United Nations CAC/COSP/IRG/I/4/1/Add.9*

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

Distr.: General
30 March 2015

Original: English

**Implementation Review Group**
**Sixth session**
Vienna, 1-5 June 2015
Item 2 of the provisional agenda**
**Review of implementation of the United Nations Convention against Corruption**

## Executive summary

### Note by the Secretariat

**Addendum**

## Contents



* Reissued for technical reasons on 20 April 2015.
** CAC/COSP/IRG/2015/1.

V.15-02104 (E) 090415 100415

# II. Executive summary

## Liechtenstein

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

The Principality of Liechtenstein signed the United Nations Convention against Corruption on 10 December 2003, ratified it on 16 December 2009 and deposited its instrument of ratification on 8 July 2010.

Liechtenstein uses the incorporation system or monist system for the implementation of international treaties. Therefore, the Convention has become an integral part of Liechtenstein's domestic law following its ratification and entry into force on 7 August 2010. Within the hierarchy of norms, the Convention as an international treaty has at least the status of statutory law in the domestic legal order and takes precedence over earlier laws (*lex posterior*).

Liechtenstein is a constitutional hereditary monarchy on a democratic and parliamentary basis. The power of the State is embodied in the Reigning Prince and the People. The Principality forms a monetary and customs union with Switzerland and therefore, a variety of Swiss laws apply in Liechtenstein as well. The criminal law is largely based on Austrian law. This means it is a civil law system with an inquisitorial court procedure.

As a member of the European Economic Area (EEA), Liechtenstein is fully subjected to the European Union anti-money-laundering and counter-terrorist-financing (AML/CFT) framework. Additionally, Liechtenstein is party to international and multilateral organizations and agreements, including the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE). Liechtenstein has signed but not yet ratified the CoE Criminal Law Convention against Corruption. It is not a signatory to the CoE Civil Law Convention on Corruption nor to the OECD Foreign Bribery Convention. The most important institutions in the fight against corruption are the National Police and the Office of the Public Prosecutor.

To bring Liechtenstein criminal law fully in line with the obligations of the Convention, the Government has published a white paper (*Vernehmlassungsbericht*) that outlines planned amendments to the Criminal Code and other laws (*Korruptionsstrafrechtsrevision*), which was discussed during the country visit. A draft law is expected for autumn 2015.

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

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

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

The provision on active bribery of officials is contained in § 307 of the Criminal Code (CC). Liechtenstein law distinguishes between official acts contrary to duty (§ 307(1) CC) and acts not contrary to duty (§ 307(2) CC).

The definition of "public official" (*Beamter*) set out in § 74(4) CC applies to elected officials as well as public officials appointed to positions and persons holding a judicial office (professional judges, lay judges and all persons, who participate in the administration of justice). It does not include Members of Parliament or of Municipal Councils or CEOs of public enterprises.

The active bribery of these latter persons for acts contrary to their duties is nevertheless covered by § 307(1) CC because this provision explicitly includes not only national and foreign officials (art. 16(1) of the United Nations Convention against Corruption) but also Members of Parliament, etc. However, for acts not contrary to their duties, § 307(2) CC only covers national officials and managing employees of a public enterprise. Moreover, § 307(2) CC contains a *de minimis* exemption in that it criminalizes only advantages that are "not merely minor". Finally, an exemption at the end of § 307(2) CC ("unless the perpetrator cannot be faulted for offering, promising or granting that advantage under the circumstances") can be invoked if the advantage was meant to "speed up" the performance of a lawful act. Liechtenstein explained that all these issues would be addressed in the planned reform of the anti-corruption legislation.

The element of "undue advantage" is not defined in the law, but the interpretation of the term includes all material and immaterial rewards and gifts.

Third-party beneficiaries of the advantage are explicitly mentioned and include entities.

Passive bribery of national officials is criminalized in §§ 304, 305, 306 and 306a CC.

Liechtenstein has not implemented article 16(2) of the Convention against Corruption.

Liechtenstein has only partially implemented active bribery in the private sector (to the extent that it amounts to unfair competition, § 4 of the Unfair Competition Act) and not implemented passive bribery in the private sector.

Trading in influence is partially criminalized by § 308 CC, which concerns aspects of passive trading in influence (art. 18(b) of the Convention). However, it envisages a two-person relationship, whereas article 18 of the Convention concerns a three-person relationship.

