

Resolution 8/1

Enhancing the effectiveness of central authorities in international cooperation in criminal matters to counter transnational organized crime

The Conference of the Parties to the United Nations Convention against Transnational Organized Crime,

Recalling that article 18, paragraph 1, of the United Nations Convention against Transnational Organized Crime¹ requires States parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, and that article 18, paragraph 13, requires States parties to designate a central authority with the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution,

Recognizing that General Assembly resolutions 69/193 of 18 December 2014 and 70/174 of 17 December 2015 and Economic and Social Council resolution 2014/17 of 16 July 2014 call attention to the growing and important role of central authorities in countering transnational crime, including transnational organized crime,

Convinced that “serious crime” and “organized criminal group”, as defined in article 2 of the Convention, enable a State party, in particular through its central authority, to request and provide assistance to other States parties with regard to a wide range of offences that are transnational in nature, and taking note of article 3 of the Convention,

Reaffirming the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation,² especially its subparagraph 8 (a), in which Member States stated that they would strive to promote and strengthen international and regional cooperation to further develop the capacity of national criminal justice systems, including through efforts to modernize and strengthen national legislation, as appropriate, as well as joint training and upgrading of the skills of criminal justice officials, in particular to foster the development of strong and effective central authorities for international cooperation in criminal matters,

Recalling the recommendations of the Working Group on International Cooperation, particularly those that seek to strengthen and enhance the effectiveness of central authorities through direct contact; networks in a virtual environment; liaison activity, including consultations; case tracking; capacity-building and specialized training; and use of technology,

Taking note of the recommendations of the Working Group on International Cooperation that focus on strengthening the internal capacity of central authorities,

¹ United Nations, Treaty Series, vol. 2225, No. 39574.

² General Assembly resolution 70/174, annex.

including by exercising quality control, enhancing coordination functions and directing matters to other channels of cooperation, such as police-to-police cooperation,

Expressing appreciation for the tools developed by the United Nations Office on Drugs and Crime to support implementation of the Convention by central authorities, including its directory of competent national authorities, the knowledge management portal known as Sharing Electronic Resources and Laws on Crime and the continued development of the Mutual Legal Assistance Request Writer Tool,

Recognizing that central authorities are most effective when they are properly staffed, equipped, empowered and engaged to carry out their core responsibilities regarding international cooperation under the Convention,

1. *Invites* States that have not yet done so to consider ratifying or acceding to the United Nations Convention against Transnational Organized Crime and the Protocols thereto³ and to effectively implement their provisions;

2. *Urges* States parties to afford one another the greatest measure of assistance, in accordance with the provisions of the Convention, as well as their domestic laws;

3. *Reminds* States parties of their obligation to designate a central authority in criminal matters, pursuant to article 18, paragraph 13, of the Convention, and to notify the Secretariat of its designation for inclusion in the directory of competent national authorities;

4. *Encourages* States parties, consistent with their national legal frameworks, to make the widest possible use of the Convention as a basis for international cooperation;

5. *Requests* States parties, taking into account that the purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively, to permit direct communication and transmission of requests between central authorities, and encourages them, when appropriate and feasible, to place liaison magistrates or officers in capitals of other States parties, to the fullest extent permitted under their domestic laws;

6. *Encourages* States parties to make the fullest and most effective use of available technology to facilitate cooperation between central authorities, including online resources developed at the national level and relevant tools created by the United Nations Office on Drugs and Crime, such as the knowledge management portal known as Sharing Electronic Resources and Laws on Crime and the Mutual Legal Assistance Request Writer Tool, and to develop virtual networks between and among central authorities and explore the feasibility of secure electronic communications;

³ United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

7. *Calls* upon States parties to staff, equip and empower central authorities so that those authorities play an effective coordinating role among various government agencies within a State party and with other States parties in order to ensure effective implementation of the Convention regarding international cooperation in criminal matters, and to help facilitate the timely execution of requests for assistance or cooperation, including, where appropriate, requests for electronic evidence;

