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International cooperation in combating transnational organized crime

International cooperation in the prevention, combating and elimination of kidnapping and in providing assistance to victims

Report of the Secretary-General

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I. Introduction

1. In its resolution 2002/16 of 24 July 2002, entitled “International cooperation in the prevention, combating and elimination of kidnapping and in providing assistance for victims”, adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council, concerned by the growing tendency of organized criminal groups to resort to kidnapping, especially kidnapping for the purpose of extortion, as a method of accumulating capital with a view to consolidating their criminal operations and carrying out other illegal activities, such as illicit trafficking in firearms, money-laundering, drug trafficking, illicit trafficking in human beings and crimes related to terrorism, vigorously condemned and rejected the worldwide practice of kidnapping, in any circumstance and for any purpose, which consisted in unlawfully detaining a person or persons against their will for the purpose of demanding for their liberation an illicit gain or any other economic gain or other material benefit, or in order to oblige someone to do or not to do something, and resolved to treat it henceforth as a serious crime, particularly when it was connected with the action of organized criminal or terrorist groups; invited Member States to provide to the Secretary-General information on the practice of kidnapping and on relevant domestic measures that had been taken, including those related to support and assistance to the victims and their families; and requested the Secretary-General, drawing upon extrabudgetary contributions or within existing resources, based on replies received from Member States and in coordination with competent entities of the United Nations system, to report to the Commission on Crime Prevention and Criminal Justice at its thirteenth session on the factual and legal situation of kidnapping throughout the world, including the situation of victims, and to submit a progress report on that subject to the Commission at its twelfth session.

2. Pursuant to that request, the Secretary-General requested Governments to respond to a questionnaire on the practice of kidnapping and its extent, as well as the legislative, law enforcement, victim support and international cooperative initiatives taken in response to the problem. The present report contains an analysis of the replies received from States.

II. Results of the survey

3. Replies were received from the following States: Argentina, Barbados, Belarus, Belgium, Bolivia, Bulgaria, Chile, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Jordan, Kuwait, Latvia, Lebanon, Malawi, Malaysia, Malta, Mexico, Monaco, Morocco, Netherlands, Oman, Panama, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Zimbabwe. The African Institute for the Prevention of Crime and the Treatment of Offenders provided a response reflecting the views of five countries, Cameroon, Comoros, Djibouti, Guinea and Senegal. Replies were also received from the United Nations Development Programme and the International Atomic Energy Agency. The Department of Peacekeeping Operations of the Secretariat

submitted a detailed reply compiled from reports of its missions to Angola, Bosnia and Herzegovina, Georgia, Kosovo, Sierra Leone and Western Sahara.

A. Relevant legal provisions

4. All responding States indicated either that their domestic legal system made provision for the specific criminal offence of kidnapping or for an equivalent, such as the deprivation of liberty, the restriction of personal freedom, false or wrongful imprisonment and/or abduction.¹ Four common elements of the crime were generally identified:

(a) The illegal seizing, carrying off or deprivation of liberty of an individual without consent;

(b) The use of violence, the threat of violence and/or fraud and deception in the commission of the offence;

(c) The holding of the victim in a place that could not be found;

(d) The specific objective of economic or financial gain and/or political or other influence, including through the practice of extortion.

5. All States reported that the crime of kidnapping was regarded as a serious offence. In a number of cases, penal or criminal codes referred to particular circumstances and actions that might take place during the course of a kidnapping or equivalent offence that were regarded as aggravating, with the result that the stipulated punishment was increased,² including circumstances where:

(a) The kidnapers acquired or planned to acquire profit or ransom;³

(b) The perpetrator(s) were armed or used force;⁴

(c) Death or injury resulted, including in some jurisdictions also the threat of death or injury;⁵

(d) The victim was treated badly, tortured or dealt with in a particularly cruel manner;⁶

(e) Psychological damage or harm was caused;⁷

(f) The moral development of the victim was endangered;⁸

(g) The kidnapping was conducted by a criminal organization or a criminal conspiracy;⁹

(h) The kidnapping was committed by two or more persons;¹⁰

(i) The perpetrators misrepresented that they were a state authority;¹¹

(j) The kidnapping occurred in a public place or followed an assault against a private or public mechanical mode of transportation, such as a car, ship or aeroplane;¹²

(k) The kidnapping was committed by an official or representative of the public in violation of his or her duties;¹³

(l) The kidnapping was perpetrated by persons engaged in, or an employee of, security or insurance businesses;¹⁴

(m) A stipulated time period during which the victim had been held captive elapsed, varying from 48 hours to one month;¹⁵

(n) There were two or more victims kidnapped at once;¹⁶

(o) The victim(s) were sexually exploited or forced to enter into marriage;¹⁷

(p) The object of the kidnapping was to coerce an official or public servant to release a detainee;¹⁸

(q) The victim(s) were kept in custody as being insane or mentally deficient;¹⁹

(r) The motive for the kidnapping was to coerce the victim to become involved in a criminal group;²⁰

(s) The motive for the kidnapping related to a certain social or religious sect or political party;²¹

(t) The kidnapping was aimed at acquiring organs for transplantation.²²

6. In a number of cases, penal or criminal codes designated particular characteristics of the victim as leading to the kidnapping being regarded in a more serious light, with the result that the stipulated penalty was increased. These included if the victim was:

(a) A relative or had a close relationship with the offender(s);²³

(b) Designated as a minor, was under 18 years of age, was elderly or was a married or pregnant woman;²⁴

(c) Taken into captivity in a foreign country;²⁵

(d) An official of the Government, a public servant or a diplomatic representative;²⁶

(e) A witness in court proceedings;²⁷

(f) Kidnapped because of his or her activities in the private sector;²⁸

(g) Mentally or physically disabled;²⁹

(h) Targeted because of his or her race, nationality, political conviction, religion or lack of religious faith;³⁰

(i) Entitled to international protection.³¹

7. In all States, the penalties imposed for kidnapping were severe. In cases of kidnapping where there were considered to be no aggravating circumstances, the penalty was generally a period of imprisonment of between 1 and 10 years, although in some jurisdictions there was also an option for the payment of a fine. If the kidnapping was accompanied by aggravated circumstances, the penalties generally increased to between 10 and 20 years. In cases where injury or death resulted, the penalties included life imprisonment and, in a limited number of cases, the death penalty. Provision was also made for the punishment of accessories to the act of kidnapping.

