



*The SHERLOC Newsletter
is pleased to share with you our recent efforts to facilitate the dissemination of
information regarding the implementation of the UN Convention against Transnational
Organized Crime and its three Protocols.*



EXPERT MEETING ON CENTRAL AUTHORITIES

To implement resolution 8/1 of the Conference of the Parties (COP) to the United Nations Convention against Transnational Organized Crime (UNTOC), UNODC's Global Programme for Strengthening Capacities to Prevent and Combat Organized and Serious Crime (GPTOC) held a two-day informal meeting of experts on enhancing the effectiveness of central authorities to engage in international cooperation in criminal matters, especially mutual legal assistance (MLA). The meeting took place in Vienna from 5 to 6 October 2017 and brought together twenty one experts working for central or competent authorities from different regions of the world.

Features

**EXPERT MEETING ON
CENTRAL AUTHORITIES**

**INTERNATIONAL
COOPERATION &
TECHNICAL
ASSISTANCE**

**CASE COMMENTARY
ON EXTRADITION**

**MEET OUR
CONTRIBUTOR**

The provisions on international cooperation in criminal matters are at the heart of the UNTOC Convention because they provide States with a mechanism to cooperate on a broad range of serious crimes. Despite the importance given to this issue, undertaking international cooperation is challenging for many jurisdictions. Just as States need to be equipped and have effective national drug control authorities and criminal intelligence capacities, they also need capable and adequately equipped central or other competent authorities responsible for receiving, executing, and transmitting requests for MLA, extradition and confiscation of assets. Central authorities should serve as national focal points of expertise on international cooperation in criminal matters and play an active role in overcoming encountered obstacles.

Against this background, the participants of the meeting engaged in dialogue and exchanged views, expertise and experience on practical aspects of international cooperation. The agenda comprised 11 items/sessions ranging from, for example, the establishment of central authorities and their functions to inter-agency cooperation, case management, resources, and specific challenges to MLA practice, such as digital/electronic evidence. The meeting was also an excellent opportunity to promote SHERLOC together with other UNODC technical assistance tools. GPTOC provided participants, inter alia, with a brochure describing the SHERLOC portal and basic tips for investigators and prosecutors for requesting electronic/digital data/evidence from foreign jurisdictions. In addition, experts discussed the MLA request tool and were encouraged to view the demonstration of the tool that would be given the following week, during the eighth session of the COP to the UNTOC Convention Working Group on International Cooperation.

BASIC TIPS FOR INVESTIGATORS AND PROSECUTORS FOR REQUESTING ELECTRONIC EVIDENCE/ DIGITAL DATA/ EVIDENCE FROM FOREIGN JURISDICTIONS

A SELECTION OF

- Take steps to preserve electronic evidence prior to sending the request for its disclosure (imminent risk of permanent deletion!)
- Send the request for data preservation via your country's official contact of a 24/7 Network established under the Council of Europe Convention on Cybercrime if your and the requested country are members. If this is not the case, send a request to a relevant investigative/prosecutorial body of the requested country.
- Consult with contact points of judicial cooperation networks of the requested country or foreign liaison officers in your country regarding the entity to which the request should be sent, the procedure/channels, and the content of the request.
- Some internet service providers (ISPs) accept data preservation requests directly from foreign authorities. Verify directly with the ISP and with the above contacts whether it is possible, and if so, send the request directly to the ISP (+ a copy to the above body of the requested country, but consult with the latter before sending a request directly to an unknown ISP).



In terms of follow-up action, the participants expressed their support regarding the organization of further practical-oriented and focused expert group meetings possibly in conjunction with other meetings or conferences in Vienna or at a different venue. In terms of substance, the experts were interested in including on the agenda for the next informal meeting issues related to extradition. Using the meeting for informal consultations was discussed with some participants reporting that they had found it very useful to informally consult with counterparts on the margins of the meeting. Due to this very positive feedback and the experts' consideration of this feature as an added benefit, it is anticipated that they will engage in even more informal consultations during future meetings.

UNODC/GPTOC will create an email list of all participants and for central authorities that wish to be kept informed of different activities and initiatives on international cooperation in criminal matters.