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

§ 165(1) CC criminalizes money-laundering. The money-laundering offence relates to all kinds of property, either obtained directly from the offence or indirectly through substitution ("embodied"). Indirect proceeds (interest) are also covered according to case law. Predicate offences to money-laundering are all crimes (punishable by life or more than three years imprisonment) and a series of designated misdemeanours (less than three years imprisonment). Therefore, all Convention offences are predicate offences, with the exception of small-scale embezzlement.

Attempt (as well as any participation in an attempt) is criminalized for all offences by § 15 CC, including money-laundering. § 12 CC (Treatment of all participants as offenders) covers aiding and abetting, facilitating and counselling.

As long as Liechtenstein has jurisdiction over the money-laundering activity itself *ratione loci*, it is irrelevant where the predicate offences are committed, provided that the acts would constitute a domestic predicate offence. Liechtenstein even assumes jurisdiction over the money-laundering conduct in another country if the predicate offence has been committed in Liechtenstein (§ 64, para. 1, 9 CC), even in the absence of dual criminality. The offender himself may also be the perpetrator of the predicate crime, thus self-laundering is also a criminalized conduct.

Concealment is criminalized by the offence of handling stolen goods (§ 164 CC).

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

The CC contains various criminal offences which criminalize embezzlement in both the public and private sectors, in particular §§ 133, 153, 302 and 313 CC.

Article 19 of the Convention against Corruption is implemented through the provisions of § 302 CC.

Liechtenstein stated that due to constitutional principles (presumption of innocence, reversal of burden of proof), it has not criminalized illicit enrichment but has considered introducing the offence.

*Obstruction of justice (art. 25)*

Obstruction of justice (art. 25(a) of the Convention) is an offence against the administration of justice (§§ 288 and 289 CC) or an offence against the reliability of documents and of evidence (§§ 293 and 295 CC). In addition to that, such acts are also considered as coercion (§§ 105 and 106 CC). The provisions listed do not address “undue advantage to induce false testimony, etc.”

The obstruction of the exercise of duties by public officials is criminalized by § 269 CC (Resistance to State authorities) and § 270 CC (Assault of an official), although these provisions do not include intimidation.

*Liability of legal persons (art. 26)*

The Criminal Code was revised in 2010 and a new section (§§ 74a to 74g CC) on the liability of legal persons was inserted. Apart from the criminal sanctions pursuant to § 74b CC, other administrative and civil remedies are available for legal persons found guilty of committing a Convention offence (e.g. dissolution of the company, § 971(1) No. 5 of the Companies Code [*Personen- und Gesellschaftsrecht*]). However, there is no debarment or blacklisting procedure.

The liability of the legal person and the liability of managers or employees for the same act do not exclude each other. Legal persons held liable are subject to sanctions, including monetary sanctions according to §§ 74b and 74c CC. The maximum penalty is 2.7m CHF.

*Participation and attempt (art. 27)*

§ 12 CC covers aiding and abetting, facilitating and counselling. It states that a criminal offence is committed also by anybody who abets another person to commit the offence or who contributes to its perpetration in any other way.

Attempt (as well as any participation in an attempt) is criminalized for all offences by § 15 CC. The mere preparation of a corruption offence is not criminalized.

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

A peculiarity of the judicial system is that the prosecutor does not ask the court for a specific sentence but leaves this to the discretion of the court. Judges have the discretion to impose the sentence they deem most appropriate under the circumstances. The range of punishment for corruption crimes, including aggravating and mitigating circumstances, makes it possible to take into account the gravity of the relevant offences.

According to the Liechtenstein Constitution, the Reigning Prince enjoys immunity. No immunity is given to officials or judges. MPs only enjoy the very limited immunity for statements and votes in Parliament. Otherwise, only the arrest of an MP during the meeting period of Parliament requires consent of Parliament.

The principle of legality applies in Liechtenstein criminal procedure, i.e., the Office of the Public Prosecutor must in principle prosecute all criminal acts *ex officio*.

§§ 131(5), 138 to 140, and 142(4) of the Liechtenstein Criminal Procedure Code (CPC) govern release pending trial. In accordance with § 46 CC, the time frame for conditional (early) release from imprisonment in Liechtenstein is based on the specific sentence determined in the judgement. Alternatives to pretrial detention are available.

Article 30(6) of the Convention is implemented through § 54 SEA (State Employees Act), §§ 61 to 63 RDG (*Richterdienstgesetz*) and § 51 StAG (*Staatsanwaltschaftsgesetz*), which allows suspension and reassignment.

