penalties for the offences provided for in the Convention ranging from a fine to 10 years' imprisonment, depending on the gravity of the offence. Immunities appear to constitute an impediment to the effective judicial prosecution of such offences, however, in particular with regard to the indictment and trial of senior public officials.

Yemen has adopted the principle of legality of prosecution.

Detention pending trial is possible in the case of corruption offences. Release pending trial is also possible, with or without bail, under article 194 of the Code of Criminal Procedure. Where the public prosecutor deems that the accused's circumstances do not allow for the provision of financial bail, he or she may instead place a requirement on the accused to present himself or herself to the police station at prescribed times (art. 94 of the General Directives of the Prosecutor's Office).

Early release is possible in all cases of imprisonment if three quarters of the prison sentence have been completed and all financial obligations adjudicated by the court have been settled.

Public officials under investigation for corruption offences can be suspended or placed on compulsory leave by the National Anti-Corruption Commission if the investigation or the circumstances surrounding the investigation so require (arts. 106 and 135 of the Implementing Regulations of the Anti-Corruption Act). A draft law amending the Anti-Corruption Act has been drawn up which explicitly allows the National Anti-Corruption Commission to reassign public officials or remove them from office.

Offenders may be disqualified from holding public office or performing public services pursuant to article 101 of the Criminal Code, and from being appointed as a board member or an employee of a company or bank in which the State holds capital.

Disciplinary sanctions can be imposed in addition to criminal sanctions in corruption cases, under the Civil Service Act.

Yemeni legislation provides for the rehabilitation of prisoners while in prison and their reintegration into society after their release; for instance, prisoners are

provided with work and vocational training to facilitate their reintegration into society. All convicted persons may have their good standing in the society restored after a certain period following the completion of their sentence. Yemen does not have dedicated follow-up programmes to help with the social reintegration of convicted persons following their release from prison, however.

Yemen has not adopted measures to grant immunity from prosecution to offenders who cooperate with regard to any offence; such cooperation may be taken into account, however, thereby allowing persons who cooperate with the judicial authorities to benefit from a reduced sentence or to be exempt from punishment following the conclusion of the investigations, as might be decided by the Public Prosecutor, or following trial (art. 157 of the Criminal Code, art. 40 of the Anti-Corruption Act and art. 45 of the Money Laundering and Terrorism Financing Act). Yemen has included in its draft law on asset recovery a provision on settlements in corruption cases.

Yemen has not adopted measures to provide effective protection from possible retaliation or intimidation to accused persons who cooperate with the judicial authorities.

Yemen may enter into agreements to provide for the possibility of mitigating the sanctions applied to persons located abroad who cooperate with the judicial authorities or of exempting such persons from punishment.

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

Article 27 of the Anti-Corruption Act provides for the protection of witnesses, experts and reporting persons in cases that involve corruption offences. Article 142 of the Implementing Regulations of the Anti-Corruption Act provides for the protection of witnesses and persons close to them. Such protective measures do not include persons close to experts, however. Protective measures include relocation and non-disclosure of information concerning the person's identity or location.

Under article 143 of the Implementing Regulations, witnesses and experts may give testimony via communications technology.

Article 144 of the Implementing Regulations provides for the protection of victims and reporting persons, even if the victims are not witnesses.

Yemen may enter into agreements to change a person's place of residence.

Article 143 of the Implementing Regulations, read in conjunction with article 144, allows for the views and concerns of victims to be presented via communications technology.

The Implementing Regulations provide for the legal protection of reporting persons, in particular under articles 140 and 141.

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

Article 103 of the Criminal Code provides for the possibility of confiscating the proceeds of crime and instrumentalities used, or destined for use, in the commission of an offence. Confiscation must be on the basis of conviction.

Yemen permits value-based confiscation, the confiscation of property mixed with the proceeds of crime and the confiscation of income or other benefits derived from the proceeds of crime under article 41 of the Money Laundering and Terrorism Financing Act, which also applies to stand-alone predicate offences, including corruption offences.

Yemeni legislation does not provide explicitly for the seizure or confiscation of property into which the proceeds of crime have been transformed or with which such proceeds have been exchanged.