8. In the case of Bosnia and Herzegovina,³² Chile, Croatia, Hungary, Mexico, Monaco, Oman, Poland, the Republic of Korea, the Russian Federation and Spain,

legislation concerning kidnapping allowed for a mitigation of punishment if the perpetrator voluntarily released the hostage, either before his or her demands had been met or before grave consequences (such as an additional serious offence or injury) had occurred.³³ In Italy, the law provides for mitigating circumstances when one co-perpetrator separated himself or herself from the others and worked towards freeing the hostages.

9. The response from Colombia emphasized that, in cases of kidnapping and kidnapping for purposes of extortion, given the seriousness with which such crimes were viewed, the sentence should not be reduced as a result of plea bargaining, nor should substitute penalties or alternatives to custodial penalties, conditional or suspended sentences of parole be granted. In addition, in no case of kidnapping for extortion should the perpetrator benefit from amnesty and pardon, nor should such crimes be considered as of a political nature.

B. Extent of kidnapping

10. The majority of States kept recorded statistics on the number of kidnappings (or the equivalent offence(s) in the penal code) that had occurred in the last 10 years. In a number of cases, however, the replies indicated that official data for kidnapping, while generally regarded as providing a good indication of overall trends, were not always accurate, although stringent attempts were being made to improve their validity. The reasons given for this varied, but two factors were common across most responses. The first was that victims did not report for personal reasons, largely through fear of retaliation by criminal groups. This was identified as a key reason by Belarus, Bolivia, Estonia, Mexico, the Philippines, the Russian Federation and Ukraine. The second factor was that since many kidnappings were regarded as taking place between or within criminal groups or activities, there was little likelihood that the victims would report to the police for fear of implicating themselves. This was emphasized, in particular, by the responses from Germany, Latvia and the United Kingdom.

11. Problems of definition, making accurate recording more difficult, were also identified. For example, Argentina stated that “express” kidnappings—characterized by little planning, a relatively random selection of the victim, only brief negotiation and small amounts of ransom (often paid directly by the victims themselves)—were recorded as aggravated robbery in some police jurisdictions, thus making the overall validity of data on this type of crime questionable. In contrast, Mexico noted that, while “express” kidnapping used to be considered aggravated robbery, the relevant legislation had now been amended, allowing the behaviour to be considered kidnapping.

12. As regards overall trends, the number of incidents of kidnapping were regarded either as non-existent, insignificant, unchanged or on the decline in Belarus, Belgium, Croatia, Cyprus, Egypt, Estonia, Finland, Hungary, Ireland, Italy, Jordan, Latvia, Malawi, Malaysia, Malta, Monaco, the Netherlands, Panama, Peru, Poland, Romania, Saudi Arabia, Slovenia, Tunisia and Zimbabwe. In the case of Peru, a considerable decline in the number of reported kidnappings was noted, this being attributed to the introduction of new laws and more effective policing. The response of Italy, however, showed the most dramatic declines. Here, kidnappings

for ransom gained prominence in the 1960s, climaxing in 1977 with 75 cases. Over the last 10 years, however, there had been a gradual decrease in reported cases, with no incidents involving major organized criminal groups in 2001 and 2002. The United Nations Interim Administration Mission in Kosovo (UNMIK), although stating that the problem was still viewed with concern, noted a steady decrease in kidnappings, with a significant decline of 45 per cent between 2001 and 2002.

13. Increases in the number of cases of kidnapping over the last 10 years were reported by Barbados, Colombia, the Czech Republic, Denmark, Germany, Greece, Hungary, Japan, Kuwait, Mexico, the Philippines, Poland, the Republic of Korea, the Russian Federation, Spain, Sweden, Trinidad and Tobago, Ukraine and the United Kingdom. The United Nations Observer Mission in Georgia (UNOMIG) expressed serious concern at the continued practice of kidnapping in its area of work, including cases where UNOMIG personnel had been the victims. In the case of Japan, the Philippines and Ukraine, the figures did not show steady increases in kidnapping cases, but rather increases and decreases over the 10-year period. For example, the number of recorded cases of kidnapping for ransom in the Philippines peaked at 113 in 1998, then declined to 50 in 1999, increasing again to 99 in 2001. In the northern Caucasus region of the Russian Federation, the area where kidnappings were most prevalent, the number of recorded incidents peaked in 1996 at 437, with the number stabilizing more recently: 134 incidents were reported in 2000, 284 in 2001 and 382 in the first nine months of 2002. Turkey reported that there had been increases in some categories of kidnapping, generally those aimed at material benefit, and declines in others, largely related to abduction of women and children.

14. Argentina highlighted an unusual increase in kidnapping during 2002, suggesting that this could be attributed to a general lack of confidence in the banking sector, with citizens keeping large amounts of cash at home. The result was an increase in both organized and "express" kidnappings as an easy source of illicit profit. Mexico also noted a dramatic increase in recorded cases recently, 245 cases being recorded in 2001 and 464 in the first 10 months of 2002 alone. Denmark reported that its small recorded increase was not solely an increase in actual incidents, but also an increased propensity for kidnappings to be reported. Germany indicated that, while the increase in the number of kidnappings had been small, this could be attributed to the greater tendency of criminal groups to settle claims between them through the use of kidnapping. Sweden emphasized that, while the overall number had remained small, kidnapping had been used increasingly as a means of extortion. The United Kingdom reported that marked increases in cases of kidnapping had been due to the greater propensity of criminal groups to engage in vendettas in which kidnapping was used. The number of kidnappings recorded by the Home Office had increased from 545 in 1990 to 2,404 in 2001.³⁴ UNOMIG reported that in Georgia the causes of kidnapping were a complex mix of political and criminal factors.

