

Decision 4/2

Implementation of the provisions on international cooperation of the United Nations Convention against Transnational Organized Crime

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

(a) Recalled its decision 3/2, in which it decided that an open-ended working group of Government experts on extradition, mutual legal assistance and international cooperation for purposes of confiscation would be a constant element of the Conference;

(b) Noted that the open-ended working group had been convened during the fourth session of the Conference and, working in an environment of cooperation and goodwill, had engaged in a detailed review of the implementation of the articles on international cooperation of the United Nations Convention against Transnational Organized Crime,¹ resulting in a fruitful exchange of ideas and experiences regarding implementation of those articles;

I

Substantive discussion of the working group

(c) Noted that the open-ended working group had discussed in depth the following matters:

(i) The different elements of article 16, on extradition, of the Organized Crime Convention, highlighting the potential of those provisions as a legal basis for extradition, different aspects of the issue of the extradition of nationals, and the principles of *aut dedere aut judicare* and dual criminality;

(ii) The comprehensive provisions contained in article 18, on mutual legal assistance, of the Convention, which were found by the working group to constitute an integral set of rules applicable in areas in which no other treaty applied; ways and means of requesting assistance, such as by e-mail and oral communication; and the use of working languages;

(iii) Article 13, on international cooperation for purposes of confiscation, of the Convention, including the diversity of confiscation schemes found in national legislation, such as conviction-based confiscation and non-conviction-based confiscation;

(d) Took note of the recommendation of the working group to consider the use of videoconferencing and the giving of evidence by video link, and its encouragement of States parties to provide in their domestic legal systems for that type of cooperation, which had various benefits, including its cost-effectiveness and potential for the protection of witnesses;

¹ United Nations, *Treaty Series*, vol. 2225, No. 39574.

(e) Requested the Secretariat to seek ways to support such use of videoconferencing and assist States in overcoming technical and legal obstacles, and to report to the Conference, at its fifth session, on the provision of such assistance;

(f) Decided that an in-depth discussion on the application of articles 12, 13, 16 and 18 of the Convention should be held at the fifth session of the Conference, on the basis of clear, practical examples of the application of those articles, with a view to further facilitating the effective application of those articles;

(g) Requested the Secretariat to collect from States parties, prior to the fifth session of the Conference, examples of the application of the above-mentioned articles, in particular in the area of international cooperation for purposes of confiscation, including non-conviction-based confiscation;

II

Usefulness and use of the Convention as a basis for international cooperation in extradition, mutual legal assistance and international cooperation for purposes of confiscation

(h) Emphasized that the Convention, as a global instrument with wide adherence, offered the broadest scope of cooperation to address existing and emerging forms of transnational organized crime;

(i) Noted that the Convention was being used successfully by an increasing number of States as a basis for granting requests for extradition, mutual legal assistance and international cooperation for purposes of confiscation;

(j) Encouraged States parties to continue to make use of the Convention as a legal basis for international cooperation in extradition and mutual legal assistance, including confiscation, taking into account the extended scope of cooperation available under its article 16, on extradition, and article 18, on mutual legal assistance, and the internal legal requirements of States parties for the application of the Convention;

(k) Also encouraged States parties to fully utilize the Convention and the Protocols thereto² when other bases for cooperation, such as bilateral agreements and domestic law, did not provide for effective extradition, mutual legal assistance or international cooperation for purposes of confiscation; and emphasized in particular that the multilateral character of the provisions contained in articles 16 and 18 was of great value to practitioners, because it allowed international cooperation with many States without the necessity of concluding additional bilateral agreements;

(l) Further encouraged States parties to promote awareness of the Convention and to facilitate training activities for central authorities, judges, prosecutors, law enforcement officers and officers

² Ibid., vols. 2237, 2241 and 2326, No. 39574.

of national central bureaux of the International Criminal Police Organization (INTERPOL) who were engaged in international legal cooperation in the fight against transnational organized crime through implementation of the Convention;

(m) Requested the Secretariat to support, when requested, the provision of such training and awareness-raising at the national level;

III

Development of tools to facilitate international cooperation

(n) Welcomed the Mutual Legal Assistance Request Writer Tool designed by the United Nations Office on Drugs and Crime, which would assist criminal justice practitioners in drafting correct, complete and effective requests; encouraged central authorities to make use, as appropriate, of the tool and provide feedback to the Office on such use; and requested the Secretariat to use the tool in training delivered to central authorities and practitioners;

(o) Welcomed also the establishment of the online directory of central authorities for mutual legal assistance and authorities designated to deal with extradition, as well as authorities designated under article 8 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;

(p) Requested the Secretariat to further expand the directory to include authorities designated under article 13 of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

(q) Noted that a growing number of States parties had provided to the Secretariat information on their designated authorities; and urged all States parties to do so and update that information, which was vital for efficient cooperation;

(r) Welcomed the collection of examples of cases of extradition, mutual legal assistance and other forms of international legal cooperation on the basis of the Convention;

(s) Urged States parties to continue to provide the Secretariat with data concerning their reliance on provisions of the Convention and the Protocols thereto in order to effect extradition, mutual legal assistance or other forms of international legal cooperation; and requested the Secretariat to update the catalogue of cases and disseminate it to the States parties;

IV

Strengthening of central authorities

(t) Took note of the conclusions and recommendations of the series of regional workshops organized by the Secretariat pursuant to Conference decision 3/2, held in Bogota, Cairo, Dakar, Kuala Lumpur and Vienna in 2007 and 2008, for central authorities, liaison magistrates, judges, prosecutors and practitioners responsible for handling extradition and mutual legal assistance;

(u) Welcomed the holding of those regional workshops and other training seminars, which proved useful for strengthening close working contacts between authorities and facilitating exchanges among counterparts;

(v) Requested the Secretariat to pursue such activities in regions not yet covered by the previous workshops and to follow them up at the subregional and interregional levels, in response to the specific cooperation needs identified;

(w) Encouraged central authorities for mutual legal assistance and the competent authorities for extradition requests to make full use of existing regional networks; and requested the Secretariat to provide its support to strengthening networking among authorities at the interregional level and to explore ways to facilitate communication and problem-solving among such authorities by considering the establishment of a discussion forum on a secure network and by ensuring the greatest possible participation by experts and practitioners in the relevant fields, by seeking funding for participation by experts from developing countries, in the deliberations of the working group at future sessions of the Conference;

(x) Recommended that, in accordance with Conference decision 3/4, assistance to States parties should be provided for the implementation of the provisions of the Convention on extradition, mutual legal assistance and international cooperation for purposes of confiscation;

(y) Reiterated that international cooperation was one of the priority areas for technical assistance to support and promote the implementation of the Convention and the Protocols, as stated in the recommendations contained in paragraph 2 of Conference decision 3/4;

(z) Requested the United Nations Office on Drugs and Crime, in its activities in support of international cooperation in extradition, mutual legal assistance and cooperation for purposes of confiscation under various United Nations instruments, in particular the United Nations Convention against Corruption,³ to take into account work carried out in other forums in order to avoid duplication of work, giving due regard to the specificity of each instrument.

³ Ibid., vol. 2349, No. 42146.