Pursuant to § 27 CC, an official sentenced by a domestic court to an imprisonment of more than one year for one or more wilfully committed offences shall be stripped of his office.

Disciplinary law permits disciplinary proceedings irrespective of criminal prosecution.

The legislation promotes the reintegration into society of persons convicted of offences. To support reintegration, probation assistance may be ordered (§§ 50 and 51 CPC).

While there is no plea bargaining in Liechtenstein, according to § 22a to 22n CPC, the prosecution can drop charges and e.g., only impose a fine in return for cooperation (*Diversion*). Liechtenstein also encourages perpetrators of offences to cooperate with law enforcement by offering mitigation of sentences (§ 41 in conjunction with § 34(1)(15) to (17) CC). Full immunity is not provided for in Liechtenstein due to the specific design of the principle of legality and the requirement of equal treatment.

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

Liechtenstein law provides judicial protection of witnesses like the right to refuse testimony, measures to keep the identity of witnesses partially or completely confidential in proceedings (§ 119a CPC) and the use of communication

technologies (§ 115a(2) CPC). There are also provisions on the extrajudicial protection of witnesses, e.g., temporary housing at a secure location, the establishment of a new identity, relocation to a new place of residence (including relocation abroad), finding a new job, and securing a livelihood. After a recent amendment of the National Police Act about witness protection, the witness protection also covers relatives and other persons close to the witness. The provisions also apply to victims insofar as they are witnesses. Victims have the right to present their views and concerns at any stage of criminal justice proceedings.

Pursuant to a recommendation by the Council of Europe Group of States against Corruption (GRECO), it is planned to introduce "whistle-blower" provisions in the State Employees Act, which entail an obligation for public sector employees to report suspicions of corruption and other offences immediately to the director of their office and enhance protection for reporting persons against unjustified retaliation measures. There is no whistle-blower protection in the private sector.

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

Under Liechtenstein law, there are three different concepts of final deprivation of property: (i) deprivation of enrichment (§ 20 CC); (ii) forfeiture (§ 20b CC); and (iii) preventive confiscation of instrumentalities (§ 26 CC). According to § 20 CC, the person concerned is sentenced to payment of an amount of money equal to the wrongful enrichment. § 20 CC provides for the possibility of confiscating the value of the gains from any person (including legal persons) who illegally profits from a criminal act of another person. The extent of the enrichment is measured by the so-called "*Netto-Prinzip*" (after-deduction principle), which means that the expenditures for gaining the proceeds are deducted.

According to § 20b CC, assets at the disposal of a criminal organization (§ 278a) or a terrorist group (§ 278b) or that have been made available or collected as a means of terrorist financing (§ 278d) shall be declared forfeited. Assets are also subject to forfeiture if they are involved in money-laundering (§ 20b (2)(1) CC).

Liechtenstein has also adopted a property-based confiscation model for confiscating instrumentalities. However, instrumentalities will be confiscated only if they endanger the safety of persons, morality or the public order (§ 26 CC).

Evidence and objects subject to confiscation (§ 26 CC) may be seized by judicial order (§ 96 CPC). Assets subject to deprivation of enrichment under § 20 CC or to forfeiture under § 20b CC may be frozen pursuant to § 97a CPC until a final judicial decision has been made.

There are legislative provisions for the process of asset forfeiture and the management of confiscated assets in §§ 253 and 253a CPC.

Intermingling of assets does not prevent deprivation of enrichment pursuant to article 20 CC. If the amount of enrichment cannot be determined or only with disproportionate effort, the court may specify the amount to be deprived at its discretion.

§ 20(2) and (3) CC allow deprivation of assets where there is a connection with continued criminal activity or with membership in a criminal organization and the lawful origin of the advantage cannot be demonstrated. § 20(4) CC provides for

deprivation of enrichment of a third party only if that person has been enriched directly and unjustly.

The obligation to maintain banking secrecy does not apply vis-à-vis the criminal court in connection with criminal proceedings (article 14(2) of the Banking Act). In order to access documents, a court order is needed. However, according to § 14(2) Banking Act, banking secrecy is no valid ground to refuse testimony before a criminal court. Therefore, no lifting of bank secrecy is needed to hear testimony of a bank employee on a specific transaction.

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

The limitation periods for offences are staggered depending on the applicable penalty (§ 57(3) CC). For corruption offences, they will be three or five years, depending on the offence. The statute of limitation applies as soon as the punishable activity is concluded or the punishable conduct has come to an end. The time during which prosecution cannot be initiated or continued according to a legal provision or during which criminal proceedings are pending in court against the perpetrator because of the offence are not included in the limitation period.

