

Resolution 7/3

Implementation of the provisions on technical assistance of the United Nations Convention against Transnational Organized Crime

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

Noting that technical assistance is a fundamental part of the work carried out by the United Nations Office on Drugs and Crime to assist Member States in the effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,¹

Welcoming the work of the Working Group of Government Experts on Technical Assistance,

1. *Endorses* the recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held from 28 to 30 October 2013, which are contained in annex I to the present resolution;

2. *Also endorses* the recommendations adopted by the Working Group at its meeting held on 6 and 7 October 2014, during the seventh session of the Conference, which are contained in annex II to the present resolution;

3. *Reaffirms* its decision 4/3 of 17 October 2008, in which it decided that the Working Group should be a constant element of the Conference.

Annex I

Recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held from 28 to 30 October 2013

1. The Working Group of Government Experts on Technical Assistance recommended that the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, at its seventh session, should consider initiating discussions regarding the possibility of the Working Group developing and following a multi-year workplan for its future meetings.

2. The Working Group also adopted the recommendations presented below.

A. Assistance, good practices and the comparison of national legislation in the area of identifying and protecting victims of and witnesses to organized crime

3. States should share best practices in implementing, in addition to articles 24 and 25 of the United Nations Convention against Transnational Organized Crime,² article 26, in particular the provisions of that article on providing for the possibility of mitigating punishment of an accused person who cooperates in the investigation of an offence covered by the

¹ United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

² *Ibid.*, vol. 2225, No. 39574.

Convention and granting immunity from prosecution to a person providing cooperation in the investigation of an offence covered by the Convention.

4. States should consider strengthening in-court and procedural protection measures.

5. States should consider setting up special facilities for recording the testimony of vulnerable witnesses such as children.

6. States should provide the possibility for vulnerable witnesses to be supported before and during proceedings and to be accompanied by persons trained in assisting victims and witnesses within prosecutors' offices, as appropriate.

7. States should consider placing within prosecutors' offices, as appropriate, persons trained in assisting victims and witnesses.

8. States should provide specialized training for law enforcement, prosecutors and judicial officials.

9. States should consider establishing standardized procedures for phased protection schemes, taking into account the risks faced by witnesses and victims in order to identify the appropriate protection measures, including video link testimony and other technical facilities for communication.

10. States should carry out threat assessments, as appropriate, to determine the level of risk to an individual witness or victim.

11. States should consider enacting legislation to regulate the protection of witnesses and should have the assistance of the model law on witness protection, created by the United Nations Office on Drugs and Crime in 2008.

12. States should endeavour to expeditiously handle cases in which witnesses are receiving protection.

13. States should consider availing themselves of technical assistance made available by the Office on witness protection, including tools, study visits, legislative assistance and drafting and training for prosecutors, judges and law enforcement officers.

14. States should provide appropriate protection measures not only for victims, witnesses, informants and experts, but also for judges, prosecutors, law enforcement officials and other persons involved in criminal proceedings, as well as for their family members.

15. With the assistance of the Office and within existing resources, States should implement capacity-building programmes to educate relevant officials regarding the protection of victims and witnesses of organized crime, as well as whistle-blowers, and regarding witness protection schemes.

16. The Office should prepare a study on the institutionalization of witness protection programmes in Member States, subject to the availability of extrabudgetary resources.

B. Establishing capacity-building programmes for prosecutors, members of the judiciary and law enforcement agencies, including to enhance inter-agency cooperation and coordination

17. States should share good practices and experiences regarding ways to foster coordination and cooperation between national authorities with overlapping mandates.

18. States, the United Nations Office on Drugs and Crime and intergovernmental organizations should continuously seek to share information concerning technical assistance activities in order to better coordinate activities, with a view to enhancing synergy.

19. States, in coordination with the Office and within existing resources, should put in place training programmes that are tailored to the needs of the beneficiaries. In this regard, the use of case studies, mock trials and other practical exercises can be highly effective in providing training for certain officials; for others, round-table discussions may provide a more effective means of developing skills.

20. States should consider participating in and supporting the establishment of new and the strengthening of existing networks of central authorities, prosecutors and other criminal justice practitioners, which are facilitated by the Office in the framework of international judicial cooperation. Consideration should be given to strengthening cooperation and joint activities with the institutes of the United Nations crime prevention and criminal justice programme network.

21. States should facilitate bilateral meetings and consultations of central authorities to discuss practical issues, including good practices and challenges.

22. The Office should, subject to the availability of extrabudgetary resources, facilitate regional and international meetings of central authorities to discuss practical issues, including good practices and challenges.

23. While finalizing formal requests for mutual legal assistance, the States concerned should consider having informal consultations.

24. The Office should, subject to the availability of extrabudgetary resources, assist States by preparing an issue paper on the criminal, civil or administrative liability of legal persons.