The Code of Criminal Procedure, the Money Laundering and Terrorism Financing Act and the Anti-Corruption Act provide for a wide range of investigative measures available for use in the identification, tracing and freezing of the proceeds and instrumentalities of crime for the purposes of seizure.

Yemen does not have procedures for the administration of frozen, seized or confiscated property. A proposal has been put forward to amend the Code of Criminal Procedure and the Anti-Corruption Act in line with the text of the Convention.

Orders may be issued to make available or to seize financial, bank or commercial records upon the request of the National Anti-Corruption Commission (art. 33 of the Anti-Corruption Act), the public prosecution (art. 67 of the Public Prosecutor's Directives) or the Financial Intelligence Unit and the competent investigation and prosecution authorities (art. 50 of the Money Laundering and Terrorism Financing Act).

Pursuant to article 10 of Law No. 30 of 2006 on financial disclosure, anti-corruption investigators may order offenders — in illicit enrichment offences only — to demonstrate the origins of the proceeds of crime.

The rights of bona fide third parties are protected under the Money Laundering and Terrorism Financing Act.

Bank secrecy does not appear to be an obstacle to criminal investigations, as it cannot be pleaded before the National Anti-Corruption Commission (art. 33 of the Anti-Corruption Act and art. 150 of the Implementing Regulations thereof), the public prosecution (art. 67 of the Public Prosecutor's Directives) or the Financial Intelligence Unit and the competent investigation and prosecution authorities (art. 50 of the Money Laundering and Terrorism Financing Act).

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

Article 39 of the Anti-Corruption Act establishes that there is no statute of limitations for corruption offences.

Yemeni law allows foreign convictions to be taken into consideration for the purpose of using such information in criminal proceedings; for instance, article 109 of the Criminal Code includes “the criminal record of the offender” in the list of aggravating or mitigating circumstances, without limiting this to convictions handed down by Yemeni courts.

*Jurisdiction (art. 42)*

Yemen has established its jurisdiction with regard to most of the circumstances referred to in article 42, with the exception of corruption offences committed abroad by stateless persons who have their habitual residence in Yemeni territory and of corruption offences committed against Yemen or Yemeni nationals.

The principle of extradite or prosecute is not established explicitly in Yemeni law, in particular with regard to cases in which Yemen does not have jurisdiction over the offence. Yemen may, however, initiate criminal proceedings and prosecute accused Yemeni nationals, in accordance with the provisions on active personal jurisdiction (art. 246 of the Code of Criminal Procedure).

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

Article 8 of the Anti-Corruption Act and article 97 of the Implementing Regulations thereof allow the National Anti-Corruption Commission, in coordination with the legally competent authorities, to take all necessary legal measures to annul or rescind a contract to which the State is party, or to withdraw a concession or other similar instrument, where such contract or instrument was entered into in violation of the laws in force or is contrary to the public interest. The reviewing experts are of the view that these two articles do not provide explicitly for the legal procedures necessary for the annulment or rescission of contracts, or for the withdrawal of concessions or any other similar instruments, where the State is not party to such contract or instrument, nor do they regulate the rights of bona fide third parties. The Yemeni authorities have indicated, however, that, in referring to the “withdrawal of concessions or any other similar instrument”, article 8 applies to all concessions that are granted in violation of the applicable laws or that are detrimental to the public interest or public funds, even where the State is not a party to such concessions. As regards the legal procedures for the annulment or rescission of contracts or concessions, the Yemeni authorities have indicated that the National Anti-Corruption Commission is responsible for issuing decisions to annul or rescind such contracts or concessions and for informing the competent authorities — i.e. the administrative authorities that were party to or involved in granting the concession — that the contract or concession has been annulled on the decision of the National Anti-Corruption Commission. The authorities will then annul the contract or withdraw and consider void the concession through administrative procedures and without resorting to civil legal proceedings through the judicial system or through any other system. Yemen provided examples of this.

During trials for criminal offences, victims of an offence may submit a claim for civil compensation for damages resulting from the offence to the court that is hearing the criminal case (art. 43 of the Code of Criminal Procedure).

