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

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Application of the United Nations Convention against Transnational Organized Crime in domestic jurisprudence

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Background paper prepared by the Secretariat

I. Introduction

1. The United Nations Convention against Transnational Organized Crime is close to universal adherence, with 190 parties. Since its adoption 20 years ago, it has offered States parties a framework for international cooperation in combating transnational organized crime and has required action by States parties to harmonize their legislation with Convention requirements. Against this backdrop, it is important to consider how the Convention actually shapes domestic jurisprudence. The aim of the present background paper is to explore this question through excerpts from relevant case law, most of which are available in the United Nations Office on Drugs and Crime (UNODC) knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC).[1]

2. The paper is divided into five broad areas: (a) domestic application of the definitions contained in the Organized Crime Convention; (b) domestic application of the criminalization provisions in the Convention; (c) jurisprudence relating to jurisdiction provisions in the Convention; (d) jurisprudence relating to confiscation provisions in the Convention; and (e) jurisprudence concerning international cooperation provisions in the Convention.

II. Domestic application of the definitions contained in the Organized Crime Convention

3. For the purposes of the Organized Crime Convention, a number of key terms are defined in article 2. Although States are not required to introduce legal definitions of those terms in their domestic legislation, the definitions contained in the Convention clarify and further define the scope of application and legal effects of the provisions

* CTOC/COP/WG.2/2020/1.
[1] https://sherloc.unodc.org.

of the Convention. For this reason, those definitions have been explored in some domestic jurisprudence.

4. The Organized Crime Convention defines an "organized criminal group" as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain a direct or indirect financial or other material benefit (art. 2 (a)). For the purposes of the Convention, a "structured group" is defined in the negative and means "a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure" (art. 2 (c)).

5. In the high-profile case *Mathias Ortmann v. United States of America* of 2017, the United States requested the extradition of several persons from New Zealand to the United States. The High Court of New Zealand considered the key definitions in the Organized Crime Convention and how they had been transposed into the domestic legislation of New Zealand. The fundamental question to clarify was whether the Convention could be used as the legal basis for the extradition sought by the United States.

6. In the case, the appellants were alleged to be "members of a worldwide criminal organization that engaged in criminal copyright infringement and money-laundering on a massive scale with estimated loss to copyright holders well in excess of USD 500 million. … The case has been touted as one of the largest criminal copyright cases ever brought by the United States."

7. The United States sought the extradition of the appellants to face trial on 13 counts, including conspiracy to commit racketeering; conspiracy to commit copyright infringement; conspiracy to commit money-laundering; and criminal copyright infringement by distributing a copyright work being prepared for commercial distribution on a computer network and aiding and abetting of criminal copyright infringement.

8. The key questions were whether the appellants constituted an organized criminal group as defined in the Organized Crime Convention, to which both the United States and New Zealand were parties, and whether the alleged offences were serious crimes as defined in the Convention, that is, crimes punishable by at least four years of imprisonment in the requesting State. The High Court of New Zealand ruled that the requirements of the domestic legislation of New Zealand implementing the Convention were satisfied and provided an available pathway for the extradition. The extradition case is still pending, however, owing to appeals on other issues.

9. In the Canadian case *Regina v. Terezakis*, 2007 BCCA 384, the Court of Appeal of British Columbia looked at the Organized Crime Convention when interpreting section 467.1 of the Canadian Criminal Code, which, among other things, defines the term "criminal organization" in relation to organized crime offences in Canada. In the case, the defendant pleaded guilty to three serious drug offences at the beginning of his trial before a jury and was found guilty of offences of assault (three with a weapon) against 10 different individuals, which he had committed some months after the period of the drug offences. In particular, the Court drew comparisons between the definition of an "organized criminal group" in the Convention and the definition of a "criminal organization" in the Code.

10. In her pretrial ruling, the trial judge recognized that the reference in the Criminal Code to a criminal organization as a group, however organized, required some form of organization, but she concluded that the description gave essentially no guidance as to the limits of such an organization. The trial judge contrasted the wording of the Code with the comparable provisions in the Organized Crime Convention, which had influenced the 2001 amendments to the Code. She observed that the definition of an organized criminal group pursuant to article 2 (a) of the Convention, that is, "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences" was

replaced by section 467.1, namely, “a group, however organized, that: (a) is composed of three or more persons in or outside Canada; and (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences”. The trial judge observed that “there could be no suggestion on the language of the [United Nations] definition that the criminal organization is larger than those within it who commit or subscribe to the group’s serious crime purpose or activity”. The trial judge concluded that the Canadian definition of “criminal organization” was essentially unconstrained and found that it violated the Canadian Charter of Rights and Freedoms by being either vague or overbroad. She noted, for instance, that it could extend to those within the group who might share an innocent main purpose but who did not share the goal of the facilitation or commission of criminal activity held by a subset of the group, and indeed might be unaware of that criminal activity.