8. *Invites* States parties to ensure that policies and procedures are established and made available in order to enhance the effectiveness of, and create efficiencies for, central authorities, including policies and procedures to effectively use, when appropriate, other channels of cooperation, such as law enforcement to law enforcement, prosecutor to prosecutor or investigating magistrate to investigating magistrate, in accordance with domestic law;

9. *Encourages* States parties to take measures to improve the quality of requests for international cooperation, including by improving their clarity, precision and translation and by minimizing documentation, and to consider prioritizing incoming and outgoing requests according to their urgency, seriousness of the offence and type of assistance requested;

10. *Emphasizes* the importance of contact and consultation between central authorities from both requesting and requested States parties, where appropriate, in order to support effective international cooperation, both before the submission of a request for international cooperation, to ensure that the request is legally and factually sufficient under the domestic law of the requested State party, and after the submission of a request, to clarify specific matters and to allow for consultations before refusing or partially refusing a request for assistance, consistent with article 16, paragraph 16, and article 18, paragraph 26, of the Convention;

11. *Strongly* encourages States parties to facilitate engagement between and among central authorities in person, including through regional networks, or by virtual means, such as videoconferences, and highlights the particular importance of engagement between central authorities in order to review the execution of requests, discuss impediments to mutual cooperation and identify solutions to those challenges;

12. *Urges* States parties, including in collaboration with the United Nations Office on Drugs and Crime, to promote training and technical assistance to facilitate international cooperation under the Convention, and, in this regard, encourages States parties to prioritize efforts to strengthen knowledge and capacity within their central authorities and other relevant institutions, including efforts to preserve the confidentiality of requests for international cooperation and their contents, if requested;

13. *Requests* States parties to support central authorities in establishing or strengthening, as appropriate, systems for tracking the status of requests for international cooperation, including after such requests have been transferred to a competent authority for execution, and encourages States parties to collect and make available statistical information about requests, including the forms of assistance sought, the legal bases invoked and time periods for processing requests;

14. *Reaffirms* its decision 3/2 of 18 October 2006, in which it decided that the Working Group on International Cooperation would be a constant element of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;

15. *Congratulates* the Working Group on International Cooperation on its tenth anniversary as a forum for government experts, including practitioners, to engage, identify common issues and solutions and generate practical recommendations for international cooperation;

16. *Endorses* the recommendations adopted by the Working Group on International Cooperation at its meetings held on 27 and 28 October 2015 and from 19 to 21 October 2016, annexed to the present resolution, and encourages States parties to implement them;

17. *Encourages* States parties to facilitate the active participation of central authorities in the relevant meetings of the Conference and its working groups, particularly the Working Group on International Cooperation, to share good practices and lessons learned with respect to international cooperation and to strengthen relationships among government experts, especially practitioners;

18. *Requests* the United Nations Office on Drugs and Crime to schedule future meetings of the Working Group on International Cooperation to facilitate the participation of central authorities and make the best possible use of existing resources, including by coordinating with other international meetings and capacity-building activities on international cooperation, and encourages States parties to consider holding bilateral and/or multilateral meetings of representatives of central authorities, including on the margins of the Working Group on International Cooperation, to discuss issues of common interest;

19. *Invites* States parties and other donors to provide extra budgetary resources for the purposes of this resolution in accordance with the rules and procedures of the United Nations;

20. *Requests* the Secretariat to report to the Conference at its ninth session on the implementation of the present resolution.

