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**Conference of the Parties to the United Nations  
Convention against Transnational Organized Crime****Fifth session**

Vienna, 18-22 October 2010

Item 6 of the provisional agenda\*

**International cooperation, with particular emphasis on extradition,  
mutual legal assistance and international cooperation for the  
purpose of confiscation, and the establishment and strengthening of  
central authorities****Catalogue of cases involving extradition, mutual legal  
assistance and other forms of international legal cooperation  
requested on the basis of the United Nations Convention  
against Transnational Organized Crime****I. Introduction**

1. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime, in its decision 3/2, requested the Secretariat to compile a catalogue of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the United Nations Convention against Transnational Organized Crime,<sup>1</sup> in order to encourage States parties to improve their implementation of the Convention and the Protocols thereto.<sup>2</sup> The Conference also encouraged States parties to provide the Secretariat with data concerning their reliance on provisions of the Convention and its Protocols to effect extradition, mutual legal assistance and other forms of international legal cooperation.

2. In the same decision, the Conference encouraged States parties to make greater use of the Convention as a legal basis for international legal cooperation, recognizing the broad scope of cooperation available under the Convention; to utilize the Convention when other bases for cooperation, such as bilateral

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\* CTOC/COP/2010/1.

<sup>1</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>2</sup> *Ibid.*, vols. 2237, 2241 and 2326, No. 39574.



agreements and domestic law, did not provide for effective extradition, mutual legal assistance and international cooperation for the purposes of confiscation; and to promote awareness of the Convention among central authorities, judges, prosecutors, law enforcement officers and national central bureau officers of the International Criminal Police Organization (INTERPOL) engaged in international legal cooperation in the fight against transnational organized crime.

3. In its decision 4/2, the Conference welcomed the collection of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Convention; urged States parties to continue to provide the Secretariat with data concerning their reliance on provisions of the Convention and the Protocols thereto in order to effect extradition, mutual legal assistance or other forms of international legal cooperation; and requested the Secretariat to update the catalogue of cases and disseminate it to the States parties.

4. On 4 May 2010, a note verbale was sent to all States parties to the Convention requesting them to submit to the Secretariat by 31 May 2010 practical examples demonstrating the effective use of the Convention in international cooperation matters, in particular with respect to the following provisions of the Convention: article 13, entitled “International cooperation for purposes of confiscation”; paragraphs 3, 4, and 6 of article 16, entitled “Extradition”; and article 18, entitled “Mutual legal assistance”. By 19 August 2010, the Secretariat had received the requested information from 30 States parties. That information is reflected below.

## **II. Cases in African States**

### **Botswana**

5. Botswana notified the Secretariat that, as it had not used the Organized Crime Convention as a legal basis for extradition, it had no practical examples of mutual legal assistance. It also indicated that that had created problems when it came to States with which Botswana did not have bilateral or multilateral treaties. For instance, Botswana had received from Montenegro, which was not a commonwealth country, a request for extradition. Botswana could not grant the extradition as it did not have a legal basis for doing so.

### **Burkina Faso**

6. Burkina Faso notified the Secretariat that it had practical examples demonstrating the use of the Organized Crime Convention in international cooperation matters, as it had used other instruments for cooperation and mutual legal assistance. Furthermore, it highlighted the lack of awareness in its national jurisdictions regarding the use of the Organized Crime Convention.

## Egypt

7. The Secretariat received information from Egypt that the crime section of the Office of International Affairs at the United States Department of Justice had sent a request for judicial assistance to the competent authorities of Egypt. In the request, investigations conducted by the Office of the Attorney General in the Central District of California and the Federal Bureau of Investigation concerning online fraud and identity theft, whereby funds from bank accounts were illegally transferred to fraudulent accounts opened specifically for that purpose, were requested.

8. The competent authority of the United States of America had requested material evidence from digital devices in the possession of persons under investigation and the provision to United States judicial authorities of relevant records and data from Internet service providers in Egypt, including Internet Protocol addresses used by the persons under investigation who were residing in Egypt; records of banks and fund transfer bureaux in Egypt or elsewhere. On 3 October 2009, the Attorney General consented to respond to the letters rogatory. The relevant documents were subsequently sent to the prosecutor's office at the court of appeal in Al Mansurah, Egypt, in order to implement the request and investigate the facts described in those documents and ascribed to Egyptian nationals.

9. All the judicial assistance items shown in the request received from United States judicial authorities were fulfilled in accordance with the Organized Crime Convention and the treaty on mutual legal assistance in criminal matters that had been concluded by the two countries. The investigations conducted by the public prosecution service of Egypt revealed that the accused Egyptian nationals had established forged websites of certain American banks, from which e-mails had been sent to victims who were clients of those banks, asking them to update their personal data. Once the victims had responded, the accused Egyptian nationals had been able to obtain data concerning the victims' bank accounts and the secret numbers thereof. They had thus been able to access those bank accounts and transfer funds from them to other bank accounts opened by the accused American nationals. The accused Americans would then cash the funds and transfer part of them to the accused Egyptians through fund transfer companies. The investigations of the public prosecutor's office confirmed the charges against 43 Egyptians accused of committing offences of money-laundering involving a total of 1,117,000 United States dollars obtained through transnational organized crime, swindle and forgery. All the accused were referred to the competent criminal court to be tried and sentenced on counts in the indictment. The case is pending before the court.