Any previous conviction in Liechtenstein or abroad, even outside the European Union/European Economic Area, may be taken into account by the competent court when sentencing.

*Jurisdiction (art. 42)*

Liechtenstein has established territorial jurisdiction and flag State jurisdiction (§ 62, 63 CC). Liechtenstein applies the active personality principle and it partially applies the passive personality principle (acts against Liechtenstein officials; acts by Liechtenstein citizens against Liechtenstein citizens, § 64 CC). Extraterritorial jurisdiction has been established for money-laundering, as well as for prosecution in lieu of extradition, § 64, 65 CC.

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

According to § 879(1) of the General Civil Code (ABGB), contracts or contract clauses governing corrupt acts are considered under existing law to be null and void due to their violation of a law. In public law, article 106 of the National Administration Act permits an administrative act or a decree to be declared null and void. There is no debarment or blacklisting procedure but a bidder has to submit information on his criminal record (natural persons).

All victims who have suffered damage as a result of a crime have the right to initiate legal proceedings in order to obtain compensation (§ 1295 ABGB).

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

Liechtenstein does not have a specialized anti-corruption agency. Instead, the national police is the authority responsible for investigating corruption. However, there are specialized corruption investigators within the criminal police. The specialized corruption investigators, who are also responsible for internal investigations against police officers, consist of the Chief of the Criminal Police, the Head of the Financial Crimes Unit and his deputy. The Financial Crimes Unit is part

of the Crime Investigation Division (CID), which has nine staff members. They are supervised by the Chief of the Criminal Police.

The specialized corruption investigators regularly take part in events on the topic in Switzerland and maintain contact with the Federal Bureau of Anti-Corruption (BAK) in Austria.

The corruption investigators are authorized by the Government to communicate directly with the Office of the Public Prosecutor in corruption cases. They do not have to follow the usual official channels of communication. The status of prosecutors is laid down in the Act on the Office of the Public Prosecutor. According to the Act, prosecutors cannot be instructed by the Ministry of Justice to drop prosecution. The Office of the Public Prosecutor comprises seven prosecutors. There are no specialized anti-corruption prosecutors.

The Financial Intelligence Unit (FIU) is an administrative-type financial intelligence unit; it does not investigate cases. It was established in 2001 and is a member of the Egmont Group. Pursuant to the Due Diligence Act, persons subject to due diligence shall refrain from all actions that might obstruct or interfere with any order by the court at most until the conclusion of five business days from receipt by FIU of the suspicious transaction report, unless such actions have been approved in writing by FIU.

§ 53 ff CPC governs cooperation between domestic authorities and officials. Article 25(1) of the National Administration Act also sets out a mutual obligation of assistance for administrative authorities and courts.

All relevant financial associations have quarterly meetings with the Financial Markets Authority (FMA) as well as FIU.

It is planned that FMA will soon operate a whistle-blower website.

There is no reporting obligation — but a reporting right — for citizens (§ 55 CPC).

### 2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Liechtenstein assumes jurisdiction over money-laundering conducted in another country if the predicate offence has been committed in Liechtenstein (§ 64, para. 1, 9 CC), even in the absence of dual criminality (art. 23(2)(c), 42(2)(c) of the Convention).
- The limited scope of immunities granted by Liechtenstein (art. 30(2) of the Convention).
- The creation of a specialized unit within the criminal police despite the small size of the country (art. 36 of the Convention).

### 2.3. Challenges in implementation

While noting Liechtenstein's efforts in the field of anti-corruption, a number of challenges in implementation and/or grounds for further improvement were identified and it was recommended (depending on the mandatory or optional nature

of the relevant requirements of the Convention against Corruption) that Liechtenstein:

- Swiftly adopt and implement the planned amendments to the criminal code and other laws (*Korruptionsstrafrechtsrevision*) as envisaged in the white paper; in this sense, it is particularly recommended that the bill to be prepared endorses the recommendations below.
- Concerning article 15, 16 and 21 of the Convention:
  - Criminalize active bribery of Members of Parliament, Members of a Municipal Council, and managing employees and staff members of a public enterprise also for acts not contrary to duty.
  - Criminalize active bribery of foreign officials and officials of international organizations also for acts not contrary to duty ("facilitation payments").
  - Consider criminalizing passive bribery of foreign officials and officials of international organizations.
  - Abolish or significantly lower the value of the *de minimis* exemptions.
  - Abolish the "no fault" exemption at the end of Section 307 (2) CC.
  - Consider criminalizing passive bribery in the private sector; consider fully criminalizing active bribery in the private sector.
- Concerning article 18 of the Convention, consider comprehensively criminalizing active and passive trading in influence.
- Consider the introduction of a specific offence to fully implement the mandatory criminalization requirements of article 25(a) of the Convention.
- Concerning article 26 of the Convention, it was recommended to reconsider if the existing maximum penalty would be a sufficiently dissuasive deterrent sanction for larger enterprises and banks.
- Concerning article 31 of the Convention, it was recommended to:
  - Amend the law according to the white paper, including a switch to the so-called "*Brutto-Prinzip*", in order to bring Liechtenstein law fully in compliance with article 31(1)(a).
  - Amend the law according to the envisaged § 19a CC, in order to bring Liechtenstein law fully in compliance with article 31(1)(b).
- Concerning article 33 of the Convention, Liechtenstein is encouraged to consider the introduction of whistle-blower protection in the private sector.

## 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)*

Liechtenstein can directly apply self-executing provisions of the Convention.

The rules on extradition are laid down in chapter II of the Mutual Legal Assistance Act of 15 September 2000 (MLAA).

Extradition can be granted for the prosecution of acts that are punishable under the law of the requesting State by a deprivation of liberty of more than one year and that are subject to a deprivation of liberty of more than one year under Liechtenstein law. Liechtenstein does not make any exceptions to the principle of dual criminality. Article 11(3) MLAA explicitly allows extradition for connected offences as laid down in article 44(3) of the Convention against Corruption. Convention offences are not considered political offences.

Liechtenstein does not make extradition conditional on the existence of a treaty. Extradition can also be granted on the basis of reciprocity. Concerning extradition requests to and from States parties to the Convention, the Convention can be used as the legal basis for dealing with such a request. All Convention offenses fulfil the minimum penalty threshold for extradition stated in article 11 MLAA (one year imprisonment), except for small-scale cases of embezzlement.

Simplified extradition procedures are possible according to article 32 MLAA in case of consent of the person. Provisional custody and detention pending extradition is possible under §§ 127, 129 CPC, article 29 MLAA.

Extradition of nationals is not admissible pursuant to article 12, para. 1 MLAA, except if the person has given his/her express consent. In that case, the extradition is not conditional on his/her return to serve the sentence in Liechtenstein. The principle of *aut dedere, aut judicare* and jurisdiction to prosecute offences committed abroad by nationals is provided for in § 65 para. 1 CC. Article 64 MLAA provides the basis for the enforcement of foreign court decisions.

All procedural rights and guarantees are applicable during the extradition process (art. 9 MLAA). According to article 19(3) MLAA, extradition is not permissible if the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions. Liechtenstein will not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters (art. 15 MLAA).

Opportunity to communicate before refusing extradition is used frequently both by the Princely Court and the authority responsible for extradition in Liechtenstein. Liechtenstein is a Member State to the European Convention on Extradition (ETS No. 24) and its Additional Protocol (ETS No. 86). It has concluded several treaties on extradition, including with the United States of America (1936) and Belgium (1938).

Liechtenstein has ratified the Convention of the Council of Europe on the Transfer of Sentenced Persons (ETS No. 112) and its Additional Protocol (ETS No. 167).

Transfer of proceedings is possible according to article 60 and 74 MLAA and multilateral treaties (European Convention on the Transfer of Proceedings in Criminal Matters, ETS No. 73).

*Mutual legal assistance (art. 46)*

Like extradition, mutual legal assistance (MLA) is regulated by the Mutual Legal Assistance Act of 15 September 2000 (MLAA) and bilateral and multilateral

treaties, including the Council of Europe Convention on Mutual Assistance in Criminal Matters of 20 April 1959. MLA can be afforded in relation to offences committed by legal persons.

According to the MLAA, Liechtenstein can afford all the forms of legal assistance listed in article 46(3) of the Convention against Corruption. Article 54a MLAA explicitly regulates spontaneous transmission of information, which is also used in practice. The confidentiality of the information provided will not prevent Liechtenstein from disclosing it when such information is exculpatory for an accused person. In criminal procedures and in MLA cases in criminal matters, bank secrecy is not a ground for refusing testimony or refusing the provision of documents requested. The relevant rules set out in the CPC apply also to MLA.