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

Yemen has several anti-corruption authorities and agencies, the most notable of which is the National Anti-Corruption Commission, which is the supreme watchdog for combating and preventing corruption, pursuing and investigating persons who commit corruption offences and referring such persons to the public prosecution. The National Anti-Corruption Commission is also responsible for the recovery of



assets derived from corruption offences. This body appears to have been granted adequate training, resources and independence.

The public prosecution office plays a key role in the fight against corruption through the Attorney-General for Public Finances and through public funds prosecutors' offices, which investigate corruption cases before the public financial courts. Such courts specialize in cases that involve corruption and public funds. In addition to these bodies there is also the Economic Security and Anti-Corruption Department of the National Security Agency, the Public Funds Investigations Department of the Ministry of the Interior (police force), and the Financial Intelligence Unit. Moreover, several Yemeni authorities play a role in the fight against corruption, even though they are not all law enforcement bodies, such as the Central Body for Monitoring and Accountability and the Supreme Authority for the Inspection of Tenders.

As regards cooperation between national authorities, all public officials or persons fulfilling a public function who become aware of an offence in the course of their duties or by virtue thereof are required to report the offence immediately in accordance with article 95 of the Code of Criminal Procedure. Under article 33 of the Anti-Corruption Act, all authorities are required to provide any necessary information to the National Anti-Corruption Commission when requested to do so.

In accordance with the Money Laundering and Terrorism Financing Act, a number of private sector entities — including banks, financial institutions, insurance companies, auditing firms and lawyers — are required to inform the Financial Intelligence Unit of any suspicious transactions and to provide any additional information or assistance it requests.

Yemen has not taken measures to encourage its nationals, or other persons who have their habitual residence within Yemeni territory, to report cases of corruption. Despite the fact that article 24 of the Anti-Corruption Act requires every person who is aware of a corruption offence to report it, the law does not set forth sanctions to be applied to ordinary persons in the event that they fail to report such offences.

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

Overall, the key aspects of the successes and good practices in implementation of Chapter III of the Convention are:

- The provision of detailed statistics and practical examples on the criminal investigation and prosecution processes with regard to the number of defendants who have been investigated and prosecuted, the number of cases, the amounts recovered from corruption offences to the benefit of the public treasury, and the amounts prevented from being disbursed;
- The absence of a statute of limitations for corruption offences (art. 29);
- The existence of the independent and efficient National Anti-Corruption Commission (art. 36).

### 2.3. Challenges in implementation

The following steps could be taken to enhance existing anti-corruption measures:

- Explicitly criminalize the giving of bribes to a public official for the benefit of another person or entity, in order that the official act, or refrain from acting, in breach of his or her official duties (art. 15, para. (a));
- Explicitly criminalize the soliciting of bribes by a public official for the benefit of another person or entity, in order that the official act, or refrain from acting, in breach of his or her official duties (art. 15, para. (b));
- Explicitly criminalize the giving of bribes to a foreign public official or to an official of a public international organization for the benefit of another person or entity, in order that the official act, or refrain from acting, in breach of his or her official duties (art. 16, para. 1);
- Yemen is encouraged to continue its efforts to criminalize the solicitation or acceptance of an undue advantage by a foreign public official or by an official of a public international organization (art. 16, para. 2);
- Criminalize the misappropriation or other diversion by a public official, for his or her own benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position, and explicitly criminalize embezzlement for the benefit of another person or entity (art. 17);
- Yemen is encouraged to consider criminalizing the promise, offering or giving of an undue advantage to a public official or any other person in order that he or she abuse his or her real or supposed influence, even in cases where the promise or offer is rejected (art. 18, subpara. (a));
- Yemen is encouraged to consider adding the phrase “directly or indirectly” to article 159 of the Criminal Code (art. 18, subpara. (b));
- Yemen is encouraged to continue its efforts to criminalize the promise, offering or giving of bribes in the private sector (art. 21, subpara. (a));
- Yemen is encouraged to continue its efforts to amend article 158 of the Criminal Code by criminalizing the acceptance or solicitation of bribes in the private sector (art. 21, subpara. (b));
- Yemen is encouraged to consider enlarging the scope of the criminal offence of property embezzlement in the private sector to cover all property, including immovable property (art. 22);
- Criminalize the use of physical force, threats or intimidation and the promise, offering or giving of an undue advantage in order to incite false testimony or to interfere in the giving of testimony or the production of evidence in proceedings related to the commission of offences established in accordance with the Convention, whether or not the offender achieves his or her objective (art. 25, subpara. (a));
- Include in Yemeni legislation an explicit provision in accordance with which the liability of legal persons is without prejudice to the criminal liability of natural persons who commit offences (art. 26, para. 3);