10. Furthermore, Egypt provided the Secretariat with examples of its efforts to combat transnational organized crime at the legislative and executive levels. It also described three other organized crime cases not directly related to the Organized Crime Convention.

## **Mauritius**

11. The Secretariat was informed that Mauritius had received requests for mutual legal assistance for three cases from France and one such request from Madagascar.

12. Between 2007 and 2010, Mauritius had sent three requests for mutual legal assistance. One of the requests, made on the basis of the Organized Crime Convention and other instruments, was sent to the United Kingdom of Great Britain and Northern Ireland in connection with a case involving illegal importation of drugs. (The request was granted.) Another request was sent to Indonesia, using the Organized Crime Convention as a legal basis; it concerned a case involving fraud, banking crime and money-laundering. (Indonesia requested further information; the request is currently pending.) Finally, a request involving a drug trafficking case was sent to Romania, using as a legal basis the Organized Crime Convention and other instruments. (Romania had requested further information; the request is pending.)

## **III. Cases in Asian States**

### **Armenia**

13. The Secretariat was informed that the Prosecutor General's Office of the Republic of Armenia had twice used provisions relating to mutual legal assistance by sending a request to the law enforcement agencies of Latvia and the Russian Federation in February 2010. The mutual legal assistance requests had been made in the framework of a criminal case on money-laundering. It should be noted that for that request, the relevant provisions of the Organized Crime Convention were used, together with the relevant provisions of the European Convention on Mutual Assistance in Criminal Matters.<sup>3</sup> In a letter from the Prosecutor General's Office of the Russian Federation, Armenia was informed that the request was in the process of execution. The Government of Armenia was waiting for a response from the Latvian law enforcement agencies.

### **Philippines**

14. The Secretariat was informed that the Philippines had used article 18 of the Organized Crime Convention, as well as other bilateral and regional instruments, as the legal bases for mutual legal assistance cooperation with Australia, Brunei Darussalam, Canada, China, Colombia, Ireland, Israel, Italy, Jordan, New Zealand, Norway, the Republic of Korea, Sweden, the United Arab Emirates, the United Kingdom and the United States.

15. The Secretariat was also informed that the Philippines had used article 16 of the Organized Crime Convention, together with other bilateral and regional instruments, as the legal basis for extradition. The Philippines had conducted extraditions to Germany, Indonesia, Japan, Saudi Arabia, Sweden and Switzerland.

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<sup>3</sup> Ibid., vol. 472, No. 6841.

Furthermore, Bahrain, Malaysia and Singapore, as well as Taiwan of China, had conducted extraditions to the Philippines.

## **IV. Cases in Eastern European States**

### **Belarus**

16. In 2009, a request for legal assistance was submitted to the competent judicial authority of Germany on the basis of the Organized Crime Convention. That request was not executed.

17. In 2010, on the basis of the Organized Crime Convention, the office of the prosecutor-general of Belarus received five requests for legal assistance in connection with the investigation of a single criminal case for transmittal to the competent judicial authorities of Egypt, Iraq, Jordan, Pakistan and Sri Lanka. No official responses to those requests had been received.

18. The Ministry of the Interior of Belarus had received no requests for legal assistance under the Organized Crime Convention in 2010, nor had it received any such requests in 2009.

### **Bosnia and Herzegovina**

19. The Secretariat received information from Bosnia and Herzegovina regarding the provisions contained in its criminal and criminal procedure codes. The Secretariat was informed that a number of the articles of the Organized Crime Convention had been incorporated into the national legislation of Bosnia and Herzegovina.

### **Estonia**

20. The Secretariat was informed that, in 2009 and 2010, Estonia had received from the United States three requests for the extradition of three persons accused of membership in criminal organizations who had committed computer-related bank fraud. Those requests had been made using as a legal basis article 16 of the Organized Crime Convention, as well as the 2006 extradition treaty between the Government of Estonia and the Government of the United States and the Council of Europe's Convention on Cybercrime.<sup>4</sup> The three persons were extradited by Estonia to the United States. Their cases were pending.

### **Latvia**

21. Latvia notified the Secretariat that it had not made or received requests related to international cooperation using the Organized Crime Convention as a legal basis. Furthermore, Latvia had informed the Secretariat it had incorporated a number of the provisions of the Organized Crime Convention into its national legislation.

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<sup>4</sup> Council of Europe, *European Treaty Series*, No. 185.

## **Lithuania**

22. In 2006 and 2008, Lithuania submitted a request to Kuwait for the extradition of a Lithuanian citizen accused of participation in a criminal association, violation of public order and involvement of a child in a criminal act. The request had been made using solely the Organized Crime Convention as a legal basis. The request was declined by Kuwait on the grounds that, unlike Lithuania, Kuwait did not accept the Convention as a legal agreement regulating extradition.

