

Drafting exercise:

UNMIK has decided replace the domestic passport with a more comprehensive and portable biometric identity card. This card will allow the holder not only to prove his/her identity e.g. for opening bank accounts etc, but will also allow for access to public services, social security benefits and where appropriate it may be used as a travel document. The card will contain a microchip with information about the holder as well as fingerprints, iris scans and other biometric data. Every resident from the age of 16 will be required to obtain and carry this ID card at all times.

The Department of Interior has invited tenders for the project which is valued USD\$1bn. This will be part financed through charging residents a fee for the new document. This is a flagship project for UNMIK and it has attracted great interest from both domestic and international companies who wish to win the tender. Bids for the contract are confidential but are allegedly assessed against objective criteria. It is eventually awarded to an international consortium headed by a Ukrainian company “Biotech Systems”, based in Kharkiv.

Six months after the award of the tender, serious allegations are made by a rival bidder that the tendering process was flawed and that the Biotech consortium were involved in bribery to win the bid. Information has been given to the Prosecutor’s Office that suggests that a number of junior and senior officials in the Ministry have accepted payments to ‘ensure the success of the Biotech tender’.

Preliminary investigations uncover the following information:

1. Two senior officials from the Ministry, Alfred TOPALLI and Arian STEFA are beneficiaries of bank account in Switzerland which has a current balance of USD\$ 10,000,000. A series of payments were made from trust company based in the Turks & Caicos Islands

which began 2 months before the invitation for tender was published and continued for 1 month after the contract had been awarded. The last payment was for USD\$ 5,000,000.

2. Four junior officials had travelled to Rio de Janeiro, with their families on an all expenses paid vacation for 3 weeks. This trip was made 2 weeks after the contract was granted and appears to have been paid by a company registered in Vanuatu.
3. Further investigation by the KFOR has uncovered a series of payments to the Minister from a Ukrainian subsidiary of one of the consortium members. The parent company has its registered office in Paris.
4. Finally a further series of payments have been made from Biotech Systems to Chipset International a company with its registered address in the UK, but it appears to have been incorporated in Cyprus. It appears to share the same company secretary as the one registered in Vanuatu.

On the basis of the information given above please draft an outline of a mutual legal assistance request.