15. In Colombia, where the problem had assumed serious proportions, increases were attributed to the greater tendency of criminal and guerrilla groups to resort to kidnapping. A consolidated set of data on kidnappings in Colombia had been available since 1996. The following yearly totals had been recorded: 1996, 1,039; 1997, 1,675; 1998, 3,014; 1999, 3,334; 2000, 3,706; 2001, 3,041; and 2002 (up until the end of October), 2,376. The 61 per cent increase in 1997 was attributed to the

decision taken by insurgent groups to sabotage the electoral process, which had led in 1997 to 456 kidnappings for the purpose of extortion perpetrated for political motives (representing just over one quarter of the total number of cases for that year). In 1998 there was an 80 per cent increase in recorded incidents, with 412 members of the security forces being kidnapped for purposes of extortion. Insurgent groups also began carrying out kidnappings by means of illegal roadblocks, with 150 persons being kidnapped in that way during the course of the year. Eleven per cent increases in both 1999 and 2000 were attributed to a series of mass kidnappings, although individual incidents also continued, with 300 people being seized at roadblocks in 2000 alone. Whereas by 2001 the overall numbers of kidnappings had declined, mass kidnappings continued, as did the seizing of 946 victims at illegal roadblocks.

C. Types of kidnapping

16. When asked to explore the nature of kidnapping, Member States were requested to identify specific types or categorizations of kidnapping. It should be noted here, however, and this was re-emphasized by some of the responses, that such distinctions were not necessarily recognized by law, but were used for isolating the modus operandi and the objective of kidnapping for purposes of operational law enforcement only. A variety of different categories of kidnapping were identified:

(a) Kidnapping for extortion, to demand ransom, influence business decisions or obtain commercial advantage.³⁵ This category of kidnapping was also regarded as connected to protection rackets where kidnapping (or the threat thereof) was used to ensure payment;³⁶

(b) Kidnapping between or within criminal groups for purposes of debt recovery or securing advantage in a particular criminal market. As already suggested, such types are regarded as a significant problem in several States, with the authorities concerned that only a portion of such cases were actually reported;³⁷

(c) Kidnapping for purposes of sexual exploitation, including the kidnapping of and then the subsequent trafficking in women and children both within countries and across state frontiers;³⁸

(d) Kidnapping linked to domestic or family disputes.³⁹ Such cases were seldom reported to be linked to organized crime, although in some cases a demand for ransom was made. Some care is required in relation to this category as some States did not define the crime as kidnapping, but as abduction;⁴⁰

(e) Kidnapping for political or ideological purposes, including the obtaining of publicity for a particular cause;⁴¹

(f) Kidnapping in the course of carrying out another criminal act.⁴² Although often closely related to hostage-taking, such incidents involved the kidnapping of the victim to facilitate the acquisition of particular goods, generally during the course of a robbery. In at least two jurisdictions such cases were referred to as “tiger” kidnappings, so-called because they generally demanded a more rapid response from law enforcement authorities than more conventional forms of kidnapping.⁴³ In addition, Argentina, Chile, Mexico, Peru and Spain suggested that so-called “express” kidnappings (see para. 11 above) were of concern. In such cases,

victims were kidnapped until they themselves provided some form of ransom, often by drawing money from an automatic bank teller machine;

(g) Feigned or fraudulent kidnapping.⁴⁴ In such cases, the victim acted in conjunction with other perpetrators or on his or her own in falsely reporting that he or she had been kidnapped in order, among other objectives, to obtain the payment of a ransom.

D. Links to organized criminal and terrorist groups

17. Member States were also asked to comment specifically on the involvement of organized criminal and terrorist groups in the practice of kidnapping. Four broad (although potentially overlapping) positions can be identified:

(a) States where no evidence of a link between kidnapping and organized criminal and terror groups existed;

(b) States where, although organized criminal groups were involved in kidnappings, these were reported to take place largely between criminal groups within the criminal underworld itself;

(c) States where there was evidence that organized criminal groups were involved in kidnappings, although in some cases the activity was often used as a supplement to other illegal activities rather than as a primary activity. Some kidnapping also took place between and within criminal groups;

(d) States where kidnapping was (or had been) extensively used by both organized criminal and terrorist groups.

18. Barbados, Chile, Cyprus, Egypt, Japan, Jordan, Kuwait, Latvia, Morocco, Malaysia, Panama, the Republic of Korea, Saudi Arabia, Tunisia, Turkey, the United States and Zimbabwe indicated that there was no evidence that either organized criminal groups or terrorist groups were involved in kidnappings.

19. Belgium, Germany, the Netherlands and the United Kingdom indicated that, while the extent of kidnapping was worrying, such incidents were often confined to activities among criminal groups themselves. Thus, Belgium noted that kidnapping was an activity used in particular within illicit markets in order for groups to obtain particular advantages or to establish their authority over specific markets. Germany also reported that kidnapping was a means to settle scores within the criminal economy, in particular as regards the collection of debts. Similarly, the United Kingdom indicated that a significant portion of kidnappings in that country took place within the criminal underworld itself and that kidnappings were most likely to occur when a “business” deal collapsed. Many such kidnappings were opportunistic, the result of spur-of-the-moment decisions rather than of detailed planning. Although the majority of such kidnappings were successfully resolved, the victims were—given their own illegal activities—generally unwilling to cooperate with the subsequent investigations and prosecutions.

