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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
Republic of Moldova	2

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II. Executive summary

Republic of Moldova

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

The United Nations Convention against Corruption was signed by the Republic of Moldova on 28 September 2004. By Law No. 158-XVI/2007, the Republic of Moldova ratified the Convention and deposited its instrument of ratification on 1 October 2007.

The Republic of Moldova has a civil law system with influences from both the French and the Germanic legal systems. According to the Constitution (article 8, paragraph 2), the entry into force of an international treaty containing provisions which are contrary to the Constitution “shall be preceded by a revision of the latter”.

The national anti-corruption legal framework includes provisions of the Constitution, the Criminal Code and the Criminal Procedure Code, as well as specific laws of relevance.

Different bodies are entrusted with anti-corruption action: the National Anti-Corruption Centre, the National Integrity Commission, the Prosecutor’s Office, the Ministries of Justice and Internal Affairs, the Information and Security Service, the Court of Accounts and other institutional establishments.

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)

Sections 324 and 325 of the Criminal Code establish the offences of passive and active bribery of public officials respectively. The bribery provisions use the terms “public person” and “person holding positions of public dignity”, all of which are defined in article 123 of the Criminal Code. According to the study conducted by the National Anti-Corruption Centre, with the support of the Supreme Court of Justice, on corruption cases from 1 January 2010 to 30 June 2012, the enforcement of section 324 of the Criminal Code is mostly limited to cases of passive corruption committed only through reception by the perpetrator of an undue remuneration and not through solicitation.

Article 325 of the Criminal Code uses the terms “promising”, “offering” or “giving” a bribe to a public person or foreign public person. Accordingly, article 324 refers to “requesting”, “accepting” or “receiving” services, privileges or advantages. Both articles 325 and 324 of the Code cover the direct and indirect commission of bribery offences.

The concept of “undue advantage” is transposed into national bribery provisions through the expression “goods, services, privileges or advantages of any kind to which [the public person] is not entitled”.

The advantage may be intended for the public official himself or herself or another person. The law explicitly covers both positive acts and omissions by a public official, provided that they are “within the scope of his or her authority” or “contrary to his or her duties.”

The Criminal Code does not contain ad hoc provisions on criminalizing the bribery of foreign public officials and officials of public international organizations. Instead, the general provisions of sections 324 and 325 of the Code apply. Foreign public persons and international officials are defined in section 123/1 of the Criminal Code.

Trading in influence is criminalized through section 326 of the Criminal Code, as amended, to also include the active form of the conduct. Third-party beneficiaries, the indirect commission of offences and “supposed influence” are covered.

Active and passive bribery in the private sector are criminalized under sections 333 and 334 of the Criminal Code. Those provisions may also involve bribery acts in the sphere of “social or other non-governmental organizations”. The provisions cover not only persons with managerial functions, but also persons generally “working for the organization”.

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

The laundering of the proceeds of crime is criminalized through section 243 of the Criminal Code, which sets forth all the constituent elements required by article 23 of the Convention. Section 243 applies to the widest range of predicate offences, including those committed outside the territory of the country. Self-laundering is not explicitly covered in national legislation.

The criminalization of concealment is covered through the application of section 49 on “Favouring of a criminal” and section 323 on “Supporting a crime”.

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

Embezzlement in the private sector is criminalized through sections 191 and 335 of the Criminal Code. Particularly in the public sector, embezzlement is also tackled through sections 240, 327 and 251 of the Criminal Code.

The abuse of functions is criminalized through section 327 of the Criminal Code. The provision sets forth a requirement of “causing considerable damage to public interests or to the legally protected rights and interests of individuals or legal entities”, which is not foreseen in article 19 of the Convention.

Section 330/2 of the Criminal Code criminalizes illicit enrichment, which is defined as “ownership by a person holding a position of responsibility or a public person, personally or through third parties, of assets, the value of which substantially exceeds the acquired income, as long as it is established, on the basis of proofs, that those assets could not have been legally obtained”. The burden of proof rests with the prosecution.

Obstruction of justice (art. 25)

Article 25 (a) of the Convention is sufficiently implemented through sections 309 and 314 of the Criminal Code. Similarly, article 25 (b) is adequately implemented through articles 303 and 349 of the Criminal Code.