C. Assistance in harmonizing national legislation with the United Nations Convention against Transnational Organized Crime and the Protocols thereto

25. The United Nations Office on Drugs and Crime should continue to provide coordinated technical assistance to States to ensure the effective implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.³

26. In its delivery of technical assistance, the Office should continue to apply the principles contained in the Paris Declaration on Aid Effectiveness: Ownership, Harmonization, Alignment, Results and Mutual Accountability, the Accra Agenda for Action⁴ and the Busan Partnership for Effective Development Cooperation, without any prejudice to new developments agreed upon by the international community in that area.

27. The Office should expand the knowledge base on legislative and administrative measures to combat transnational organized crime, including by preparing, subject to the availability of extrabudgetary resources, issue papers on provisions of the Convention.

28. States should consider using the comprehensive self-assessment software (“omnibus survey software”) as a self-assessment tool to assist the Conference in gathering information on the measures taken and in

³ Ibid., vols. 2225, 2237, 2241 and 2326, No. 39574.

⁴ A/63/539, annex.

identifying the technical assistance needed to implement the Convention and the Protocols thereto.

29. The Office, subject to the availability of extrabudgetary resources, should hold pre-ratification and self-assessment workshops for States, upon request, utilizing the omnibus survey software and other relevant technical assistance tools.

30. The Office, subject to the availability of extrabudgetary resources, should continue the development of technical assistance tools, for the Convention and the Protocols thereto and on specialized issues, including mutual legal assistance and extradition. In particular, the Office should continue to work on the knowledge management portal known as Sharing Electronic Resources and Laws on Crime, building on the work accomplished in the development of the digest of organized crime cases.

31. States in need of technical assistance in implementing the Convention and the Protocols thereto are encouraged to request the Office to provide such technical assistance.

Annex II

Recommendations adopted by the Working Group of Government Experts on Technical Assistance at its meeting held on 6 and 7 October 2014

A. Criminalization of participation in an organized criminal group

1. States are encouraged to adopt a comprehensive approach to investigating and prosecuting participation in an organized criminal group, taking into consideration, as appropriate, information from all relevant stakeholders, including with regard to new forms and dimensions of organized crime.

2. States shall make participation in an organized criminal group liable to sanctions that take into account the gravity of that offence and should consider providing for higher penalties for more high-ranking members of organized criminal groups and for those who organize and direct the criminal activities.

3. States should consider requesting or providing training or assistance, as appropriate, to improve the capacity of law enforcement efforts to focus on those who direct and organize the commission of serious crimes, in order to dismantle organized criminal groups.

4. States should consider requesting or providing training or assistance, as appropriate, to improve the capacity of law enforcement authorities to use special investigative techniques.

B. Liability of legal persons

5. States should consider requesting or providing training or assistance, as appropriate, to ensure that legislation creating liability of legal persons does not preclude the criminal liability of natural persons who have committed the offences.

6. States should consider requesting or providing training or assistance, as appropriate, with regard to spontaneously and proactively sharing information with one another to facilitate holding legal persons liable, when relevant.

7. States should consider requesting or providing training or assistance, as appropriate, to define the concept of legal persons within their legal systems.

8. States parties and signatories are encouraged to provide to the United Nations Office on Drugs and Crime information on the liability of legal persons so that the Office may report to the Working Group of Government Experts on Technical Assistance at its next meeting, subject to the availability of extrabudgetary resources.

9. States should consider requesting or providing technical assistance, as appropriate, to review the types of sanctions imposed on legal persons, which are to be effective, proportionate and dissuasive.

C. Information-gathering under article 32, paragraph 5, of the United Nations Convention against Transnational Organized Crime

10. The Working Group of Government Experts on Technical Assistance reiterates article 32, paragraph 5, of the United Nations Convention against Transnational Organized Crime,⁵ which requires each State party to provide the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with information on its programmes, plans and practices, as well as legislative and administrative measures to implement the Convention.

11. The Office should continue to develop a knowledge base for assessing challenges in identifying good practices and needs for technical assistance in implementing the United Nations Convention against Transnational Organized Crime and the Protocols thereto,⁶ through analytical reports and updates to previous reports provided to the Conference, based on information provided by States parties and signatories.

12. The Working Group of Government Experts on Technical Assistance may wish to include a standing item on its future agendas to consider the status of responses by States parties and signatories on implementation of the Organized Crime Convention and the Protocols thereto.

13. To support a systematic information-gathering effort in order to advance implementation of the Convention and the provision of technical assistance, the Working Group of Government Experts on Technical Assistance may wish to develop a multi-year workplan focused on considering the status of responses to requests for information by the Conference and the identification of technical assistance needs and good practices relating to the following articles:

(a) Article 5, on criminalization of participation in an organized criminal group;

(b) Article 6, on criminalization of the laundering of proceeds of crime;

(c) Article 7, on measures to combat money-laundering;

(d) Article 10, on liability of legal persons;

(e) Article 23, on criminalization of obstruction of justice.

Consistent with article 29 of the Convention, States should consider measures to engage with and provide assistance to responding States, as

⁵ United Nations, *Treaty Series*, vol. 2225, No. 39574.

⁶ *Ibid.*, vols. 2225, 2237, 2241 and 2326, No. 39574.

requested, including through the Office, subject to the availability of extrabudgetary resources.