20. In the case of Argentina, Belarus, the Czech Republic, Estonia, Hungary, Mexico, Poland and Trinidad and Tobago, the responses outlined evidence linking organized criminal groups and kidnapping. Argentina indicated that kidnappings for ransom were carried out by ordinary criminals with a degree of organization and

logistics. The Czech Republic and Poland reported that kidnappings and other crimes of violence were not the main activity of organized criminal groups, but were just one additional measure to achieve their main objective, the acquisition of profit.

21. Hungary reported that organized criminal groups had in the recent past been involved in kidnapping. In 1999, two criminal groups had been identified as specializing in the kidnapping of young girls and forcing them into prostitution. In 2001, six criminal groups engaging in kidnapping for profit were identified. Mexico indicated that the modus operandi used by organized criminal groups involved in kidnapping was similar, involving the careful choice of the victim, the study of their routine, their kidnapping and transport to a secure location and then the negotiation of a ransom. In most cases, once the ransom was paid, the victim was set free. The response of Ukraine also suggested the strong involvement of organized criminal groups in kidnappings, although it was pointed out that a number of criminal groups that specialized in kidnapping had been eliminated. In the case of Trinidad and Tobago, it was reported that criminal groups engaged in kidnappings were not motivated by religious extremism or political ideology, but by the illicit acquisition of profit; groups engaged in kidnapping had specialized structures, with various individuals or components responsible for different activities.

22. In Colombia, Peru and the Philippines, the problems of kidnapping were viewed with great concern, with there being a strong link to the activities of organized criminal and terrorist groups. The Russian Federation and Spain also indicated that responsibility for kidnapping could be attributed to both criminal and terrorist groups. In one case, Italy, the extent of kidnapping, related both to the activities of organized criminal and terrorist groups, once severe, had now been significantly reduced.

23. Colombia reported that the main perpetrators of kidnapping in the country were insurgent groups and criminal organizations. The methods used by the former were selective kidnappings and illegal roadblocks. Selective kidnappings occurred after a study of the victim's economic potential and vulnerability. Illegal roadblocks involved the random stopping of vehicles on public roads in order to kidnap travellers indiscriminately, thereafter classifying them in accordance with the objective of the kidnapping (essentially either economical or political) for purposes of extortion. Criminal organizations usually made use of selective kidnappings, with a concentration on urban areas. Insurgency groups were responsible for the vast majority of kidnappings (10,761 of 14,068 cases recorded since 1996), while criminal groups were responsible for a much lower number (2,382).

24. Peru indicated that common criminals, whether individuals or organized groups, were responsible for the majority of kidnappings. The criminal groups involved were well equipped, including with a variety of firearms, bullet-proof vests, modern vehicles and communication equipment. Victims were generally entrepreneurs, industrialists or either wealthy individuals. The victims were carefully selected and their movements watched. Such criminal groups also carried out so-called "express" kidnappings (see para. 11 above). In the 1980s and the first half of the 1990s, terrorist organizations had been responsible for kidnapping with the objective of demanding substantial ransoms, causing mental anguish or exchanging their victims for convicted terrorists in prison.

25. In the Philippines, organized criminal groups specializing in kidnapping for ransom were reported to be made up of individuals who had already been previously engaged in criminal activities. Some such groups targeted specific victims, such as Filipino-Chinese businessmen, while others targeted foreign business managers. Others were more indiscriminate, but with the requirement that a ransom could be paid. The formation of many of the groups was based on tribal or ethnic origins and almost all members had previously been involved in highway and other forms of armed robbery. Others were terrorist groups. Whatever their origin, however, such groups had a hierarchical structure with a degree of specialization in their ranks.

26. In the case of the Russian Federation, kidnapping was reported often to be committed by organized criminal groups. One example of such a specialist kidnapping group was provided that had been active in the northern Caucasus region, in particular in the territory of the Republic of Chechnya, from 1996 to 2000. The group was highly organized and hierarchically structured and used modern means of communication and transportation. The group also had close connections and exchanged information with other criminal organizations in different regions of the Russian Federation. It was noted that the stabilization of kidnapping in the country as a whole (see the figures given in para. 13 above) was in part the outcome of the Government's anti-terrorist campaign in the Republic of Chechnya.

27. Spain described two types of kidnapping related to organized criminal and terrorist groups respectively. In the first case, small well organized criminal groups detained newly arrived immigrants from Morocco against their will. Ransom was then demanded for the victim's release from his or her family in Morocco. The second type of kidnapping was of prominent public figures or officials by terrorist groups with, among other aims, the demand for the payment of money to intermediaries or to obtain concessions from the Government.

28. Italy indicated that kidnapping had developed in close connection with the rise of particularly violent organized criminal groups, perpetrating a range of serious crimes. Criminal groups engaged in kidnapping because of the large profits to be made and over time particular groups began to specialize in kidnapping for ransom. Increases were also related to the expansion of organized crime outside the so-called "regions of risk"—Calabria, Sardinia and Sicily—as well as the result of common criminals emulating their more sophisticated peers. Later, when the phenomenon spread to northern Italy, it was used by other organizations with ideological motives both to obtain funding and to demonstrate the vulnerability of the State. Kidnapping was subsequently curbed through a constant commitment to countering it and the launching of a series of successful law enforcement operations.

E. Measures adopted

29. Measures taken in response to kidnapping were categorized in four specific areas: law enforcement training; security force restructuring (for example, the establishment of specific units to deal with the problem); cooperation between law enforcement and security structures; and the more effective collection of data, intelligence and evidence.

30. The majority of respondents indicated that specific training, in either a more general format for all police officers or more specific training of specialized units dealing with the problem, was conducted. Most respondents also indicated that one or more specialized police and law enforcement units dealt with particularly serious crimes, including those which fell into the scope of organized crime, kidnapping and hostage-taking. In a number of States, however, specialized units to deal specifically with the issue of kidnapping had been established. This was the case in Argentina, Colombia, Latvia, Mexico, Peru, the Philippines, Romania, the Russian Federation, Slovenia, Spain, Trinidad and Tobago and the United Kingdom.