Liability of legal persons (art. 26)

Section 21, paragraph 3, of the Criminal Code provides for the criminal liability of legal entities (except for public authorities). Sanctions against legal persons include fines, deprivation of the right to practice certain activities and liquidation (section 63 of the Criminal Code). Article 521 and subsequent articles of the Criminal Procedure Code introduce special rules applicable to criminal proceedings against legal persons to allow charges initially brought against legal persons to be extended to their legal representatives for the same or related offences. While legal provisions are in place to implement article 26 of the Convention, the reviewers found it difficult to assess whether those legal provisions were effectively enforced in practice, given that no case examples of criminal proceedings against legal entities were provided.

Participation and attempt (art. 27)

The general provisions of the Criminal Code regulate the different forms of participation in the commission of a criminal offence (section 42) and the attempt to commit a crime and its preparation (sections 25-27 and 81).

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

The reviewers took into account the National Anti-Corruption Centre study and were of the view that it reflected a picture of an inconsistent, and to a large degree extremely lenient, practice regarding the sanctions imposed for corruption offences. Although the Convention is legislatively implemented, serious challenges remain in the area of enforcement. Case examples shed limited light on the enforcement of Convention-related offences.

Immunities are foreseen for the President and the deputies in the parliament. Corruption in the judiciary, in conjunction with the implementation of article 30, paragraph 2, of the Convention, was discussed. The National Anti-Corruption Centre provided statistics for 2014 indicating considerable progress in the fight against corruption in that field. The reviewers welcomed those developments and expressed support for further improvements, including consistent practices, to ensure that investigative measures are allowed before the lifting of immunity takes place.

The institution of plea bargaining agreements has been taken gradually into national legislation and practice. Pursuant to the National Anti-Corruption Centre study, in 81 per cent of the corruption cases reviewed, the prosecutors, exercising discretionary powers, have asked the courts to reduce by one third the sentence as a result of plea bargaining agreements under section 80 of the Criminal Code. The reviewers expressed serious concerns over that trend, as it might undermine the possibility of imposing sanctions that take into account the gravity of the offence.

The Execution Code No. 443/2004 provides for measures for the reintegration of convicted persons into society, including conditional release from punishment.

Provisional suspension from office is foreseen in section 200 of the Criminal Procedure Code.

Section 65 of the Criminal Code defines the conditions for the deprivation of the right to hold certain positions or to practice certain activities as a result of conviction. According to statistics provided by the Moldovan authorities, only 63 per cent of persons convicted of corruption offences were also punished by dismissal and deprivation of the right to occupy certain positions (where this punishment was *ex lege* mandatory).

Law No. 25-XVI/2008 on the code of conduct for civil servants provides for the liability of civil servants for misconduct while performing duties that may give rise to the exercise of disciplinary powers.

In reviewing the implementation of article 37 of the Convention, the reviewers examined a special defence for the perpetrator of active bribery in the public and private sectors and trading in influence: sections 325, paragraph 4, 334, paragraph 4, and 326, paragraph 4, of the Criminal Code release the bribe-giver and the influence-peddler from criminal liability on condition that either the bribe and service/exercise of influence were extorted from him/her, or that the person denounces himself/herself without knowing that criminal investigative bodies knew about the crime he/she committed. The reviewers expressed serious concerns about the automatic nature of the defence.

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

Witness protection measures are foreseen in both the Criminal Procedure Code and Law No. 105/2008 on the protection of witnesses and other participants in criminal procedures. The reviewing experts suggested the inclusion of all corruption offences in the category of at least “serious crimes” (section 16, paragraph 4, of the Criminal Code), with a view to making the provisions of Law No. 105/2008 applicable to them as well. No specific information concerning the use of that law was provided in relation to offences established in accordance with the Convention.

Article 18 of Law No. 90-XVI/2008 on the prevention and combating of corruption and article 12/1 of Law No. 25-XVI/2008 on the code of conduct for civil servants provide for protection measures for any civil servant who reports in good faith on the commission of corruption acts, violation of the rules on conflict of interest and declaration of income.

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

Section 106, paragraph 1, of the Criminal Code defines confiscation as “the forced and free transfer to the state of property or goods used in the commission of a crime or that resulted from crimes”. The scope of goods that can be confiscated is defined in section 106, paragraph 2, of the Criminal Code and is in line with article 31 of the Convention.

Subject to confiscation also is property equivalent to the proceeds of crime when such proceeds can no longer be found in the assets of the convicted person.

Confiscation may exceptionally be ordered in the absence of conviction (section 106, paragraph 4, of the Criminal Code).