11. However, the Court of Appeal disagreed and concluded that the definition of a criminal organization under the country’s domestic legislation was constitutionally sound. The Court of Appeal noted that the definition in the Code was functional in terms of shared purpose or activity and not necessarily co-extensive with any formal structure. While the Organized Crime Convention referred to a structured group, structure was defined in terms that did not require formally defined roles for its members, continuity of its membership or a developed structure.

12. In another Canadian case, *Regina v. Venneri* of 2012, 2 S.C.R. 211, the Supreme Court of Canada considered the meaning of the term “criminal organization”. In determining whether a criminal organization existed in that case, the Court discussed the degree of organization or structure that was required to support a finding that a group of three or more persons constituted a criminal organization under the Criminal Code.

13. The Organized Crime Convention and its definitions of the terms “organized criminal group” and “structured group” were referred to in the discussion. The Court noted that while the Convention did not require a “developed structure”, an “organized criminal group” must nonetheless be “structured”. Those findings were used to inform the application of Canadian criminal law provisions governing criminal organizations. In further discussing the meaning of the term “criminal organization”, the Court held that although there was no “checklist” for establishing an organized criminal group, groups of individuals that operated on an ad hoc basis with little or no organization could not be said to pose the type of increased risk contemplated by the Convention, and that the structured nature of targeted criminal organizations set them apart from criminal conspiracies.

14. The Court cautioned against using a checklist of criteria to gauge whether or not a group had the necessary attributes of a criminal organization. It stressed that “courts must not limit the scope of the provision to the stereotypical model of organized crime – that is, to the highly sophisticated, hierarchical and monopolistic model. Some criminal entities that do not fit the conventional paradigm of organized crime may nonetheless, on account of their cohesiveness and endurance, pose the type of heightened threat contemplated by the legislative scheme.” A similar conclusion was drawn in the Canadian case *Jothiravi Sittampalam v. Canada (Citizenship and Immigration)*: “These criminal organizations do not usually have formal structures like corporations or associations that have charters, by-laws or constitutions. They are usually rather loosely and informally structured, which structures vary dramatically [sic].” The Court further found that it was therefore “necessary to adopt a rather flexible approach in assessing whether the attributes of a particular group meet the requirements” of the Canadian Immigration and Refugee Protection Act “given their varied, changing and clandestine character”.

III. Domestic application of the criminalization provisions in the Organized Crime Convention

15. The Organized Crime Convention sets out four specific offences that States parties are required to criminalize in their domestic laws: participation in an organized criminal group (art. 5), which may be criminalized either on the basis of an agreement or conspiracy-style offence or as an offence based on criminal association, or both; money-laundering (art. 6); corruption (art. 8); and obstruction of justice (art. 23). The activities covered by those offences are vital to the success of sophisticated criminal operations and to the ability of offenders to operate efficiently, generate substantial profits and protect themselves and their illicit gains against law enforcement authorities. Addressing those offences therefore constitutes the cornerstone of a global and coordinated effort to counter serious and well-organized criminal markets, enterprises and activities. The cases below predominantly concern money-laundering.

16. The High Court of Namibia, in *The State v. Amos Henock and Others* of 2019, described the circumstances that gave rise to the Prevention of Organized Crime Act 29 of 2004 in the Namibian context. The Court elaborated on the interpretation of domestic statutes derived from international agreements, such as the Organized Crime Convention, to which Namibia is a party.

17. In the view of the High Court, "courts, when interpreting statutes, should endeavour to interpret those statutes in conformity with international law. Furthermore, … there is a presumption that Parliament, in enacting a statute, intended it to be in agreement with international law. To this end, the legislative guides drafted by the United Nations Office on Drugs and Crime, Division for Treaty Affairs, assist in the interpretation of those provisions. When interpreting domesticated laws, it is imperative to look at the legislative guides, especially where the domesticated law is silent on a certain aspect."

18. In the *Henock* judgment, the High Court reviewed nine cases to clarify the issue of duplication of convictions under the Prevention of Organized Crime Act. In each of those cases, people had been convicted and sentenced for offences having the nature of theft (predicate offence), except for one case in which the predicate offence was receiving stolen property, and for contravening either section 4 (Disguising unlawful origin of property) or section 6 (Acquisition, possession or use of proceeds of unlawful activities) of the Act.