31. In the case of Colombia, significant measures had been taken to counter kidnapping. In 1996, Unified Action Groups for the Defence of Personal Liberty (GAULA) had been established. Those groups, with regional jurisdiction, gathered together into specialized units the government agencies involved in combating kidnapping. According to the legislation under which they were established, the groups consisted of three specialized units, the first with the task of intelligence-gathering and evaluation, the second responsible for operational aspects, including the planning and execution of rescue operations, the protection of victims and the apprehending of perpetrators and the third responsible for investigations.

32. Given recent increases in kidnapping, Argentina outlined recent measures aimed at confronting the problem. Most prominent were the findings of the recent Advisory Committee for the Prevention of Kidnapping, published in September 2002. The Advisory Committee made a number of significant proposals, including recommending more severe penalties for persons committing kidnapping for ransom with aggravating circumstances. As regards law enforcement measures, it was also recommended that, under specific circumstances without a court order, the authorities should be able to break into premises to search for victims if there was a justified suspicion that they were being hidden in a particular location. In addition, the Advisory Committee recommended more and better criminal intelligence through the creation of a database containing information from police, security and judicial sources. The database was seen as key in devising plans for the prevention of kidnapping as well as assisting investigators in kidnapping cases. Several pieces of legislation had been drafted in order to implement the recommendations of the Advisory Committee.

33. While most States indicated that some internal or external coordination mechanism was in place to counter and respond to issues of kidnapping, some provided specific details. Italy indicated that in 1991 a multi-agency unit of investigators had been formed to better coordinate the activities of various law enforcement agencies. Belgium reported that in certain cases there was cooperation between the police and private security services. Hungary had established an Anti-Organized Crime Coordinating Centre that served as a clearing house for information and coordinated actions in response to organized crime, including cases of kidnapping. The Netherlands stated that regular meetings took place between private industry security managers and the authorities and that a kidnapping/hostage strategy has been developed. In Slovenia, legislation obliged all state bodies, especially the Ministry of Defence, the intelligence services and private security companies to work together in cases of kidnapping. The Czech Republic and the Republic of Korea had established coordinating structures in relation to trafficking in human beings, with the related dimension of kidnapping. Mexico indicated that

an agreement had been signed in 2001 to improve collaboration between both federal- and state-level prosecutorial authorities in fighting kidnapping.

34. As already indicated above, Colombia had created a specific set of structures to counter kidnapping, including the requirement to improve coordination between the state agencies involved. In addition, however, and in order to maintain an integrated response to the problem of kidnapping, a Presidential Programme for the Defence of Personal Liberty had been established by decree in 1995. In 1996, an act of congress (the same legislation that established the GAULA, see para. 31 above) established a permanent programme, which operated on the basis of guidance from the National Council to Combat Kidnapping and Other Infringements of Personal Liberty (CONASE). That Council included all the administrative and judicial bodies involved in the prevention, investigation, combating and punishment of kidnapping. In addition, a special account, the National Fund for the Defence of Personal Liberty, had been created to provide the necessary resources for the payment of rewards and, additionally, to cover the costs of equipping and operating the GAULA groups.

35. In some States, initiatives had been taken to prevent kidnappers from acquiring the ransom money. Thus, in Malaysia, legislation provided for a number of provisions concerning curtailing profits made from kidnapping, including the ability of the Public Prosecutor to direct any bank not to pay out money for a specified period if that money was likely to be paid as ransom. In Colombia, with a view to safeguarding victim's property and ensuring that he or she was not compelled under duress to transfer property or perform legal acts affecting it, laws had been enacted prohibiting notaries from authorizing public or private instruments relating to a person recorded in a register of kidnapped persons. In Italy provision had been made for the freezing of victims' assets (with the possibility of the investigating judge's releasing them for investigative purposes) in order to prevent the payment of ransom.

36. Other issues outlined in respect of domestic measures taken to combat kidnapping included an emphasis in the Italian response on the establishment of a system of "rewarding" cooperating kidnappers and punishing those refusing to cooperate. The Netherlands indicated that ransom money was chemically treated, leaving traces in order to assist in the tracking and identification of the offenders. Similarly, ransom money in kidnapping cases was often registered, allowing the National Bank to determine where and how the money was being spent.

F. Victim support

37. Information was also requested on specific measures taken to support victims and their families, including the provision of liaison services between law enforcement agencies and the family, counselling services to the victim on release, counselling services to the family both during and after the kidnapping incident and protection of witnesses in kidnapping cases, as well as whether any financial support was provided to the victim or family.

38. A number of States indicated that some form of liaison service was routinely established between victims' families and the authorities in kidnapping cases.⁴⁵ Generally, this included providing information to the victim's family, advising and

instructing them on how to behave during the kidnapping, in particular as regards any dealings with the press and on the form and content of messages to be conveyed to the kidnappers. While the majority of States provided some counselling to the victim and his or her family, this took different forms.⁴⁶ In some cases, it was conducted by police officers who had received appropriate training, in other cases referrals were made to professional psychologists. It was noted that, since victim support services were structured to cater for the victims of violent crime in general, they catered also for victims of kidnapping.

39. Colombia provided a detailed overview of specific measures taken to support the victims of kidnapping. The GAULA groups (the functions of which were outlined in para. 31 above) included a psychologist responsible for supporting the family, both during the victim's captivity and after release, as well as to provide a bridge between the family and the authorities during the kidnapping and subsequent investigation. GAULA personnel were also trained in methods of dealing appropriately and tactfully with the families of victims. The Colombian response noted in particular that emotional support was provided to families affected by kidnapping, not only because of its effect on the stability of the family, but also because a stable family structure was more conducive to a successful recovery.