- Ensure that legal persons are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions in the event that such persons participate in criminal offences established in accordance with the Convention (art. 26, para. 4);
- Maintain an appropriate balance between any immunities or jurisdictional privileges and the possibility of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention (art. 30, para. 2);
- Yemen is encouraged to continue its efforts to allow the competent authorities, where appropriate, to remove or reassign any public official who is accused of an offence established in accordance with the Convention (art. 30, para. 6);
- Endeavour to take additional measures to promote the reintegration into society of persons convicted of corruption offences (art. 30, para. 10);
- Take such measures as may be necessary to regulate the administration of frozen, seized or confiscated property (art. 31, para. 3);
- For the sake of greater legal certainty, issue explicit provisions to allow the confiscation, seizure and freezing of property into which the proceeds of crime have been transformed or converted (art. 31, para. 4);
- Take such measures as may be necessary to provide effective protection to persons having a close relationship with experts who give testimony concerning offences established in accordance with the Convention (art. 32, paras. 1 and 2);
- Take further measures to address the consequences of corruption (art. 34);
- Yemen is encouraged to take further measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with the Convention to cooperate with the competent authorities, in particular by approving legal amendments that allow the possibility of reaching a settlement in corruption cases (art. 37, para. 1);
- Consider the possibility of granting immunity from judicial prosecution to persons who cooperate substantially in the investigation or prosecution of offences (art. 37, para. 3);
- Take measures to provide effective protection for accused persons who cooperate substantially in the investigation or prosecution of offences (art. 37, para. 4);
- Consider encouraging Yemeni nationals and other persons who have their habitual residence in Yemen to report the commission of offences established in accordance with the Convention to the authorities (art. 39, para. 2);
- Yemen is encouraged to consider including in its legislation an explicit provision to establish the principle of extradite or prosecute, and to consider establishing its jurisdiction over corruption offences committed abroad by stateless persons who have their habitual residence in Yemeni territory and over corruption offences committed against Yemen or against Yemeni nationals (art. 42, paras. 2(a), 2(b), 2(d) and (4)).

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

Yemen needs the following to improve implementation of the Convention:

- Training courses on employing effective investigative and information-gathering techniques that make use of technology and information systems, and strengthening the integrity and independence of the judicial system by holding training courses and workshops for members of the public prosecution, judges, law enforcement officers and technical personnel who contribute to anti-corruption efforts;
- Training courses for technicians, anti-corruption investigators and public prosecutors on methods of tracing assets and proceeds through banks (arts. 23 and 24);
- Training courses on good practices in the implementation of articles 30 and 37;
- Training and development for members of the judicial police force (art. 25);
- Capacity-building programmes for the authorities responsible for creating and managing protection programmes for witnesses and experts (art. 32);
- Capacity-building programmes for the authorities responsible for creating and managing reporting programmes and mechanisms (art. 33);
- Provision of technical experts and investigators to exchange information with States that have had successful experiences (art. 37);
- Capacity-building programmes for the authorities responsible for managing issues related to the private sector (art. 39);
- Technical assistance for analysing and reviewing financial disclosures, tracing funds and updating the land registration and declaration systems in courts and land authorities under one unified system (art. 39);
- Capacity-building programmes for legislative and investigative authorities in drafting high quality legislation, investigating cybercrime and money-laundering operations and tracing the proceeds of crime.