The Criminal Procedure Code provides for the seizure of assets (sections 202-210). Seizure orders are intended to secure items for the purposes of the investigation.

Section 106, paragraph 3, of the Criminal Code authorizes the confiscation of property that belongs to third parties and has been used for, or resulted from, the commission of an offence, but only when the third parties are aware of the illegal nature of the property.

There is no specialized body to deal with the management of frozen, seized or confiscated property. However, the tax authorities are responsible for registering, assessing the value of and selling seized and confiscated property.

Section 106/1 of the Criminal Code regulates the extended confiscation of assets that go beyond the legal means and which can be generally attributed to illicit sources. Section 106/1 establishes a rebuttable presumption of the illicit origin of the property of the defendant which does not contradict article 46, paragraph 3, of the Constitution.

The reviewers welcomed the legislative developments in that area, especially the tool of extended confiscation, but noted the lack of information on the enforcement of the legal provisions and the fact that the volume of confiscated property is low in comparison with the number of convictions.

Law No. 550-XIII/1995 on financial institutions (article 22), the Criminal Procedure Code (sections 126 and 128, paragraph 5) and Law No. 190-XVI/2007 on the prevention and combating of money-laundering and the financing of terrorism (article 12) regulate issues related to bank secrecy, which was reported not to be an obstacle to national investigations. The freezing of accounts of the suspects is suspended by a simple filing of an appeal in money-laundering and financing of terrorism cases under specific conditions (article 14 of the Law, as supplemented by Law No. 179/2014). The new provision was introduced after the country visit and it was not possible for the reviewers to review its application.

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

Most of the corruption offences are either less serious crimes (statute of limitations period of 5 years) or serious crimes (statute of limitations period of 15 years).

Criminal punishments and criminal records for offences committed outside the national territory are taken into consideration in individualizing the punishment for a new crime committed by the same person in the Republic of Moldova (section 11, paragraph 7, of the Criminal Code).

Jurisdiction (art. 42)

Under section 11 of the Criminal Code, jurisdiction is established on the basis of the principle of territoriality. Extraterritorial jurisdiction is also possible over criminal offences committed by Moldovan citizens or stateless persons ordinarily resident in the country and criminal offences committed by foreign citizens or stateless persons not resident in the country, if the offences are detrimental to the interests of the country and the rights and interests of its citizens, or if they are mentioned in the

international treaties to which the Republic of Moldova is a party, provided that the perpetrators of the offences have not been subjected to punishment in another State.

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

Law No. 90-XVI/2008 on the prevention and combating of corruption provides that decisions, contracts or clauses of an agreement affected by an act of corruption are null and void from the very moment of their adoption and do not have any legal effect for any of the parties, independent of their knowledge of such acts. Law No. 131/2015 provides for the exclusion of the bidder owing to participation, among others, in corruption and money-laundering offences, the rejection of the bid in a procurement process as a result of acts of corruption and the cancellation of a procurement procedure involving corruption acts.

Law No. 90-XVI/2008 also provides for the right of a person who has suffered damage as the result of criminal acts to compensation for that damage (article 23/1).

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

The National Anti-Corruption Centre is a specialized body in the prevention and fight against corruption with, among others, investigative functions. It is the successor to the former Centre for Combating Economic Crimes and Corruption, which was established in 2002 and was reformed and renamed in 2012. The Centre has organizational, functional and operational independence in accordance with the terms established by the law.

Article 25 of Law No. 294-XVI/2008 established specialized prosecutor's offices with anti-corruption tasks. Ongoing efforts to reform the prosecution service were reported.

While the Republic of Moldova has done considerable work in building a legal and institutional anti-corruption framework, implementation is faltering. Another problem is the lack of a comprehensive vision of reforms related to combating corruption, which leads to duplication of effort. Such institutional fragmentation increases institutional overlap and reduces institutional efficiency in combating corruption in practice.

There is national legislation aimed at promoting cooperation between the national competent authorities and the private sector, especially Law No. 190-XVI/2007 (reporting of any suspicious activity or transaction of money-laundering). According to some interlocutors, challenges remain in cooperation between the authorities and the private sector, including civil society. In practice, hotlines are in place to enable citizens to report corrupt acts. Statistics were provided, but the reviewers had no solid basis for assessing the effectiveness of the concept.