40. In Argentina, the Advisory Committee for the Prevention of Kidnapping (see para. 32 above) had recommended setting up a national assistance programme for the purpose of offering psychological support to victims and their families. This also provided for legal and medical protection and for the establishment of social and institutional support networks to assist victims to recover.

41. The majority of States indicated that some form of witness protection existed, although it was generally emphasized that this applied to all cases of serious crime and not just to kidnapping. In addition, in some States there were specific interventions designed to provide protection during witnesses' and victims' appearance in court, although these were also not confined to kidnapping cases.

42. With regard to the question of the provision of financial support to victims of kidnapping and their families, Colombia, Cyprus, the Czech Republic, Denmark, Estonia, Germany, Hungary, Japan, Kuwait, the Netherlands, the Republic of Korea, Slovakia, Sweden, Switzerland and the United States indicated that in specific cases financial support was provided to the victims, although the amounts paid and the procedures for acquiring the support varied from country to country. It was emphasized, however, that the provision of financial support was not confined to kidnapping cases, but to all serious violent crimes where loss and/or injury had occurred.

43. Colombia had developed a comprehensive set of responses regarding financial support to victims of kidnapping. This included legal aid programmes for families and victims to assist them in dealing with the various property and financial issues that might arise when a member—usually the head of the family and the sole source of income—was kidnapped. Special advice was given on assisting the family in ensuring that his or her business activities continued with a minimum of disruption. This included the identification of legal mechanisms to allow the victim's property to be administered provisionally by third parties.

44. In the Netherlands, when there were acute or life-threatening circumstances (presumably the urgent requirement to pay a ransom) in a kidnapping case, the

Government could provide an arrangement for finances. In Spain financial support was never provided to the kidnapping victim or the family in order to pay a ransom.

G. International cooperation

45. The majority of States reported that they had taken a series of initiatives to improve international cooperation in respect of issues of police and judicial cooperation. This included bilateral agreements with other States as well as the signing and ratification of a number of regional and international legal instruments, such as the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air (General Assembly resolution 55/25, annexes I-III, respectively), the Convention on the Civil Aspects of International Child Abduction,⁴⁷ the International Convention against the Taking of Hostages,⁴⁸ the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,⁴⁹ the European Convention on Mutual Assistance in Criminal Matters⁵⁰ and the Additional Protocol thereto⁵¹ and the European Convention on the Transfer of Proceedings in Criminal Matters.⁵² Also important was the exchange of information through international and regional police organizations.

46. Several States provided specific examples of how judicial cooperation between Member States had been effective in countering kidnapping, in particular as regards its link to organized crime. Emphasis was placed in particular on the importance of good operational coordination with neighbouring States. The Czech Republic reported that agreements had been reached with a number of other States on law enforcement cooperation, with particular emphasis on neighbouring countries. Denmark reported that there had been cooperation with neighbouring countries regarding cross-border mobile kidnappings (for example, in a recent case involving the taking of hostages in a bus). The Netherlands reported that operational agreements had been made with neighbouring countries. As regards issues of kidnapping, such coordination was carried out by the policy advisors of the National Police Force responsible for kidnapping, who maintained liaison with surrounding countries.

47. The United Kingdom indicated that the National Criminal Intelligence Service's Kidnap and Extortion Centre had commenced a specific project in 2000 that aimed to create an index of similar units and liaison officers in other countries that had specific responsibility for kidnapping and extortion. The project was also attempting, among other objectives, to maintain an overview of the criminal and civil law in respect of the relevant offences in each country. The project had proved its usefulness in a number of critical kidnapping investigations in Europe and elsewhere. Currently, the National Criminal Intelligence Service had established links with 50 countries.

48. The majority of States reported that they had (or were in the process of developing) legislation or other measures in respect of countering money-laundering and/or the confiscation of the proceeds of crime, and in some cases had established financial intelligence units to monitor suspicious transactions. Bolivia, Comoros, Germany, Greece, Guinea, Japan, Latvia, Malaysia, Monaco, Peru and the

Philippines indicated that the crime of kidnapping or its equivalent was specifically mentioned as a predicate offence in their legislation on money-laundering or proceeds of crime.

49. Italy reported that, while at first legislation on money-laundering focused only on the proceeds of some serious crimes, including kidnapping for purposes of extortion, the law had been changed in 1993 to provide for severe criminal sanctions against anyone who, in respect of criminal assets and money, hindered the identification of their criminal origin. Such rules applied irrespective of the predicate offence. Similarly, in Sweden and the United Kingdom, the legislation had been drafted to include a very broad concept of predicate offences, meaning any crime that generated profit, thus including kidnapping for purposes of extortion.

H. Lessons learned

50. Argentina pointed to the importance of cooperating offenders, allowing the reduction of a sentence for those who assisted in providing information leading to the release of the victim and the identification of the perpetrators. The importance of procedural rules in increasing the efficiency and effectiveness of preliminary investigations was also emphasized.

51. Belgium indicated that the specialization of services handling kidnapping incidents was a critical factor for success. This included ensuring that skilled negotiators, psychological support, specially trained investigators and an experienced central command structure existed. Furthermore, it was regarded as critical for support structures outside the police (such as counselling services) to be capable of taking over medium- and long-term assistance to victims of kidnapping and their families.

52. Colombia suggested that it was critical to establish effective deterrent measures for kidnappers, including the adoption of legislation imposing drastic penalties and the non-applicability of legal benefits to perpetrators. Important too was the requirement to strengthen institutional capacity, ensuring both that state agencies worked more effectively with each other and that the cooperation of the public was obtained to fight kidnapping. Given that kidnapping was so widespread and that its main purpose was profit, the payment of ransoms and the meeting of extortion demands might be counterproductive in the longer term, as it strengthened the capacity of criminal groups and perpetrated the practice of kidnapping.