For further information or subscription to the list, please contact Mrs. Karen Kramer, Senior Expert (karen.kramer@unodc.org).

International Cooperation and Technical Assistance

This year, the Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance met jointly during the week of 9th -13th October. The meeting resulted in being an opportunity and a venue for practitioners to discuss issues related to both international cooperation and technical assistance in an inter-related way.

The agenda included an update by the Secretariat on information gathering. The discussions related to this agenda item mainly focused on SHERLOC which was

In this occasion, the updated Directory of Competent National Authorities was distributed to States' representatives. An online directory is available (with restricted access) on SHERLOC.

recognised as a comprehensive source for legislation and case law pertaining to fourteen different crime-types, as well as cross cutting issues such as the transfer of criminal proceedings, mutual legal assistance, extradition and informal cooperation.

Experts welcomed the opportunity in having joint fora for discussion, and invited the Secretariat to create further such opportunities to discuss technical assistance in conjunction with other issues related to UNTOC. A suggestion was to have thematic technical assistance meetings, e.g. merging the Working Group of Government Experts on Technical Assistance meet together with the Working Group on Firearms. This would allow experts in that specific area to provide inputs and foster discussions about good practices to tailor technical assistance efforts to the specific crime type.

continuing

• Following data preservation, prepare your MLA request promptly. If available, study/use checklists/guidance for obtaining MLA drafted by the requested country and informally consult with the latter prior to sending any request.



Directory of Competent National Authorities (expanded version)

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988
United Nations Convention against Transnational Organized Crime and the Protocols thereto
General Assembly resolution 68/186, "Strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking"

دليل السلطات الوطنية المختصة (نسخة موزعة)

国家主管机关名录 (扩充版)

Répertoire des autorités nationales compétentes (version augmentée)

Справочник компетентных национальных органов (расширенный вариант)

Directorio de autoridades nacionales competentes (versión ampliada)

2017



CASE ON EXTRADITION

The Italian case 44121/16 RG Cass.

The Italian case *44121/16 RG Cass.* is of particular interest with regard to extradition requests, as it illustrates how the violation of the principle of specialty in extradition proceedings can prevent the commencement of prosecution proceedings.

The defendant was accused of multiple murders and multiple murder attempts in the context of a Camorra gangs' war. The murders took place in 1995 following the death of the head of the Licciardi gang, a mafia-style organization active in Secondigliano a suburb of Naples. According to the sentence, one of the victims, C.C., who was a member of the same gang as the defendant was murdered because he was not following the instructions from the new gang leaders-the defendant and his aunt. P.L. was arrested in Czech Republic and extradited in 2000 in relation to the killings.

In this case, the defence council argued that he could not be convicted nor prosecuted because the extradition request related to other crimes and did not relate to the murder charges and attempted murders. Further investigation, carried out after the extradition, led to new and additional counts of indictment, which were however also not reflected in the original extradition request.

The defendant was convicted on the first instance trial and the sentence confirmed on appeal. Initially, the Court found, based on the Council Framework Decision n. 584/2002/GAI on the European arrest warrant, that a violation of the principle of specialty did not occur since a violation can only be found in case a detention order is actually executed - which was not the case.

The rule or principle of speciality is designed to ensure that the offence or offences for which the requesting State seeks the return of the suspect to answer, pursuant to the extradition request, are the only offences for which the suspect will have to answer in the requesting State.

This ensures that the requested State is aware of what it consents to when it orders the extradition of a person in its jurisdiction to the requested State and, also that the suspect is aware, both during his extradition hearing and afterwards, what the allegations against him are.



MEET OUR CONTRIBUTOR - MARIA CRISTINA -

Maria Cristina has been a legal consultant at UNODC since July 2017.

Maria Cristina's work at UNODC is primarily in the area of legal knowledge management where she is the focal point for substantive and technical issues related to the SHERLOC knowledge management portal. On the substantive side, she performs legal research on national legislation and case law pertaining to transnational organized crime, while on the technical side, she liaises with the information technology unit on the creation of the various databases attached to the SHERLOC portal.

Maria Cristina graduated from the University of Milan in International Relations and European Studies, and subsequently from the graduate Institute of International and Development Studies of Geneva in International Law.