19. The Court looked at the definition of "serious crime" included in the Organized Crime Convention to conclude that the severity of punishment under the Prevention of Organized Crime Act implied that the Namibian legislature had intended to criminalize the offence of money-laundering for serious predicate offences, as opposed to offences that were of a less serious nature.

20. In the judgment, the Court further clarified the application of the Prevention of Organized Crime Act and held that the author of the predicate offence could equally commit money-laundering when committing any further act in connection with property being the proceeds of unlawful activities. On the other hand, section 6 applied only to a person other than the author of the predicate offence. In addition, since the elements of the offence created under section 6 were similar to the elements of theft, the Court held that convicting a person for both theft and the contravention of section 6 would amount to a duplication of convictions.

21. In the Philippines, in the case *Eliseo D. Dela Paz and Maria Fe C. Dela Paz vs. Senate Committee on Foreign Relations and Senate Sergeant-at-Arms Jose Balajadia, Jr.* of 2009, 579 SCRA 521, the Supreme Court stated that the Philippines was a State party to the United Nations Convention against Corruption and to the Organized Crime Convention and that the two Conventions contained provisions dealing with the movement of considerable amounts of foreign currency across borders.

22. The Court referred to article 7 (1) and (2) of the Organized Crime Convention and article 14 (2) of the Convention against Corruption and emphasized that the

provisions of the Organized Crime Convention required the detection and deterrence of all forms of money-laundering, together with all feasible measures to detect and monitor the movement of cash and other instruments across borders. The Court held that the facts in the case were relevant to those obligations; the source and purpose of the funds held by the petitioners indicated the attempted cross-border movement of money and potential money-laundering. The Court indicated that a party was required to investigate conduct outside the normal course of criminal or civil proceedings and that the Government had an obligation to conduct internal investigations into the conduct of public officers through its own processes.

23. In France, the Criminal Chamber of the Court of Cassation dealt with a case involving money-laundering (No. 18-83.541 of 2019) committed by an organized criminal group consisting of family members. The Court of Appeal of Versailles had sentenced them to imprisonment ranging from six months to three years. The case involved real and fictitious companies owned by one defendant but managed, de facto, by other defendants. The defendants claimed that the decision of the Court of Appeal of Versailles had failed to correctly apply article 2 of the Organized Crime Convention, arguing that article 2 required the existence of a structure within an organized criminal group, and that the Court of Appeal, by simply noting the close family relationships between the defendants, had failed to apply that requirement correctly. The Court of Cassation dismissed the appeal and found that the defendants were guilty of the offence of aggravated money-laundering (i.e., committed by an organized criminal group).

24. In Singapore, in the case *Ang Jeanette v. Public Prosecutor* of 2011, SGHC 100, the High Court, in the course of discussing the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, took into account article 6 of the Organized Crime Convention, on money-laundering. The crux of the appeal was that in order to prove a charge of money-laundering, the prosecution had to establish that the moneys involved were in fact the benefits of criminal conduct. The Court cited text from article 6 and commented that under both the Organized Crime Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, “the mens rea requirement for someone to be regarded as being involved in a money-laundering offence is that of knowledge”. The phrase “reasonable grounds to believe” (or any equivalent) included in the Act “is entirely absent from the two Conventions. As a matter of general usage, when we say that a person ‘knows’ something, what we are trying to communicate is that the person is subjectively aware of a state of affairs that really exists.”

25. Thus, the High Court found that, according to the clear wording of both Conventions, “what should be criminalized under the legislation of each State party is the laundering of property derived from offences or proceeds of crime”. Indeed, the conduct that should be criminalized under article 6 (i.e., conversion or transfer of property, or concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property) is that which is accompanied by knowledge that such property is “derived from an offence” or “the proceeds of crime”.

26. The Court went on to state that the conclusion above was fortified by article 3 of the 1988 Convention and noted that it could be surmised that the purpose of both Conventions was to deal with people who were involved in the laundering of actual proceeds of crime.

27. The Court then compared the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act to the Conventions, holding that it was apparent that section 44 (1) (a) of the Act went beyond the legislative baselines mandated by both Conventions. The Court went on to state the following: “Crucially, the addition of the phrase ‘reasonable grounds to believe’ to the ‘knowing’ requirement lowers the mens rea threshold significantly for a money-laundering offence. Indeed, the stated purpose of lowering the mens rea requirement was to facilitate the prosecution of money-laundering offences because … ‘in practice, proof of actual knowledge is

difficult to produce'." The parliamentary debates on the enactment of the Act dwelt upon the lowering of the mens rea requirement and whether it was a deviation from the two Conventions.