Annex I

Recommendations formulated by the Working Group on International Cooperation at its meeting held in Vienna on 27 and 28 October 2015

The following recommendations were formulated by the Working Group on International Cooperation:

(a) The Secretariat should continue to develop training material on the collection and sharing of electronic evidence under the framework of the United

Nations Convention against Transnational Organized Crime,⁴ for further use in technical assistance activities;

(b) The Secretariat should continue to mainstream the topic of electronic evidence into existing and future tools on international cooperation in criminal matters and request States to provide relevant information and materials for inclusion in the knowledge management portal known as Sharing Electronic Resources and Laws on Crime;

(c) Member States should enhance the efficiency of law enforcement cooperation mechanisms by, inter alia, developing effective systems of information-sharing, establishing channels of communication between their competent authorities and, if needed, concluding arrangements to foster operational assistance;

(d) Member States should consider examining ways and means to foster international cooperation involving, inter alia, the use of electronic evidence, the preservation of such evidence and, in particular, the examination of possibilities to expedite formal mutual legal assistance processes;

(e) Member States should consider encouraging practitioners, in appropriate cases, to consult informally prior to making a formal request for extradition or mutual legal assistance; in doing so, States parties should promote initiatives to make available clear guidance on their procedures and requirements for making such requests;

(f) Member States should consider supporting technical assistance efforts, including as undertaken by the United Nations Office on Drugs and Crime, geared towards developing training programmes to improve the capacities of domestic law enforcement officers, including those who may serve as liaison officers, and of liaison magistrates, and enhance their knowledge on, inter alia, applicable international instruments and the domestic legal systems of host countries and their criminal procedure laws, including requirements on admissibility of evidence in courts;

(g) The Secretariat should continue the further development of tools for international cooperation in criminal matters, including the finalization of the revised Mutual Legal Assistance Request Writer Tool, and should report to the Conference of the Parties to the Organized Crime Convention at its eighth session on the pilot phase to test the use of this tool in practice as training material;

(h) The Secretariat should continue its work to collect and disseminate, including through the Sharing Electronic Resources and Laws on Crime knowledge management portal, relevant national laws, guides and guidelines that can assist central authorities and practitioners in the preparation and expeditious submission of requests for mutual legal assistance;

(i) In order to strengthen direct contact between central authorities, the Secretariat should adjust the directory of competent national authorities under articles

⁴ United Nations, *Treaty Series*, vol. 2225, No. 39574.

6, 7 and 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988⁵ and competent national authorities under the Organized Crime Convention by separating the directory into two parts, with one part containing information on central authorities designated under various treaty provisions related to mutual legal assistance, including contact information, accepted languages and acceptable forms of transmission of requests, and the other part containing information on other competent authorities and/or executing authorities, as appropriate, and on channels and information for informal cooperation;

(j) The Secretariat should invite States parties to update the notification requirement under article 16, paragraph 5 (a), of the Organized Crime Convention and consider making such updated information widely available;

(k) In view of some reports of parties not accepting the Organized Crime Convention as a basis for legal assistance under article 18, paragraph 7, of the Convention, States parties should take steps to enhance the use of the Organized Crime Convention as a legal basis for mutual legal assistance, bearing in mind its added value as an instrument that facilitates international cooperation for a wide range of offences and to the broadest extent possible; States parties should also ensure that their domestic laws and practice conform with article 18 of the Convention;

(l) Member States should consider, with the assistance of the Secretariat and subject to the availability of extra budgetary resources, the possibility of developing a global network, through a virtual environment, for the purpose of establishing and enhancing direct contact between central authorities;

(m) The Secretariat should undertake the updating, finalization and validation of the draft report of the informal expert working group on joint investigations, including its conclusions and recommendations, which was brought to the attention of the Conference of the Parties at its fourth session in conference room paper CTOC/COP/2008/CRP.5;

(n) States parties are invited to consider including in their delegations to future sessions of the working group practitioners in charge of matters related to the international cooperation provisions of the Convention and to encourage their active participation in the meetings of the Working Group;

(o) States parties, in coordination with the Secretariat, should consider scheduling future meetings of the Working Group in such a manner (such as back to back with other relevant meetings) so as to facilitate participation from practitioners and to make the best possible use of Government and Conference resources.

Annex II

Recommendations formulated by the Working Group on International Cooperation at its meeting held in Vienna from 19 to 21 October 2016

⁵ Ibid., vol. 1582, No. 27627.