She has extensive work experience in the field of criminal justice, corruption and human rights with non-governmental organizations and the European Investment Bank (EIB) where she conducted fraud investigations.



**Access the full case
on SHERLOC**

The Council Framework Decision n. 584/2002/GAI provides several exceptions to the principle of specialty. The rule, as set out by Article 27, does not apply in cases where a detention order is not issued or executed.

However, it has to be noted that at the time of the extradition request, the Framework Decision had not yet been issued and the Czech Republic had not yet acceded to the European Union – hence the Decision was not applicable to the case. As a consequence, the exceptions to the rule of specialty provided by the Framework Decision could not ground the conviction, and the only applicable legal framework was the 1957 European Convention on Extradition, which deals *inter alia* with the rule of specialty.

Under the 1957 European Convention on Extradition, Article 14 paragraph 1 provides for the Rule of specialty:

“A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which he was extradited, nor shall he be for any other reason restricted in his personal freedom «...»”.

The Supreme Court, on the basis there was a violation of the principle of specialty in the extradition procedure, declared the sentence against the defendant void. The Court found that the violation of the principle of specialty inhibited the prosecution of the crime and ordered the Prosecutor Office to consider a new prosecution after filing another request for extradition.

The reasoning of the Court is of particular importance and interest, because it shows that if this would have related to another crime type (i.e. not murder and attempted murder), such as participation in a criminal organization, there would have been the risk that the statute of limitations would have applied and the crime could not have been prosecuted. This was not the case here since the defendant was sentenced for the crime of murder, which in Italy is not statute-barred. The case illustrates the important role extradition proceedings may have in relation to organised crime.

CONTRIBUTE !

SHERLOC is always looking for contributors who support us in collecting and summarizing legislation, case law and bibliographic data.

If you are interested and want to know more, contact us at sherloc@unodc.org

HUMAN TRAFFICKING CASES FROM MORE THAN HALF OF THE WORLD



UNODC Human Trafficking Case Law Database reached a tremendous milestone, having obtained and made publically available human trafficking cases from over one hundred jurisdictions worldwide. Launched in October 2011 as a global public online tool to collect and disseminate information on human trafficking prosecutions and convictions from all over the world, today, just six years later, the Database includes close to 1500 human trafficking cases from **101 jurisdictions worldwide**.

Since its conception, the database has been instrumental in increasing the visibility of successful prosecutions and promoting awareness of the realities of the crime of trafficking in persons worldwide. Its increasing geographical coverage has enabled judges, prosecutors, policymakers, legal practitioners, researchers and other interested parties to consult practices in different jurisdictions, to broaden the knowledge-base of human trafficking crimes and to identify best practice models, which can serve to enhance the effectiveness of domestic and international efforts in combatting this crime.



powered by SHERLOC

HUMAN TRAFFICKING KNOWLEDGE PORTAL

The Human Trafficking Knowledge Portal is an initiative to facilitate the dissemination of information regarding the implementation of the UN Convention against Transnational Organized Crime and specifically the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Human Trafficking Knowledge Portal hosts a Case Law Database on officially documented instances of trafficking in persons crime.

By creating this portal, UNODC is working to increase the visibility of successful prosecutions and, at the same time, promote awareness of the realities of this devastating crime. Such a portal enables users to read about human trafficking issues, consult court decisions and practices from different countries and broaden their knowledge of human trafficking crimes.

Case Law Database
A comprehensive case law database provides immediate, public access to officially documented instances of trafficking in persons crime. The database contains details on victims and perpetrators nationalities, trafficking routes, verdicts and other information related to prosecuted cases from across the world. In doing so, it provides not only mere statistics on numbers of prosecutions and convictions, but also the real-life stories of trafficked persons as documented by the courts.

Database of Legislation
An electronic repository of laws relevant to the requirements of the organized Crime Convention and the protocols thereto. Most of the legislation included in this database has been enacted specifically to counter the relevant crime type, including trafficking in persons. For more information click here for the Database of Legislation powered by UNODC Sherloc.

Bibliographic Database
An annotated bibliography providing a synopsis of key articles and publications on human trafficking, that are search-able by countries, research methods and keywords.



THE SHERLOC TEAM WISHES YOU

Happy Holidays!