2.2. Successes and good practices

- The provision criminalizing illicit enrichment (section 330/2 of the Criminal Code), although not tested in practice (article 20).
- The wider scope of application of sections 333 and 334 of the Criminal Code on bribery in the private sector (compared to article 21 of the Convention): it is not limited to “in the course of economic, financial or commercial

activities”, but may also cover cases involving “social or other non-governmental organizations”.

- The possibility of non-conviction based confiscation (section 106, paragraph 4, of the Criminal Code).
- The legal option of extended confiscation (section 106/1 of the Criminal Code).

However, the reviewers favoured more extensive implementation of those successful examples, given that all the above-mentioned legal provisions were tested to a very limited degree in practice.

2.3. Challenges in implementation

- Ensure effective implementation of article 15 (b) of the Convention in cases not only of receiving, but also of solicitation, of an undue remuneration by the perpetrator.
- Consider amending national legislation in a way that allows for the criminalization of abuse of functions, regardless of the damage caused (article 19).
- Ensure more effective enforcement of sections 333 and 334 of the Criminal Code on the criminalization of bribery in the private sector (article 21).
- Consider, for purposes of legal certainty and clarity, the inclusion of a provision in national legislation to explicitly cover self-laundering (article 23, paragraph 2 (e)).
- Consider introducing a provision criminalizing concealment (article 24).
- Ensure effective enforcement and implementation of the national provisions regulating the criminal liability of legal persons (article 26).
- Regarding article 30, paragraph 1, of the Convention:
 - o Revise the sanctions for corruption as an offence, with a view to increasing the punishments and treat it, depending on the case (basic/aggravated forms), as a serious or particularly serious crime (see section 16, paragraphs 4 and 5, of the Criminal Code). That, in turn, would also prolong the existing statute of limitations periods and would further make applicable to them Law No. 105 of 16 May 2008 on the protection of witnesses and other participants in criminal procedures.
 - o Amend the legislation to ensure consistent court practice in avoiding the combined application of section 364/1 of the Criminal Procedure Code (trial based on the evidence collected during the criminal investigation phase) and especially its paragraph 8, or section 80 of the Criminal Code (application of punishment in cases of plea bargaining) with sections 76, paragraph 1 (f) (mitigating circumstances/admitting guilt) and 79 (application of a punishment milder than the one provided by law) of the Criminal Code, thus preventing the cumulative qualification of mitigating and exceptional circumstances when individualizing the sanctions in corruption cases.

- o Amend legislation (section 55 of the Criminal Code) so that the perpetrators of such offences as bribery in the private sector, abuse of official position and embezzlement are not exempted from criminal liability and, instead, are subject to administrative liability.
- o Enhance the effectiveness and level of sanctions in the enforcement of the offences established in accordance with the Convention, in line with the guidance of the Plenum of the Supreme Court of Justice.
- o Increase the number of in-service training sessions for judges and prosecutors at the National Institute of Justice on the investigation and trial of corruption cases, including individualization of punishments.
- Ensure consistent practice, allowing investigative action aimed at securing criminal evidence with regard to public officials enjoying immunity before the lifting of such immunity takes place (article 30, paragraph 2).
- While taking into account the spirit and rationale of article 30, paragraph 3, of the Convention, limit the scope of application of the provisions of article 80 of the Criminal Code when examining corruption cases and make its application subject to cooperation with the competent authorities in identifying other persons involved in the commission of corruption offences (article 30, paragraph 3, and article 37, paragraphs 1-3).
- Ensure effective implementation of section 65 of the Criminal Code on the deprivation of the right to hold certain positions or to practice certain activities as a result of conviction in corruption cases (article 30, paragraph 7).
- Consider the establishment of a specialized body for the administration of frozen, seized or confiscated property (article 31, paragraph 3).
- Ensure enforcement of the national provisions on seizure and confiscation and provide for training for all personnel involved in seizure and confiscation of assets, namely National Anti-Corruption Centre investigators, prosecutors and judges (article 31).
- Consider the conclusion of agreements or arrangements for the relocation of witnesses (article 32, paragraph 3).
- Consider extending the legal framework offering protection against unjustified treatment to persons other than civil servants, persons holding positions of public dignity and other persons providing public services (article 33).
- Overcome legislative obstacles to increase the effectiveness of the activities of the National Anti-Corruption Centre to prevent and combat corruption; consistently preserve the institutional independence guarantees of the Centre, especially in light of its broad mandate, and increase its resources (article 36).
- Continue and complete ongoing efforts to reform the National Integrity Commission and the prosecution service, and ensure effective implementation of the relevant reforms (article 36).