1. The following recommendations were formulated by the Working Group on International Cooperation:

(a) States parties to the United Nations Convention against Transnational Organized Crime⁴ should provide information, in particular statistical data, on the use of the Convention for international cooperation in criminal matters, including data identified in paragraph 13 of Conference of the Parties to the United Nations Convention against Transnational Organized Crime resolution 8/1, entitled “Enhancing the effectiveness of central authorities in international cooperation in criminal matters to counter transnational organized crime”, in order to support an active dialogue in the Working Group and a more thorough understanding of the effectiveness of the Convention;

(b) States parties to the Organized Crime Convention should review and update, if appropriate, their notifications and declarations on articles related to international cooperation, in particular articles 13, 16 and 18, received by the Secretary-General at the time of deposit of their instruments of ratification, acceptance, approval or accession and also made in accordance with pertinent decisions of the Conference of the Parties, with a view to facilitating more flexible and effective implementation of those provisions;

(c) States parties should enhance measures for the identification, tracing, freezing, seizure and recovery of proceeds of crime, where derived from offences covered by the Convention, including those related to tax evasion, for the purpose of their eventual confiscation and their transparent disposal;

(d) States parties should consider developing mechanisms that would allow for more timely and effective cooperation between central authorities, as well as law enforcement authorities, prosecutors and judicial authorities, in border areas, particularly in conurbation areas, and should also consider sharing such experiences in future meetings of the Working Group;

(e) Concerned States parties should consider developing and promoting existing regional networks, such as the Network of West African Central Authorities and Prosecutors against Organized Crime, the Ibero-American Network for International Legal Cooperation, the Camden Asset Recovery Inter-Agency Network and the judicial cooperation network of the League of Arab States, to continue building trust and confidence and improving international cooperation in criminal matters, and further promoting meetings for face-to-face interaction, using established mechanisms and bodies;

(f) The United Nations Office on Drugs and Crime should, in addition to its work in regularly updating the directory of competent national authorities, create and regularly update a mailing list of experts and practitioners from States parties to the Convention containing their contact details, which can be made available in a secure environment or further circulated among experts;

(g) The Conference of the Parties to the Organized Crime Convention should make use of all information available to the Working Group on International

Cooperation for, inter alia, giving effect to the provisions of article 32 of the Convention as a means of reducing the burden for practitioners and a voiding duplication, where appropriate, by using the knowledge management portal known as Sharing Electronic Resources and Laws on Crime;

(h) The United Nations Office on Drugs and Crime should, in cooperation with other partner organizations active in the field of international cooperation to combat transnational organized crime, where appropriate and subject to the availability of resources, undertake training activities on the use of the Organized Crime Convention to foster such cooperation, including for the purpose of raising awareness about the usefulness of the Mutual Legal Assistance Request Writer Tool and for training practitioners who work in central authorities on the use of the Tool and disseminating the Tool further at the national, regional and international levels.

2. The Working Group recommended that the Conference of the Parties include, inter alia, the following issues in thematic discussions at future meetings of the Working Group:

(a) Practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters;

(b) The sharing of electronic evidence and pertinent challenges in the field of international cooperation, including how to cooperate with respect to the use of virtual currency in criminal activities and, where appropriate, issues regarding decrypting data;

(c) Mutual legal assistance with respect to investigations, prosecutions and judicial proceedings in relation to offences covered by the Organized Crime Convention for which a legal person may be held liable (article 18, paragraph 2, in conjunction with article 10 of the Convention), taking into account the work done by States parties to the United Nations Convention against Corruption⁶ in that regard;

(d) International cooperation in civil and administrative proceedings in relation to the offences covered by the Convention, including for the identification, freezing and confiscation of assets derived from such offences, and the interplay of those proceedings with international cooperation in criminal matters, taking into account the work done by the Conference of the States Parties to the United Nations Convention against Corruption in that regard.

3. The Working Group also recommended that the Conference of the Parties to the Organized Crime Convention continue including in the agenda of future meetings of the Working Group the issue of implementation of articles 13 and 14 of the Convention.

⁶ Ibid., vol. 2349, No. 42146.