23. Lithuania notified the Secretariat that there were no extradition cases where the Prosecutor General's Office of Lithuania had used the Organized Crime Convention as a legal basis. However, in 2009, the Prosecutor General's Office had used the Organized Crime Convention and its Protocols as the sole basis for sending a request for legal assistance to the competent judicial institutions of Nigeria. No response had been received from Nigeria regarding that case, which involved the hijacking of a ship and hostage-taking.

## **Poland**

24. The Secretariat was informed that, since 2008, Poland had applied the Organized Crime Convention in relation to international cooperation on one occasion. On the basis of article 21 of the Organized Crime Convention, the national prosecutor's office of Poland transferred the proceedings of the regional prosecutor's office in Przemysl, Poland, to the competent law enforcement authorities of the Netherlands. It was noted that the transferred proceedings concerned a case involving the smuggling of drugs by two citizens of the Netherlands.

## **Romania**

25. The Secretariat was informed that most of the requests made by Romania on the basis of the Organized Crime Convention had been sent to Australia. Other countries to which such requests had been sent included the following: Brazil, Canada, Dominican Republic, Ecuador, Egypt, Jordan, Malaysia, Mauritius, Morocco, New Zealand, Peru, Philippines, Saudi Arabia, Singapore, Thailand, Tunisia, Venezuela (Bolivarian Republic of), United Arab Emirates and United States.

26. In 2009, Romania had sent a request for extradition to the United Arab Emirates using as a legal basis the Organized Crime Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The request is pending.

27. Romania had 24 requests pending that had been formulated during the pretrial stage from 2009 to 2010: 17 requests related to cybercrime cases and had been sent to numerous countries, including Australia, Brazil, Jordan, Malaysia, Mexico, New Zealand, Saudi Arabia, Tunisia and the United Arab Emirates; 6 requests had been sent to South American countries; and 1 request related to a case involving trafficking in persons had been sent to Morocco.

28. Romania had also sent a request for mutual legal assistance, which had been formulated during the trial stage, to Argentina, Australia, Brazil, Canada, the Dominican Republic and the Philippines. Most of those cases involved cybercrime.

29. The Secretariat was informed that a Romanian organized criminal group had been investigated for allegedly having committed skimming and credit card cloning offences and illegal interception of data. Some of the victims were Australian nationals. The request of the Romanian authorities was related to identifying the owners of the cloned credit cards and taking the owners' statements in order to establish if they had suffered losses and, if so, the value of those losses.

30. The request had been forwarded directly to the requested State in November 2009. In December 2009, the Australian authorities had contacted the Ministry of Justice of Romania by e-mail, soliciting electronic copies of the documents and soliciting information with regard to the deadline of the request. The information was provided by the Ministry of Justice of Romania, after consultation with the Prosecutor's Office Attached to the High Court of Cassation and Justice. Several additional clarifications were also provided via e-mail with regard to certain elements of the investigation, which allowed the Australian authorities to better assess the request.

31. The Secretariat was also informed that Brazilian authorities had contacted by e-mail the Ministry of Justice of Romania with some preliminary questions related to legislation. The Brazilian authorities had then sent a request for mutual legal assistance in a case involving drug trafficking and money-laundering that required identification of dates of bank account owners suspected of having committed the above-mentioned offences, as well as additional information. The request had been sent by the Ministry of Justice of Romania to the Prosecutor's Office Attached to the High Court of Cassation and Justice in September 2008 and the response from Romania regarding the execution of the request had been forwarded to the Ministry of Justice of Brazil in January 2009.

32. Furthermore, the Secretariat was informed that a Romanian organized criminal group had committed computer-related fraud and forgery and swindling against various citizens of other countries. A request had been forwarded directly to the State of which one of the victims was a national. Then reminders were sent through diplomatic channels. Intermediate answers to the requests were received only after the documents had been retransmitted through diplomatic channels. The requested State mentioned that, in the absence of an applicable bilateral treaty, an internal order would have to be issued by the Minister of Justice in order to execute the request and take the necessary measures. A partial response was received: the request could not be executed because of the incomplete address details of the victims. The case has continued for almost two years and is still pending.

## **Serbia**

33. The Secretariat received information that the special department of the Higher Court in Belgrade had directly applied article 18, paragraphs 1 and 3 (c), in connection with article 2, paragraph (f), of the Organized Crime Convention and had submitted a request for international legal assistance in criminal matters to freeze the property of an accused person in Spain. Furthermore, in the same case,

the Convention had also been indirectly applied since, pursuant to articles 5 and 8, the signatory State had to introduce certain acts in its criminal legislation and, for those acts that had been criminalized in the Criminal Code of the Republic of Serbia, criminal proceedings had been initiated. Serbia notified the Secretariat that it had not applied articles 13 and 16, paragraphs 3, 4 and 6, of the Convention. It also indicated that the criminal offences that had been the subject of international legal assistance pursuant to the Convention were as follows: unlawful production; keeping and circulation of narcotics; illegal crossing of State border and trafficking in human beings; and smuggling.

