

# International Co-operation in Criminal Matters

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# Legal Framework

- Articles 247-260<sup>1</sup> Code of Criminal Procedure
- MLA & Extradition treaties: European Convention on Mutual Assistance in Criminal Matters & Additional Protocol No 1; European Convention on Extradition & both additional Protocols; UN Convention on Transnational and Organized Crime; several bilateral treaties
- treaty provisions directly apply (no need to integrate into national statutes)
- No necessity of a treaty to co-operate, ad hoc agreements



# Extraditions

- dual criminality is strictly required;
- crime to be punishable with the prison sentence for at least one year (according to some treaties 4 years) (almost all the cyber offences under Georgian criminal law meet one year test and most of them also meet the four year threshold;
- non extradition of nationals unless otherwise stated by a treaty (but in fact no treaty in force for Georgia provides such possibility)
- statute of limitations
- Other rules (political offence exception etc.)



## Mutual Legal Assistance

- applicable rules vary by treaties however there are general principles to be observed in all cases
- no need to establish dual criminality (though required where search, seizure, freezing and/or confiscation is requested)
- parallel proceedings
- Other rules (e.g. political offence exception)



## Channels of Co-operation

- Ministry of Justice, Designated Central Authority (the most common channel of communication for MLA requests)
- Direct communications only in case of urgency and even in this case request should be referred to the Georgian central authority
- MLA requests and requests for provisional arrest can be accepted through Interpol and materials can be transmitted through this way



## Efficiency and Obstacles

- the existing provisions are general but flexible (tested positively in 3 MLA cases)
- Efficiency of MLA depends on the provisions of general criminal procedure
- New draft law



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Thank you