## **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)*

Yemen expressed a reservation on article 44 of the Convention, including all paragraphs of that article. Yemen has therefore not provided specific information on implementation of this article, but during the joint meeting, supplied general information about the rules and procedures governing the extradition of criminals.

Yemen does not have a separate law, special provisions or a specific mechanism for the extradition of offenders. Extradition is governed principally by the bilateral and multilateral treaties in force (art. 28 of the Anti-Corruption Act), including the requirement of dual criminality and of a minimum penalty.

Yemen does not require an extradition treaty to be in force and can invoke the principle of reciprocity.

Requests for extradition should be submitted through diplomatic channels so that they can be referred to the public prosecution for assessment. Requests can also be submitted through INTERPOL.

The principle of extradite or prosecute is recognized, but it is not regulated by statutory law.

Yemeni legislation prohibits the extradition of any Yemeni national to any foreign authority (art. 45 of the Constitution and art. 10 of the Code of Criminal Procedure). The treaties in force also set forth other reasons for refusing an extradition request, including in cases in which the request was made in order to prosecute or punish a person for reasons of race, religion, nationality or political opinion, or in which guarantees of justice in the criminal prosecution procedures are lacking (art. 3, para. 4, of the extradition treaty with Egypt; art. 37 of the judicial cooperation agreement with Jordan).

The agreements do not provide for the possibility of refusing an extradition request on the sole ground that the offence is deemed also to involve fiscal matters.

Some agreements provide for the possibility of holding consultations before refusing an extradition request (art. 44 of the judicial cooperation agreement with Jordan; art. 27 of the judicial cooperation agreement with Turkey).

Yemeni legislation does not provide for the execution of sentences handed down by foreign courts.

Yemen has concluded several extradition treaties, including with Morocco, Spain and Syria.

Yemen has also concluded several bilateral and regional treaties on the transfer of sentenced persons.

Yemen has no legal or procedural framework for transferring criminal proceedings or for regulating this process.

#### *Mutual legal assistance (art. 46)*

Yemen does not have a separate law on mutual legal assistance. Mutual legal assistance is regulated by the general provisions on letters rogatory set forth in the Code of Criminal Procedure (arts. 251-253), in addition to the provisions set forth in the bilateral and multilateral treaties in force.

In general, the authorities responsible for handling requests for mutual legal assistance are the public prosecution and the International Cooperation Department of the Ministry of Justice. As regards corruption offences, article 160 of the Implementing Regulations of the Anti-Corruption Act stipulates that the National Anti-Corruption Commission is the competent authority responsible for representing the State in the field of international cooperation to combat and prevent corruption, and may therefore enter into joint arrangements for bilateral cooperation in the field of mutual legal assistance. Yemen accepts requests submitted in Arabic. The Secretary-General of the United Nations has not been notified of this, however.

Requests are submitted through diplomatic channels and referred to the public prosecution or the court. Requests may be made through direct communication, but in such cases the foreign authorities may not be notified of the result of the procedure before the official request is received through diplomatic channels. With regard to money-laundering offences, requests may be sent directly to the National Money Laundering and Terrorism Financing Committee or the Financial Intelligence Unit.

The Money Laundering and Terrorism Financing Act sets forth detailed provisions on “international cooperation, exchange of information and extradition of offenders” where the request for mutual legal assistance pertains, in whole or in part, to an offence that involves money-laundering or the financing of terrorism (arts. 33-37).

Yemen can provide mutual legal assistance in the absence of dual criminality or of a treaty on the basis of the principles of reciprocity and friendly relations between States. The same range of measures and procedures available in domestic criminal proceedings are also available for mutual legal assistance. Requests for mutual legal assistance concerning natural persons and legal persons are subject to the same provisions.

The Financial Intelligence Unit can provide information in a spontaneous manner even if it has not yet received a request for such information, in accordance with article 32 of the Money Laundering and Terrorism Financing Act.

Yemen does not have domestic procedures regulating the transfer and reception, for the purpose of identifying suspects or giving testimony, of persons who are detained or serving a sentence. Some bilateral treaties address the transfer and reception of prisoners and the appearance of witnesses, however.