53. In the field of victim support, Colombia indicated that much had been learned. Most disturbing was that, from a psychological standpoint, people never fully recovered from the experience of kidnapping. In the course of providing victims with legal support, it had been discovered that kidnapping severely tested and damaged family relations, most obviously as regards the family's property, but also as regards the requirement to meet the financial obligations entered into by the victims before captivity. Thus, apart from more drastic policies to counter kidnapping, a key requirement was also a greater focus on prevention.

54. Italy mentioned specific measures that had been adopted in 1991 that allowed a public prosecutor to ask the court to order the seizure of the assets of the family of the victim, or persons close to them, to prevent the ransom being paid. The

effectiveness of such measures, which had been adopted in many kidnapping cases, was still widely debated.

55. The Netherlands indicated that a check list and strategy had been developed for use by police forces and the prosecution authorities in kidnapping cases. The importance of training courses for negotiators was also mentioned. It was stated that the priorities in kidnapping and abduction cases were: (a) the release of the victim unharmed; (b) the arrest of the perpetrator; and (c) the recovery of the ransom money. The payment of ransom was decided upon only if a sign of life from the victim had been received.

56. Mexico emphasized that, in order to eliminate any gaps in current kidnapping legislation, an evaluation of new forms of kidnapping was required. The importance of information-sharing through the establishment of a single database was also emphasized.

57. Peru indicated that a unified doctrinal and practical approach to kidnapping was important in combating the problem. Peru had put in place a detailed procedure for investigating kidnappings and provided detailed information on the modus operandi of a typical kidnapping.

58. The Philippines indicated that a more effective witness protection programme was essential in neutralizing the organized criminal groups involved. It was highlighted that harmony and close cooperation between the prosecution and law enforcement was vital in securing convictions in kidnapping cases.

59. Trinidad and Tobago emphasized that appropriate legislation, with corresponding penalties, was essential in deterring cases of kidnapping. In addition, law enforcement personnel should be given special training and adequate technological aids to deal with the problem.

60. With a view to further increasing the effectiveness of international cooperation in the prevention and elimination of kidnapping, Ukraine proposed the establishment of direct contacts between law enforcement agencies in Ukraine and the corresponding structures in other States in order to improve the exchange of information and experience gained in countering kidnapping.

61. The United Kingdom indicated two key lessons: firstly, that senior investigating officers required an in-depth understanding of the relevant laws and authorities as regards the deployment of covert and sensitive tactics and equipment in the course of kidnapping investigations; and, secondly, that the duty of care to the hostage and his or her family during an investigation and afterwards was of absolute importance. During an operation, sufficient support, without being overbearing, maintained the confidence and integrity of the perceived outcome in the mind of the hostage's family.

III. Concluding remarks

62. It is significant that all countries that provided information considered kidnapping to be a serious crime and treated it accordingly. The information provided highlights the diversity of the phenomenon of kidnapping, the various types of kidnapping identified suggesting that the role of organized criminal and

terrorist groups differed from jurisdiction to jurisdiction and that easy generalizations were difficult. In that regard, it is important to identify the relatively dramatic increase in some States in cases of kidnappings carried out within and between criminal groups as well as the development of new varieties of kidnapping in some countries. It is worth emphasizing again the high costs that the crime of kidnapping has for its victims and the difficulty of adequately meeting the requirements of those who have been victimized. Despite the scale of the problem, important steps have been taken in a number of jurisdictions to counter kidnapping. Although it may be too early to judge their success, a series of critical lessons are emerging on how kidnapping can be effectively countered. There therefore seems to be scope for an increased exchange of information on best practices and technical cooperation.

Notes

- ¹ In the case of Trinidad and Tobago, the United Kingdom and Zimbabwe, kidnapping was a common law offence for which there was no specific legislation. In the case of Malaysia, specific legislation, the Kidnapping Act of 1961, dealt exclusively with kidnapping.
- ² In the United States, while kidnapping was regarded as a felony offence throughout the country, because of statutory differences in penalties, penalties might vary from state to state depending on such factors as the age of the victim, the purpose of the kidnapping and the harm or injury to the victim.
- ³ Argentina, Belarus, Chile, Colombia, Germany, Japan, Mexico, Morocco, Oman, Peru, the Philippines, Romania, the Russian Federation, Slovakia, Spain, Switzerland, Tunisia and Turkey. Also reported by the United Nations Observer Mission in Georgia (UNOMIG) for Abkhazia, Georgia, and by the United Nations Mission in Bosnia and Herzegovina (UNMIBH) for Bosnia and Herzegovina.
- ⁴ Belarus, Bulgaria, Chile, Cyprus, the Czech Republic, Hungary, Lebanon, Oman, Mexico, Morocco, the Republic of Korea, Romania, Saudi Arabia, Tunisia and Turkey.
- ⁵ Argentina, Belarus, Bolivia, Chile, Croatia, Cyprus, the Czech Republic, Germany, Hungary, Italy, Jordan, Kuwait, Latvia, Malta, Mexico, Monaco, the Netherlands, Peru, the Philippines, Poland, the Republic of Korea, Romania, Switzerland and Tunisia. Also reported by UNOMIG for Abkhazia, Georgia, and by UNMIBH for Bosnia and Herzegovina.
- ⁶ Bulgaria, Cyprus, Lebanon, Mexico, Monaco, Oman, Peru, Poland, the Republic of Korea, Romania, Switzerland and Turkey. Also reported by UNOMIG for Abkhazia, Georgia, and by UNMIBH for Bosnia and Herzegovina.
- ⁷ Belgium, Lebanon, Oman, Peru and the Russian Federation.
- ⁸ The Czech Republic and Slovakia.
- ⁹ Belarus, Croatia, the Czech Republic, Hungary, Latvia, Romania, the Russian Federation and Slovakia.
- ¹⁰ Bulgaria, the Czech Republic, Lebanon, Mexico and Turkey. Also reported by UNOMIG for Abkhazia, Georgia.
- ¹¹ Mexico, Monaco, Morocco, the Philippines, Romania, Spain and Tunisia.
- ¹² Lebanon and Mexico.
- ¹³ Bulgaria, Italy, Mexico, Slovenia and Spain. Also reported by UNMIBH for Bosnia and Herzegovina.
- ¹⁴ Bulgaria and Mexico.
- ¹⁵ Belarus, Bulgaria, Chile, Denmark, Latvia, Monaco, Morocco, Oman, the Philippines, Poland,