- Further enhance cooperation between the National Anti-Corruption Centre and other stakeholders involved in anti-corruption processes, especially in the areas of conducting training on combating corruption and the investigation and prosecution of offences established in accordance with the Convention (article 38) and the adjudication of related cases before the court.
- While noting the recommendation above on the need for a very careful application of discretionary prosecutorial powers, consider whether an amendment in the form of optional wording in the text of the special defence contained in sections 325, paragraph 4, 326, paragraph 4, and 334, paragraph 4, of the Criminal Code (“may be exempt from criminal liability”), coupled with the option of mitigating punishment/circumstances, could be conducive to a more flexible application of the relevant provisions on a case-by-case basis and could allow the public prosecutor to assess in each case the acts of the perpetrator (article 37).
- Facilitate and encourage further cooperation between the national authorities and the private sector, including civil society, to detect, investigate and prosecute corruption more effectively (article 39).
- Monitor the application of article 14 of Law No. 190-XVI/2007, as supplemented by Law No. 179/2014, concerning the suspension of freezing of accounts on specific conditions, in order to ensure that the interpretation and application of the provision does not hamper the effectiveness of investigation of crimes falling under the remit of the Convention (article 40).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

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

Extradition is regulated in the Criminal Procedure Code and Law No. 371/2006 on “international legal assistance in criminal matters”.

The Republic of Moldova generally requires dual criminality for extradition. As an exception, dual criminality is not required if it is excluded by an international treaty to which the Republic of Moldova is a party. The national authorities also adopt a flexible approach by focusing on the underlying conduct of the offence in question.

The punishment threshold for the identification of extraditable offences is deprivation of liberty of one year or, if extradition is requested for enforcement of a sentence, a period of at least six months of such a sentence.

In general, the Republic of Moldova makes extradition conditional on the existence of a treaty and considers the Convention a legal basis for extradition. No relevant notification has been submitted by the national authorities to the Secretary-General of the United Nations. No extradition cases based solely on the Convention have been assessed by a national court. Extradition can also be granted in certain cases on the basis of “written obligations of reciprocity” (article 51 of Law No. 371/2006).

The grounds for refusal of extradition requests are set out in section 546 of the Criminal Procedure Code. Of relevance also are sections 42 and 43 of Law No. 371.

Extradition would not be refused on the grounds that the offence involved fiscal matters.

A simplified extradition procedure is foreseen in section 545 of the Criminal Procedure Code and article 59 of Law No. 371/2006.

The Republic of Moldova does not extradite its nationals. Where a request for extradition is refused on the grounds of nationality, the Moldovan authorities inform the requesting State of the possibility of taking over the prosecution against that person. For taking over the proceedings, a formal request of the requesting State is needed, together with the transfer of the file of the case.

If the postponement of extradition could lead to the expiry of the limitation period of the criminal case, or could cause serious difficulties in establishing the facts, the person sought may be extradited temporarily, based on a reasoned request, under conditions agreed jointly with the requesting State.

The Republic of Moldova enforces foreign sentences, including in cases where the extradition of nationals is rejected, in line with chapter VI of Law No. 371/2006 and sections 558 and 559 of the Criminal Procedure Code.

The length of extradition proceedings invariably depends on the complexity of the matter. No information has been provided regarding the average duration of the extradition process. Given the piecemeal statistical data on extradition proceedings, the reviewers favoured a more systematic approach in compiling statistical information on extradition cases.

The Republic of Moldova is bound by the European Convention on Extradition and its First and Second Additional Protocols.

The Criminal Procedure Code (sections 551-557) and Law No. 371/2006 (chapter V) govern the transfer of prisoners into and out of the country. The Republic of Moldova is a party to the European Convention on the Transfer of Sentenced Persons and its Additional Protocol.

The transfer of criminal proceedings is regulated through chapter III (articles 34-41) of Law No. 371/2006. The Republic of Moldova has also ratified the European Convention on the Transfer of Proceedings in Criminal Matters.

Mutual legal assistance (art. 46)

The Republic of Moldova has in place legislation for the provision of mutual assistance in criminal matters (Law No. 371/2006, chapters I and II, and sections 531-540 of the Criminal Procedure Code). The national authorities can afford assistance on the basis of an applicable treaty or on the basis of reciprocity, in the broadest possible sense, also in relation to legal persons.