34. The Secretariat was also informed of a case regarding an organized criminal group that had been procuring the narcotic drug cocaine from States in South America. As a result of international legal assistance with Uruguay rendered on the basis of article 18 of the Organized Crime Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,<sup>5</sup> certain evidence relating to the seizure of drugs had been acquired. The evidence had been used in the case to successfully initiate criminal proceedings against the above-mentioned criminal group.

## **Slovenia**

35. The Secretariat was informed of several extradition cases in Slovenia. Uruguay had sent a request for extradition for the criminal offence of “illicit drug trafficking”, using as a legal basis the Organized Crime Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

36. Moreover, Slovenia, submitted to Canada a request for extradition using the Organized Crime Convention as a legal basis. The case covered 20 criminal offences (including the criminal offence of abuse of official position or official duties, the criminal offence of instigation to the criminal offence of abuse of position of rights in business activity and the criminal offence of forgery or destruction of business documents).

37. Slovenia also received from the United States a request for extradition with regard to a case involving conspiracy to commit credit card fraud. The request was made using as a legal basis not only the Organized Crime Convention but also the Council of Europe’s Convention on Cybercrime, as well as an extradition treaty between the United States and the Kingdom of Serbia signed on 21 October 1901.

38. The Secretariat was also informed of different requests for mutual legal assistance made or received by Slovenia. Slovenia had requested mutual legal assistance from Canada in a case involving the criminal offence of money-laundering, using as a legal basis the Organized Crime Convention. A similar request had been sent to the United States.

39. Slovenia also had other pending requests for mutual legal assistance based on the Organized Crime Convention but could not provide information on them since the investigations were still ongoing.

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<sup>5</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.



## **Ukraine**

40. The Secretariat was informed that, on the basis of article 18, paragraphs 1 and 3 (b), of the Organized Crime Convention, Ukraine had received in 2006 an order from a court in Lebanon to serve writs of summons to four witnesses. A writ of summons was served to one of the witnesses. The other writs of summons were not served because the witnesses did not live on Ukrainian territory.

41. In 2009, an order from Peru was sent to Ukraine with the request to conduct the interrogation of a person. The order was returned without execution because the person did not live on the territory of Ukraine.

42. On the basis of article 16 of the Organized Crime Convention, the Ministry of Justice of Ukraine sent to the competent authorities of Lebanon a request from the Ukrainian court to extradite an offender to Ukraine. The execution of the request is still pending.

43. The Secretariat was informed that in 2008, the Prosecutor General's Office of Ukraine had issued a formal request to the Ministry of Justice of Turkey for legal assistance in the criminal case of a Turkish citizen who was found guilty of human trafficking, forced prostitution and attempting to coerce into prostitution. As was established during the investigation process, the person had organized and led an international criminal group, composed of Turkish and Ukrainian citizens, involved in the sexual exploitation of female Ukrainian citizens residing on Turkish territory by selling them into sexual slavery and obtaining illegal profits from those crimes. The request sent to Turkey was fulfilled, and that led to the guilty parties being held responsible and the restoration of the rights of the victims of those crimes. In this particular case, reference was made to the Organized Crime Convention and the provisions of the European Convention on Mutual Assistance in Criminal Matters.

44. In March 2010, the Prosecutor General's Office of Ukraine made a formal extradition request to the competent organs of the United Arab Emirates. That request, made using as a legal basis the Organized Crime Convention, concerned a female Ukrainian citizen wanted for smuggling persons across the border of Ukraine, trafficking in persons or involvement in other illegal activities such as the smuggling of migrants, the abuse of office and knowingly using false documents. The Prosecutor General's Office of Ukraine has not yet received a response to that request.

## **V. Cases from Latin American and Caribbean States**

### **Argentina**

45. Argentina notified the Secretariat that most of the passive and active requests for mutual legal assistance and extradition had been based on bilateral or regional legal instruments relating to legal assistance and extradition. However, it also underlined that in the past two years, the Organized Crime Convention had been increasingly used in connection with requests for international cooperation in criminal matters, whether as the sole basis for those requests or in conjunction with instruments of the kind mentioned above. Furthermore, it was highlighted that in

most cases, the Organized Crime Convention and its Protocols had been applied in connection with mutual legal assistance.

46. Furthermore, Argentina highlighted the activities of the Ministry of Foreign Affairs, International Trade and Worship of Argentina; as central authority, in specific areas relating to the Convention: it was noted that if a request for assistance or extradition was made in connection with an investigation relating to any of the offences provided for in the Convention or its Protocols, the Convention was cited as the legal basis for the request (as the sole legal basis or in conjunction with other instruments, as appropriate) when the request was transmitted to the executive bodies of Argentina (the judiciary or the department of public prosecution) or, in the case of a request made by Argentina, to the requested State.

