

MECHANISMS OF CRIMINAL JUSTICE COOPERATION



Tool 4.1 Overview of the mechanisms of criminal justice cooperation under the Organized Crime Convention

Overview

This tool emphasizes the importance of mechanisms of cooperation in combating transnational organized crime, provides a brief overview of such mechanisms and offers some key resources.

The importance of mechanisms of cooperation

Article 1 of the Organized Crime Convention states that the purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively. Further to this, article 2 (c) of the Trafficking in Persons Protocol states that the purpose of the Protocol is the promotion of cooperation among States parties in order to meet the objectives of preventing trafficking and protecting and assisting victims of trafficking, with full respect for their human rights.

Comments by the United Nations High Commissioner for Human Rights

Addressing the thirteenth annual Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region on 30 August 2005, the United Nations High Commissioner for Human Rights called for closer partnerships to combat human trafficking. The High Commissioner said that anti-trafficking mechanisms in the Asian and Pacific region made it a world leader in fighting that transnational crime, but that partnerships against it at the international, regional and subregional levels would need to be strengthened. The High Commissioner highlighted that regional mechanisms could play a key roll in tackling cross-border trafficking in that they aimed to flesh out a common approach to a complex problem, one that sought to assist States, from a perspective of shared regional values, to address shortcomings in their national frameworks to allow individuals both the means to obtain their rights in full, and see effective redress when those rights were denied.



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Conference of the Parties

The Conference of the Parties was established under article 32 of the Organized Crime Convention. It is mandated to review the implementation of the Convention and facilitate the exchange of information among States on combating the crimes addressed by the Convention and the Protocols thereto. At the third session of the Conference of the Parties (Vienna, 9-18 October 2006), the Conference adopted decision 3/2 on the implementation of the provisions on international cooperation in the United Nations Convention against Transnational Organized Crime, in which it emphasized that the Convention was being successfully used by a number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for the purposes of confiscation, and encouraged States parties to make greater use of the Convention as a legal basis for international cooperation in extradition and mutual legal assistance, particularly where bilateral agreements and domestic laws did not provide for such cooperation.



The full text of the decisions adopted by the Conference of the Parties at its third session is available at the UNODC website:
www.unodc.org

Mechanisms of cooperation

Extradition

Extradition is addressed by article 16 of the Organized Crime Convention.

Because of the nature of trafficking, many of the offenders wanted for prosecution in relation to human trafficking activities will be in other States. Extradition is the surrender of a person sought by the requesting State for criminal prosecution or for the enforcement of a sentence in relation to an extraditable offence. The process must be improved in relation to human trafficking so as to avoid loopholes in jurisdiction over serious crime and eliminate safe havens for traffickers. Steps must be taken to ensure that the offence of trafficking, its constitutive acts and related offences are extraditable under national law and/or extradition treaties. To assist in streamlining the extradition process, the United Nations has created various tools referred to under “Recommended resources” in Tool 4.2.

Mutual legal assistance

Mutual legal assistance is addressed by article 18 of the Convention.

Because human trafficking is an offence that is frequently committed across borders, States must take steps to ensure that they can cooperate and assist each other in the investigation of trafficking offences and the prosecution and punishment of offenders. The international mobility of offenders and their use of advanced technology, among other factors, make it

more necessary than ever that law enforcement and judicial authorities collaborate and assist the State that has assumed jurisdiction over the matter. In order to achieve this goal, States have enacted laws to permit them to provide such international cooperation and have entered into treaties on mutual legal assistance in criminal matters. For more on mutual legal assistance, see Tools 4.4 and 4.5.

Other forms of cooperation for the efficient prosecution and punishment of offenders are dealt with under article 17 of the Convention, Transfer of sentenced persons, and article 21, Transfer of criminal proceedings.

International cooperation for the purposes of confiscation

International cooperation for the purposes of confiscation of proceeds of crime derived from offences covered by the Convention and its Protocols, and of property, equipment and other instrumentalities used or destined for use in such offences is addressed under article 13 of the Convention. Article 14, paragraphs 2 and 3 deal with issues relating to the disposal of such proceeds and property confiscated by one party at the request of another party. These issues are discussed in Tool 4.7.

Recommended resources

Legislative guides of the United Nations Office on Drugs and Crime

States seeking to ratify or implement the Organized Crime Convention and its supplementary Protocols, will find the UNODC legislative guides useful. The guides lay out the basic requirements of the Convention and the Protocols thereto, as well as the issues that each State party must address, and offer a range of options and examples that national drafters may wish to consider for the implementation of the Convention. The guides have been drafted with different legal traditions and levels of institutional development in mind and are the product of a broad participatory process involving invaluable input from numerous experts, institutions and Government representatives from all regions of the world.



The UNODC legislative guides are available at:
www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html

Online directory of competent national authorities

The online directory was initially established in relation to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. As at 20 November 2007, contact information for competent authorities of more than 150 States or dependent territories (more than 600 authorities) had been provided to UNODC, including information on specific procedures to be followed in urgent cases.

Following the adoption of decision 3/2 by the Conference of the Parties to the Organized Crime Convention on 18 October 2006, UNODC—as the secretariat to the Conference of the Parties—has extended the directory to include authorities designated under that Convention, and now provides information in accordance with article 16 (Extradition), article 17 (Transfer of sentenced persons) and article 18 (Mutual legal assistance), as well as article 8 of the Migrants Protocol.

In addition, the online directory was upgraded to allow for external updating of the data by the users themselves; users simply need to request a password for the directory, which will permit full access almost immediately. Competent national authorities are easily able to access updated contact information of their counterparts in most countries of the world, as well as means of communication and information on the legal requirements for cooperation. Access to the online directory is reserved for competent national authorities designated in accordance with the 1988 Convention or the Organized Crime Convention.



For more information on the online directory of competent national authorities, visit:

www.unodc.org/unodc/en/frontpage/upgraded-directory-of-competent-national-authorities.html

and www.unodc.org/compauth/index.html