Article 51(1) MLAA normally requires dual criminality. However, Liechtenstein can render MLA when it is consistent with the basic concepts of its legal system. In this respect the Convention is self-executing regarding requests not involving coercive measures. Requests are not refused on the sole ground that they involve matters of a *de minimis* nature.

The transfer of a person being detained or serving a sentence for the purpose of testimony is possible according to articles 53, 54, 59, 73 MLAA, 38 CC and the CoE Convention on the Transfer of Sentenced Persons. Liechtenstein also permits hearings to take place by videoconference.

The Ministry of Justice of Liechtenstein serves as the central authority with respect to all international mutual legal assistance in criminal matters. MLA requests and any related communications can be directly transmitted to the central authority. Requests through INTERPOL are accepted. Requests and the related documents have to be submitted in German or English. Nothing in the law excludes accepting requests made orally in urgent circumstances. The form and contents of requests for MLA are governed by article 56 MLAA. The rule of specialty is laid down in article 52(4) MLAA. Requests can be treated confidentially, but before sending objects or documents to the requesting State the entitled parties must first be granted a fair hearing (art. 52(4) MLAA).

MLA may be refused if the request violates the *ordre public* or other essential interests of Liechtenstein. MLA will be refused for exclusively fiscal offences (art. 15 MLAA). For requests that do not only involve fiscal matters but also non-fiscal offences, MLA can be granted. If MLA is not granted, the requesting State will be informed and grounds for refusal will be indicated (art. 57(1) MLAA). The only reason for postponing MLA is the need of objects or documents for a pending domestic proceeding. If it is possible to grant assistance subject to concrete terms and conditions, the requesting State party will be consulted before refusing a request or postponing its execution.

Safe conduct is granted on the basis of article 53 MLAA. Normally, all costs are borne by Liechtenstein (art. 5 MLAA). Documents in the public domain can be provided upon request. Confidential documents or information can be provided to the requesting State if the conditions of articles 52 and 55(4) MLAA are met.

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

Law enforcement authorities cooperate through organizations and networks such as INTERPOL, Europol, Schengen Information System/SIRENE, and the Global Focal Point Initiative established by StAR and INTERPOL. The National Police have also a close and good cooperation with different liaison officers (e.g. with the FBI and the Royal Canadian Mounted Police). Liechtenstein's FIU is a member of the Egmont Group and exchanges information with its foreign counterparts through the Egmont Secure Web. The FIU provides all information it keeps in its own databases to foreign counterparts. The only caveat is that the FIU (which is not a law enforcement agency) can share internationally only information that it holds domestically. Banking and account information that are not held by the FIU can only be provided to foreign authorities through the MLA channel.

Evidence can be made available for investigation and evaluation purposes pursuant to article 52 MLAA. INTERPOL purple notices are used to exchange information on modi operandi, objects, devices and concealment methods used by criminals. Since the beginning of 2014 Liechtenstein has been part of Europol and its network of liaison officers. The current as well as the new (not yet in force) Trilateral Cooperation Treaty between Liechtenstein, Switzerland and Austria also foresees the possibility to exchange liaison officers if necessary.

Liechtenstein can establish joint investigations in the framework of INTERPOL, Europol and (soon) the Trilateral Cooperation Treaty, as well as on a case-by-case basis, when needed.

Special investigation methods are governed by §§ 103 to 104c CPC (surveillance of communication, observation, covert investigation, bogus transactions/controlled delivery). So far, these techniques have been used primarily in cases of drug trafficking or human trafficking.

The Trilateral Cooperation Treaty envisages special investigative techniques. Articles 35 and 35a of the Police Act allow special investigative methods within the framework of international police assistance with all foreign law enforcement authorities that have the same scope of responsibilities as the National Police. Controlled delivery is regulated in § 104c(2) CPC.

### 3.2. Successes and good practices

- The comprehensive and coherent legal framework on international cooperation in criminal matters, which regulates in a detailed manner all forms of international cooperation used by the Liechtenstein authorities.
- By prohibiting Liechtenstein authorities from making an MLA request if they could not comply with an identical request made by another State, article 3(2) MLAA contains an implicit guarantee of reciprocity to the requested State, which might facilitate the rendering of MLA.

### 3.3. Challenges in implementation

With regard to international cooperation, it is recommended that Liechtenstein:

- Take appropriate measures to enable its competent law enforcement authorities to cooperate on the international level in conducting inquiries concerning the movement of proceeds of crime or property derived from the commission of offences covered by the Convention, when such proceeds are held in a banking institution.