47. In addition, it was noted that in all training and awareness-raising activities conducted by the Ministry of Foreign Affairs, International Trade and Worship, whether in academic or judicial institutions or in the department of public prosecution, the Convention and its Protocols were referred to as useful tools in international cooperation in criminal matters and the scope of those instruments was explained.

48. Lastly, and with specific regard to cases in which the Convention had been applied, Argentina underlined that in most of those cases, its application had related to the offence of trafficking in persons.

## **Brazil**

49. The Secretariat was informed that the Organized Crime Convention had been used as a legal basis in cases in which Brazil had no extradition treaty with the State party concerned. Monaco had recently granted a request submitted by Brazil for extradition on the basis of the Convention, in accordance with article 16, paragraph 4, of the Convention.

### **Requests made in cases where the Convention was used as the sole legal basis**

50. Brazil received a request from the United Kingdom for assistance for purposes of obtaining information and confiscation of assets, taken from a criminal investigation into falsification of documents and possession of proceeds from that offence. The request was received by the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, and forwarded to the Office of the Prosecutor General for execution. As the request was sent in 2010, the Brazilian authorities have not responded yet.

51. A request for assistance was received from Finland for the purpose of confiscation of immovable assets in Brazil, in the framework of a criminal investigation into the offences of tax evasion and money-laundering. The request was received by the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, and forwarded to the Office of the Prosecutor General for execution. As the request was sent in 2010, the Brazilian authorities have not responded yet.

52. A request for assistance was received from Switzerland for the purposes of examining suspects and obtaining documents held in Brazil, in the framework of a

criminal investigation into the offences of falsification of documents, international drug trafficking and money-laundering. A first version of the request was received by the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, in December 2008 and was duly executed by the Brazilian authorities. A second version of the request was received by the Department in May 2009 and has yet to be executed.

**Requests made in cases where the Convention was used in conjunction with bilateral and/or regional instruments**

53. A request for assistance was received from France for purposes of loosening bank secrecy provisions and obtaining witness testimony, carrying out an investigation and apprehending suspects, in the framework of a criminal investigation into international drug trafficking. The request was received by the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, in August 2009 and forwarded to the Office of the Prosecutor General for execution, and was duly executed by the Brazilian authorities.

54. A request for assistance was received from the Bolivarian Republic of Venezuela for purposes of loosening bank secrecy provisions and obtaining company information, in the framework of a criminal investigation into money-laundering and tax evasion. The request was received by the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, in March 2009 and forwarded to the Office of the Prosecutor-General for execution. In March 2010, the Brazilian authority referred the partially executed request back to the Venezuelan authorities. To complete the execution of that request, the Venezuelan authorities must provide the Brazilian authorities with further details.

55. Lastly, Brazil reported that, in 2009 and 2010 (as of 16 June 2010), the Department for Asset Recovery and International Legal Cooperation, Office of the Coordinator-General for Asset Recovery, had handled 62 cases where the Organized Crime Convention was used as the sole legal basis or in conjunction with bilateral or regional instruments.

**Colombia**

56. The Secretariat was informed of a case of international cooperation for the purpose of confiscation and seizure, where the Organized Crime Convention had been used as the sole legal basis. In Colombia, the public prosecutor of Villavicencio had sent a request to the Bolivian authorities for legal assistance, in order to obtain information regarding the certificate of registration and property of an aeroplane.

57. The Secretariat was also informed that Colombia had received seven requests for mutual legal assistance from Chile, Costa Rica, Ecuador, Italy, Peru and Uruguay.

## Costa Rica

### Confiscation

58. The Secretariat received information about case No. 08-000064-1035-PE, concerning the offences of fraud and money-laundering, among other things, which related to a request for judicial assistance by the United States, in which Costa Rican authorities had been asked to conduct raids on specific premises with the aim of confiscating any evidence relevant to the investigation. In this case, article 18 of the Organized Crime Convention had been invoked in support of cooperation by Costa Rica. The measures requested had been carried out effectively, and a large volume of documentation, electronic data and stored data, along with other evidence, were confiscated, all of which was handed over to the United States Government.

59. Case No. 08-000011-1035-PE, concerning the offences of fraud and money-laundering, involved a request for judicial assistance by the authorities of Spain, in which, among other measures, the seizure and confiscation of all movable and immovable assets, as well as funds held in Costa Rica and linked with the offences investigated by Spanish authorities, were requested. Articles 6, 12, 13 and 18 of the Convention were among the legislative provisions invoked. To date, Costa Rica has complied effectively with those requests.

### Mutual legal assistance

60. Case No. 09-000081-1035-PE, concerning the offence of money-laundering to the detriment of the socio-economic order, involved a request for international criminal law assistance addressed to Panama with the aim of obtaining evidence for the investigation of suspicious transactions and movements of money emanating from Panama. In this case, Costa Rica, invoking article 18, paragraph 4, of the Organized Crime Convention, requested Panamanian authorities to provide certified copies of several documents for inclusion in the Costa Rican investigation. The requests were executed fully.