Mutual legal assistance may be refused in the absence of dual criminality (section 534, paragraph 1 (7), of the Criminal Procedure Code). No distinction exists in the national legislation between coercive and non-coercive measures as a criterion for requiring dual criminality (although the concept of “coercive procedural measures” is familiar with regard to national criminal proceedings (see title V of the Criminal Procedure Code).

Spontaneous transmission of information prior to a request for mutual legal assistance is regulated in Law No. 371/2006 (article 29). Hearings by teleconference are possible through application of article 28 of the same Law. The execution of such requests is carried out in accordance with Moldovan legislation.

Bank secrecy and the fiscal nature of requests for mutual legal assistance are not included among the grounds for refusal set forth in article 534 of the Criminal Procedure Code.

The Republic of Moldova has designated the Prosecutor General's Office (in the criminal prosecution phase) and the Ministry of Justice (in the trial phase and for court decisions enforcement) as the central authorities for requests for mutual legal assistance. However, no notification has yet been submitted to the Secretary-General of the United Nations regarding the designated central authorities and the language(s) acceptable for the submission of such requests.

A period of one month is an indicative average period for the execution of requests for mutual legal assistance by the authorities, while four to six months are needed for the execution of letters rogatory. Generally, the time frame depends on the volume and complexity of each case.

The Republic of Moldova is bound by the European Convention on Mutual Assistance in Criminal Matters and its two Additional Protocols.

Similarly to extradition, analytical statistical data on mutual legal assistance proceedings was not provided.

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

The national law enforcement authorities engage in cooperation with their foreign counterparts to combat transnational crime, including offences under the terms of the Convention. In addition, at the national level, an inter-institutional cooperation mechanism is in place to facilitate cooperation with foreign counterparts.

The Republic of Moldova also participates in the Camden Assets Recovery Interagency Network, the Organization for Democracy and Economic Development (GUAM) network, the Southeast European Prosecutors Advisory Group and the Southeast European Law Enforcement Centre. Agreements with Eurojust and the European Police Office (Europol) have been signed.

The Republic of Moldova considers the Convention a basis for cooperation on law enforcement.

The Republic of Moldova also makes use of joint investigation teams through section 540/2 of the Criminal Procedure Code and article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters. The recurring problems regarding the establishment of such teams are language problems and the diversity of legal systems.

The use of special investigative techniques is regulated in the Criminal Procedure Code (chapter III on means of proof and evidentiary procedures). The evidence derived from the use of special investigative techniques is admissible in court proceedings. However, the interception and recording of communications (section 132/8 of the Criminal Procedure Code) are not applicable with regard to all

corruption-related offences. The use of special investigative techniques at the international level is regulated through agreements on law enforcement cooperation.

3.2. Successes and good practices

- The existence of a comprehensive legal framework on international cooperation in criminal matters.
- The flexible interpretation of the dual criminality requirement based on the underlying conduct of the offence (article 43, paragraph 2).
- Participation in several networks of cooperation on law enforcement (article 48).

3.3. Challenges in implementation

- Continue efforts to put in place and render fully operational an 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; in doing so, devote more human resources and make a greater effort to maintain statistics regarding compliance with chapter IV of the Convention (articles 44 and 46).
- Expand the network of bilateral treaties on extradition and mutual legal assistance, especially with non-European States (articles 44, paragraph 18, and 46, paragraph 30).
- Notify the Secretary-General of the United Nations that the Convention can be used as a legal basis for extradition (article 44, paragraph 6 (a)).
- Specify in legislation the distinction between coercive and non-coercive measures as a criterion for determining the fulfilment of the dual criminality requirement in the practice of mutual legal assistance and consider providing a wider scope of assistance that involves coercive measures without requiring dual criminality, especially in cases of assistance, in the absence of an applicable treaty, to States that are not members of the Council of Europe (article 46, paragraph 9 (b) and (c)).
- Notify the Secretary-General of the United Nations of the central authority designated to deal with requests for mutual legal assistance and of the acceptable languages for the submission of such requests (article 46 (13) and (14)).
- Ensure sufficient possibilities for investigating acts of corruption-related offences from the initial stage of investigation. In that respect, wiretapping should be possible in all cases of suspicion of corruption, irrespective of the aggravating circumstances, which usually cannot be established at the initial stage of an investigation. To that end, revise the exhaustive list of crimes in section 132/8 of the Criminal Procedure Code with regard to which the interception and recording of communications can be authorized and used, to include all corruption-related offences (article 50).