Yemeni legislation does not regulate the interrogation of accused persons or the hearing of witnesses or persons with information during a trial through the use of modern audiovisual technologies.

Article 160 of the Implementing Regulations of the Anti-Corruption Act explicitly states that the provision of the originals of documents and bank records is a form of mutual legal assistance. The fact that an offence is also linked to fiscal matters is not recognized as grounds for refusing to provide such assistance.

Yemen has provisions to protect the confidentiality of requests for mutual legal assistance, their contents and the terms of their use through the Financial Intelligence Unit (art. 36 of the Money Laundering Act). Some bilateral agreements also address this issue.

Yemen does not have specific domestic procedures governing the conditions applicable to, and the mechanisms used in, the provision of mutual legal assistance in such a way as to enable requests to be expedited.

Under Yemeni legislation, it is not necessary to hold consultations with requesting States before refusing or postponing execution of requests for mutual legal assistance.

Yemen has concluded several bilateral and multilateral treaties on mutual legal assistance, including with China, Egypt, Italy, Kuwait, Lebanon and Tunisia.

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

The Yemeni law enforcement authorities cooperate through several mechanisms and networks, including INTERPOL. The Financial Intelligence Unit and the National Anti-Corruption Commission cooperate directly with their foreign counterparts.

Yemen has a range of tools for communication and analysis at the international level. Standard communication channels are used, in addition to secure covert channels, such as INTERPOL's I-24/7 database.

Yemen uses the Convention as the basis for mutual law enforcement cooperation, and has signed several agreements on security cooperation that apply to corruption-related matters. The Financial Intelligence Unit has also signed several memoranda of understanding with its counterparts.

The Economic Security and Anti-Corruption Department of the National Security Agency is able to respond to offences established in the Convention that are committed through the use of modern technology.

Yemen has not yet been involved in personnel exchanges for the purpose of international law enforcement cooperation.

Yemen does not have legislation, agreements or arrangements governing joint investigations, nor has it considered entering into such agreements.

Yemen does not have legislation allowing the use of special investigative techniques.

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

Overall, the highlights of the successes and good practices in the implementation of Chapter IV of the Convention are as follows:

- Through the Financial Intelligence Unit, Yemen can send information in a spontaneous manner even if it has not yet received a request for such information (art. 46, para. 4);
- Yemen can provide mutual legal assistance in the absence of dual criminality (art. 46, para. 9).

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

The following steps could be taken to enhance existing anti-corruption measures:

- Yemen is encouraged to adapt its information system to enable it to collect data and to provide more detailed statistics on international cooperation requests;
- Yemen is encouraged to reconsider its position regarding its reservation on article 44 of the Convention;
- Adopt specific domestic procedures governing the conditions applicable to, and the mechanisms used in, the provision of mutual legal assistance, in accordance with article 46, in such a way as to enable requests to be processed as swiftly as possible;

- Notify the Secretary-General of the United Nations of the name of the central authority responsible for receiving requests for mutual legal assistance in Yemen and of the languages in which such requests are accepted (art. 46, paras. 13 and 14);
- Take such measures as may be necessary to ensure that the requesting State is promptly informed if it cannot comply with the confidentiality requirement (art. 46, para. 20);
- Take such measures as may be necessary to ensure that consultations are held with requesting States before refusing or postponing the execution of requests for mutual legal assistance (art. 46, para. 26);
- Consider establishing a legal or procedural framework for transferring criminal proceedings and for regulating this procedure (art. 47);
- Yemen is encouraged to provide greater cooperation in the area of law enforcement, including through the exchange of personnel (art. 48, para. 1(e));
- Consider concluding bilateral or multilateral agreements or arrangements to allow the competent authorities to establish joint investigative bodies (art. 49);
- Take such measures as may be necessary to allow the competent authorities to use special investigative techniques, and to make evidence derived from such techniques admissible in court (art. 50).

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

- Capacity-building programmes for the authorities responsible for international cooperation on criminal matters (arts. 45, 46, 47, 48 and 49);
- Training on joint investigation procedures (art. 49);
- Training on special investigative techniques using technology (art. 50).