61. Case No. 09-000159-1035-PE, concerning the offences of trafficking in minors and organized crime, involved a request by Mexico to Costa Rica for international criminal law assistance. The Costa Rican authorities were requested to provide information of various kinds on persons under investigation, including data from the Register of Immovable Assets, migratory movements and procedures, proof of involvement in associations, and driving licence applications. The legal basis for this request was established in articles 1, 3 and 18 of the Convention. Costa Rica complied with the request by providing the information required.

62. Case No. 08-000084-1035-PE involved a request from Denmark for international criminal law assistance with regard to the offence of international drug trafficking. The request was for the surveillance of persons under investigation in Denmark during their stay in Costa Rica, as well as telephone information and other information on their assets and socio-economic status. The request by the Danish authorities invoked article 18 of the Convention and was duly executed. The information was provided to the Danish authorities.

63. Case No. 08-000039-1035-PE involved a request for judicial assistance made to Nicaragua concerning the investigation in Costa Rica of an offence of trafficking in persons. A request was made for the certification of the migratory movements of a group of nationals of a third country who were victims of trafficking in transit through Nicaragua. Nicaragua delivered the information, thus making it possible to handle this case in Costa Rica. Article 18, paragraph 4, of the Convention was invoked.
64. Case No. 09-000140-1035-PE related to a request for international criminal law assistance addressed to Mexico with the aim of obtaining relevant information for a criminal case in Costa Rica involving the offence of international drug trafficking. This case required the certification of documents relating to police reports, forensic or expert analysis reports, photographs and video recordings of confiscations, certified photocopies of witness statements, information on physical or juridical persons etc. Article 18, paragraph 4, of the Convention was invoked. The evidence was collected and sent to Costa Rica.
65. Case No. 09-000006-1035-PE related to a request by Guatemala for international criminal law assistance to assist in the investigation of a money-laundering offence. Costa Rica was requested to provide copies of personal identity documents, photographs, information on commercial activities and the registration of movable and immovable assets, bank statements, investments in stocks, migratory movements and criminal records of Costa Rican nationals under investigation. The Guatemalan authorities invoked article 18 of the Convention as part of the legal basis for their request. Assistance was rendered to Guatemala as requested.
66. Case No. 09-000027-1035-PE related to a request by Ecuador for international criminal law assistance. Information regarding migratory movements was requested, as well as data concerning involvement in societies or companies, bank account statements, criminal records, records of movable or immovable assets owned, and records of outgoing funds, among others things, of persons under investigation in Ecuador. The request was made on the basis of article 18 of the Convention and the first provision of the agreement to promote cooperation and mutual legal assistance among members of the Ibero-American Association of Public Prosecutors, signed in Quito on 4 December 2003. Costa Rica duly complied with the request of the Ecuadorian authorities.
67. Case No. 09-000049-1035-PE involved a request for international criminal law assistance addressed to the United Kingdom with the aim of obtaining evidence for the investigation of aggravated corruption and other offences. Costa Rica requested any information that the United Kingdom could obtain on the offences under investigation. The request was made on the basis of article 18, paragraph 4, of the Convention. It was duly executed.
68. Case No. 09-000088-1035-PE, concerning international criminal law assistance requested from Spain, involved a request to provide a certified copy of an application for extradition that had been handled in Spain, for inclusion in investigation files in Costa Rica in connection with the offence of international drug trafficking. Costa Rica invoked article 18, paragraph 4, of the Convention. The request was duly executed.

69. Case No. 09-000029-1035-PE involved a request in connection with a money-laundering offence. Guatemala requested Costa Rica to provide international criminal law assistance with respect to the certification of criminal records, migratory movements, records of incoming and outgoing funds, involvement in societies or companies and bank information of the person under investigation. The Guatemalan central authority requested the information on the basis of article 18 of the Convention. The request was duly executed.

70. Case No. 09-000190-1035-PE involved international criminal law assistance requested by Nicaragua for the investigation of the offences of manufacture, production or reproduction of pornographic material. The Nicaraguan authorities invoked article 18 of the Convention in support of its request for criminal records, immigration status, driving licence records and other information concerning persons under investigation for those offences. The Costa Rican authorities duly executed those requests.

71. Case No. 09-000167-1035-PE, concerning international criminal law assistance requested by Guatemala, involved a request for Costa Rica to provide information on public limited companies, witness statements about several persons, as well as bank details and other information considered necessary for the investigation of money-laundering and other offences. Guatemala used article 18, paragraphs 1 and 2, of the Convention as a legal basis for the request. The request was duly executed by Costa Rica.

72. Case No. 09-000176-1035-PE involved the processing of a request from Ecuador for international criminal law assistance in the investigation of the offence of trafficking in minors. The Government of Costa Rica was requested to obtain information on the migratory movements and location of a group of persons on its territory. The request for assistance was made using as a legal basis article 18 of the Convention and provision 1 of the agreement to promote cooperation and mutual legal assistance among members of the Ibero-American Association of Public Prosecutors, signed in Quito on 4 December 2003. The requests were executed by Costa Rica.