- Romania, Senegal, Slovenia, Spain and Switzerland. Also reported by UNMIBH for Bosnia and Herzegovina.
- ¹⁶ Belarus, Bulgaria, the Czech Republic and the Russian Federation.
- ¹⁷ Belarus, Bulgaria, Chile, Cyprus, Egypt, Japan, Jordan, Kuwait, Lebanon, Oman, the Republic of Korea and Romania. Sweden had developed specific legislation against trafficking in human beings. Also reported by UNOMIG for Abkhazia, Georgia.
- ¹⁸ Peru.
- ¹⁹ Denmark and Peru.
- ²⁰ Peru.
- ²¹ Lebanon and Turkey. Japan indicated that the punishment would be more severe if the kidnapping was conducted during a terrorist act. Also reported by UNMIBH for Bosnia and Herzegovina.
- ²² Belarus.
- ²³ Egypt, Italy, Malaysia, Morocco, Peru and the Republic of Korea. In Sweden such offences were referred to as “gross violations of integrity”.
- ²⁴ Belarus, Bulgaria, the Czech Republic, Japan, Jordan, Latvia, Mexico, Peru, the Philippines, Poland, the Republic of Korea, Romania, Slovakia, Spain, Tunisia and Turkey. Also reported by UNOMIG for Abkhazia, Georgia, and by UNMIBH for Bosnia and Herzegovina. In some cases, such as in the Philippines, it should be noted that this excluded cases where the accused were the victim’s parents or public officers.
- ²⁵ Japan, Malaysia, the Republic of Korea, Slovakia and Turkey. Denmark included enlistment into foreign military service. In Sweden this aspect was covered under specific legislation to counter trafficking in human beings. In Mexico specific reference was made to the aim of obtaining profit for the sale or delivery of that person.
- ²⁶ Lebanon, Oman, Peru and Tunisia. Also reported by UNOMIG for Abkhazia, Georgia.
- ²⁷ The Czech Republic.
- ²⁸ Peru.
- ²⁹ Mexico, Poland, Slovakia and Spain.
- ³⁰ The Czech Republic.
- ³¹ Bulgaria.
- ³² As reported by UNMIBH.
- ³³ In the case of Monaco it was stated that punishment would be less severe if the victim was released within 10 days.
- ³⁴ It should be noted, however, that these data covered a wide range of offences that could be classified as kidnapping, including false imprisonment, hijacking of aircraft and other forms of criminal activity.
- ³⁵ Belarus, Belgium, Colombia, the Czech Republic, Germany, Hungary, Italy, Japan, Latvia, the Netherlands, Peru, Poland, the Republic of Korea, Slovakia, Trinidad and Tobago, Turkey and the United Kingdom. Identified also by UNMIK.
- ³⁶ This was specifically alluded to in the response of the Czech Republic.
- ³⁷ Barbados, Belgium, Colombia, the Czech Republic, Germany, Hungary, Latvia, the Netherlands, Poland, Trinidad and Tobago and the United Kingdom.
- ³⁸ Belgium, Cyprus, the Czech Republic, Estonia, Germany, Hungary, Italy, Japan, Kuwait, Morocco,

the Netherlands, Peru, the Republic of Korea, Slovakia, Trinidad and Tobago, Turkey and Ukraine. Identified also by UNMIK.

- ³⁹ Barbados, Belgium, Colombia, Morocco, the Netherlands, Senegal, Slovakia and Turkey. Identified also by UNMIK.
- ⁴⁰ It should be noted that in a number of jurisdictions, most notably the United States, when collecting statistics on kidnapping a clear distinction was made between “family abductions” and “non-family abductions”. The United States reported that family abductions were characterized by parents who, in the course of custodial disputes, took or kept children in violation of a custody order in a divorce proceeding.
- ⁴¹ Colombia, Italy, the Netherlands, Peru, Slovakia and the United Kingdom. Identified also by UNMIK.
- ⁴² Italy, the Netherlands, Peru, Trinidad and Tobago and the United Kingdom.
- ⁴³ “Tiger” kidnapping was specifically identified in the responses of the Netherlands and the United Kingdom.
- ⁴⁴ Latvia and Peru.
- ⁴⁵ Argentina, Belgium, Bulgaria, Colombia, the Czech Republic, Denmark, Egypt, Estonia, Germany, Ireland, Japan, Lebanon, Mexico, Monaco, the Netherlands, the Philippines, Spain, Sweden, Trinidad and Tobago, Tunisia and the United Kingdom.
- ⁴⁶ Barbados, Belgium, Bulgaria, Colombia, the Czech Republic, Denmark, Egypt, Estonia, Germany, Ireland, Japan, Kuwait, Latvia, Lebanon, Mexico, Monaco, the Netherlands, Peru, the Philippines, Saudi Arabia, Slovenia, Spain, Sweden, Trinidad and Tobago and the United Kingdom.
- ⁴⁷ United Nations, *Treaty Series*, vol. 1343, No. 22514.
- ⁴⁸ *Ibid.*, vol. 1316, No. 21931.
- ⁴⁹ *Ibid.*, vol. 1035, No. 15410.
- ⁵⁰ *Ibid.*, vol. 472, No. 6841.
- ⁵¹ *European Treaty Series*, No. 99.
- ⁵² United Nations, *Treaty Series*, vol. 1137, No. 17825.
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