73. Case No. 08-000063-1035-PE related to international criminal law assistance requested by the United States in the investigation of the offence of misrepresentation. The United States invoked article 18, paragraph 3 (f), of the Convention to request Costa Rica and other countries to provide information from banks, Internet service providers and telephone companies. The requested data were collected by Costa Rica and transmitted to the United States.

74. Case No. 09-000045-1035-PE concerned international criminal law assistance requested by the Netherlands in the investigation of the offence of trafficking in narcotics. The request was sent on the basis of the Convention. It called for surveillance to be conducted, details to be obtained on employment and information on addresses and the registration of immovable assets and bank details, among other things. Costa Rica duly executed the request.

75. Case No. 09-000155-1035-PE concerned international criminal law assistance requested by Guatemala in the investigation of the offence of money-laundering. The request called for all relevant information on the criminal record of the person under investigation. The request was made on the basis of article 18, paragraphs 1 and 2, of the Convention. Costa Rica duly acted on the request.

## **Paraguay**

76. The Secretariat was informed that Paraguay had used the Organized Crime Convention as the sole legal basis for cases related to trafficking in persons, including the search for and possible rescue of victims, as well as for the collection of evidence abroad and for drug-related cases. The Convention had been used by Paraguay only for mutual legal assistance and never for extradition or confiscation. In 2008, there were 10 requests: 1 active and 9 passive. In 2009, there were 6 passive requests and 12 active requests. In 2010, there were 3 passive requests and 14 active requests.

## **VI. Cases from Western Europe and other States**

### **Belgium**

77. Belgium notified the Secretariat that it had no means to find practical examples demonstrating the effective use of the Organized Crime Convention in international cooperation matters.

### **Germany**

78. Germany notified the Secretariat that it was not able to provide practical examples demonstrating the effective use of the Organized Crime Convention in international cooperation matters, as it did not have centrally registered data on international cooperation.

### **Netherlands**

79. The Secretariat was informed that, in June 2007, the United Arab Emirates had requested the extradition of a Serbian national suspected of being involved in an armed robbery at a jewellery store in April 2007. Since there was no treaty base, the Netherlands refused the request, arguing that the Organized Crime Convention could supply the legal basis needed if the United Arab Emirates were a State party. The United Arab Emirates ratified the Organized Crime Convention on 7 May 2007 and again submitted the request for the extradition of the suspected Serbian national. The High Court of the Netherlands granted the request, using as a legal basis the Organized Crime Convention. The suspect was extradited in February 2009. The suspect was acquitted in August 2009 and expelled from the United Arab Emirates.

80. In 2010, the Dominican Republic issued an international arrest warrant through INTERPOL for suspects of a murder committed by a transnational criminal organization. In the spring of 2010, the Netherlands spotted two of the suspects on its territory and informed the Dominican Republic, which then filed an extradition request on the basis of the Organized Crime Convention. However, at that time, the extradition law in the Netherlands did not allow extradition for murder; however, it did allow extradition for the crimes explicitly mentioned in the Organized Crime Convention. On 1 April 2010, the Netherlands reviewed the extradition law and

added an article allowing extradition for any transnational organized crime carrying a sentence of four years or more. On 20 April 2010, the two suspects were arrested and were extradited on 9 May 2010, after applying for a shortened procedure.

81. Furthermore, the Netherlands requested Morocco to extradite a national of the Netherlands suspected of one or more murders related to transnational organized crime. The suspect had fled to Morocco and there was no bilateral extradition treaty. In a civil court procedure, the suspect tried to obstruct the request by pleading that the extradition would violate the suspect's obligations, as a national of the Netherlands, under the Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>6</sup> However, the judge in the Netherlands ruled that that convention could not be applied since Morocco was not a State party to that convention and that the suspect had fled voluntarily to that country. Eventually, the suspect was extradited by Morocco to stand trial in the Netherlands.

### **New Zealand**

82. The Secretariat was informed that in November 2009, New Zealand had received a request from the Office of International Judicial Assistance of Romania for mutual assistance pursuant to the Organized Crime Convention. The request related to a criminal investigation involving fraud. New Zealand was asked to assist in interviewing victims of the alleged fraud and in obtaining relevant supporting documentation. New Zealand accepted the request, conducted the relevant enquiries, and sent the requested evidence to Romania in April 2010.

83. In August 2006, New Zealand received a request from the Royal Canadian Mounted Police via the Department of Justice of Canada for mutual assistance pursuant to articles 3 and 18 of the Organized Crime Convention. This also related to the investigation of fraud allegations under the Criminal Code of Canada that focused on a number of Canadian citizens, as well as several companies. One of the companies had been incorporated in New Zealand. The authorities of New Zealand were requested to obtain documents pertaining to, and carrying out, inquiries about the suspected company. New Zealand received the request and provided the requested evidence in November 2006.

84. In May 2005, New Zealand received a request for mutual assistance from the Netherlands in relation to suspected trading of military goods without appropriate export licensing. It was suspected that military parts had been sold to a company in New Zealand. Therefore, New Zealand was asked to look for evidence that would show that goods of the requisite type had been exported to New Zealand. The authorities in New Zealand accepted the request on the basis that both the Netherlands and New Zealand are parties to the Organized Crime Convention and mutual assistance involving the two countries had been provided in the past.

85. In January 2004, New Zealand made a request to the competent authority of Canada for mutual assistance in relation to a criminal investigation in New Zealand of a drug-related offence involving Canadian nationals. On that occasion, New Zealand relied, in part, on the fact that Canada and New Zealand were parties to the Organized Crime Convention. The Canadian authorities accepted the request

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<sup>6</sup> Ibid., vol. 213, No. 2889.



and carried out the relevant inquiries with potential witnesses in Canada. The results of those inquiries were communicated to New Zealand in April 2004 and the files were closed soon after that.

## Norway

86. Norway notified the Secretariat that it could not provide practical examples of international cooperation related to confiscation using as a legal basis the Organized Crime Convention.

87. Norway noted that the vast majority of requests for extradition had been received from, or submitted to, countries in Europe and were thus based on the European Convention on Extradition<sup>7</sup> and the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.<sup>8</sup> With regard to requests for extradition from non-European countries or countries that were not parties to the above-mentioned conventions, they had been handled on the basis of bilateral agreements and, in some instances, with no legal basis in any convention or agreement, as Norway, pursuant to its domestic legislation, may grant extradition irrespective of a treaty or agreement with the requesting State.

88. It was noted that Norway was also a party to the 1974 Nordic agreement on mutual legal assistance, which governs requests for mutual legal assistance between the Nordic countries. Norway also has bilateral agreements with some countries outside of Europe.

89. In Norway, the Ministry of Justice and the police as designated central authority had some experience with cases where the Organized Crime Convention had been used as the legal basis for requests for legal assistance. In a criminal matter concerning money-laundering involving a number of persons residing in Norway, several requests for mutual legal assistance had been received from Brazil. Norwegian authorities had provided the requested assistance.

## Spain

90. The Secretariat was informed that Spain had used the Organized Crime Convention in several cases for active or passive requests for mutual legal assistance.

91. In 2007, Spain received a request from Brazil, as well as three requests from Ecuador, concerning money-laundering cases. Brazil also sent two requests to Spain in connection with fraud cases. Furthermore, Spain sent a request to Lebanon in connection with a terrorism case. Finally, in other cases, Brazil sent seven requests for mutual legal assistance to Spain, Chile sent one to Spain and Ecuador sent one to Spain.

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<sup>7</sup> Ibid., vol. 359, No. 5146.

<sup>8</sup> *Official Journal of the European Communities*, L239, 22 September 2000.

92. In 2008, Brazil sent a request for mutual legal assistance to Spain in a case involving falsified documents. Spain also received one request from the United States regarding a robbery case. Finally, in other cases, Spain received nine requests from Brazil and one request from Serbia for mutual legal assistance. Spain also sent one request to Costa Rica and two to Venezuela (Bolivarian Republic of).

93. In 2009, Spain received one request for mutual legal assistance from Brazil and one from Ecuador in connection with drug trafficking cases. In other cases, Spain received a request from Brazil and another request from Paraguay. Spain sent one request to Cyprus, one to Ecuador and one to Senegal.

94. Finally, in 2010, Spain sent a request for mutual legal assistance to Paraguay and received two requests from Paraguay.

### **Sweden**

95. Sweden notified the Secretariat that it had not had cases related to international cooperation using the Organized Crime Convention as a legal basis, since it had adopted national legislation that did not require reciprocity for mutual legal assistance and extradition. Furthermore, it was noted that European States usually used European legal instruments as the legal basis for requests for international cooperation.

### **Switzerland**

96. Switzerland notified the Secretariat that it had enacted domestic legislation on mutual legal assistance and that the said law allowed mutual legal assistance to be granted also to States with which Switzerland had not signed an international agreement (for example, Nigeria in the Abacha case). Accordingly, the Organized Crime Convention and other United Nations conventions were not used to grant mutual legal assistance. It was also noted that Swiss magistrates did not use the Organized Crime Convention due to the fact that most requests were sent to European countries, which had numerous regional instruments on cooperation.

97. In 2009, Switzerland signed a bilateral convention on legal assistance with Brazil. Until then, Brazil had used the Organized Crime Convention as a legal basis for executing Swiss requests and expediting proceedings involving mutual legal assistance.

### **United Kingdom of Great Britain and Northern Ireland**

98. The United Kingdom notified the Secretariat that it did not have practical examples demonstrating the effective use of the Organized Crime Convention as that treaty had not yet been included in its domestic legislation or extradition. Furthermore, it was noted that the United Kingdom was currently amending its domestic legislation in that regard.