28. In the case *People v. Gutman* of 2011, IL 110338, the Supreme Court of Illinois in the United States interpreted the meaning of "proceeds" in the context of money-laundering offences. The Supreme Court of Illinois referred to a precedent of the Supreme Court of the United States in the case of *United States v. Santos*, 553 U.S. at 532, 548 (2008), in which the Court was narrowly divided on the meaning of "proceeds". Ultimately, the plurality in that case preferred the "profit" definition. The four dissenting justices in the *Santos* case pointed out that "proceeds" was a staple of money-laundering laws, and that in every one that provided a definition, the word meant "the total amount brought in". Importantly, and as noted by the Supreme Court of Illinois, the dissenting justices in *Santos* found support for their position in article 6 of the Organized Crime Convention, on money-laundering, noting that the Convention defined the term "proceeds" to mean "any property derived from or obtained, directly or indirectly, through the commission of an offence", thereby covering gross receipts. The four dissenting judges in *Santos* stated that "the leading treaty on international money-laundering, the United Nations Convention against Transnational Organized Crime … is instructive … The Convention defines the term 'proceeds' to mean 'any property derived from or obtained, directly or indirectly, through the commission of an offence'. The money-laundering provision of the Convention thus covers gross receipts." The Supreme Court of Illinois further observed that, following the decision in *Santos*, the United States Congress had amended the money-laundering statute to add a definition of "proceeds". Congress had adopted the dissent's position, and the federal statute now defined "proceeds" as "any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity". Thus, the federal money-laundering statute might now be added to the *Santos* dissent's list of money-laundering laws that use a "gross receipts" definition.

29. In India, in *Kavitha G. Pillai v. The Joint Director*, M.F.A. No. 11 of 2016, one of the issues considered by the High Court in its judgment was whether or not the Prevention of Money-Laundering Act 2002 reversed the onus of proof.

30. In discussing the issue, the Court examined the origins of money-laundering offences and highlighted relevant international law. It noted that most States were parties to the 1988 Convention and the Organized Crime Convention. The Court stated that the 1988 Convention limited predicate offences to drug trafficking offences, while the Organized Crime Convention required States parties to apply the money-laundering offences set out in that Convention to "the widest range of predicate offences". The Court went on to examine the meaning of "widest possible range of offences to be included as predicate offences". It drew on the recommendations of the Financial Action Task Force, which designates 20 categories of predicate offences. The Court noted that States had discretion as to what offences constituted predicate offences for the purpose of money-laundering.

31. The Court then examined the reversal of the burden of proof in the Prevention of Money Laundering Act 2002, in which it was stated that "in the case of a person charged with the offence of money-laundering under section 3, the Authority or court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering". The Court then noted that such reversal of the onus of proof was provided for in the Organized Crime Convention.

IV. Jurisprudence relating to jurisdiction provisions in the Organized Crime Convention

32. Offenders frequently engage in acts in the territories of more than one State and try to evade jurisdiction by moving between States. The main concern of the international community is to ensure that no serious crime goes unpunished and that

all parts of a crime are punished, regardless of where they were committed or how many borders were crossed. Jurisdictional gaps that enable fugitives to find safe havens need to be reduced or eliminated. In cases where a criminal group is active in several States that may have jurisdiction over the conduct of the group, the international community seeks to ensure that there is a mechanism available for those States to facilitate coordination of their respective efforts. The jurisdiction to prosecute and punish offences established in accordance with the Organized Crime Convention is addressed in article 15 of the Convention.

33. In the International Court of Justice case of *Equatorial Guinea v. France*, Equatorial Guinea relied on article 4 of the Organized Crime Convention (Protection of sovereignty), in particular article 4 (1), according to which "States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States". The aspect of disagreement for which article 4 was invoked was the question whether the defendant, a State official, was immune from jurisdiction as a consequence of the principles referred to in the article.

34. The second question that was relevant in the case concerned the criminalization of money-laundering by France and its establishment of jurisdiction over that offence, in relation to the widest range of predicate offences, including offences committed outside jurisdiction.

35. Regarding the first question, Equatorial Guinea argued that the claim relating to immunities of States and State officials fell within the provisions of article 4. In relation to the second question, Equatorial Guinea argued that the domestic legislation of France had overextended jurisdiction in a manner inconsistent with article 4, when read in conjunction with certain other provisions. On the question of jurisdiction under the Organized Crime Convention, the Court, having reviewed a variety of interpretative materials prepared by UNODC, upheld the objection raised by France and found that article 4 (1), while imposing an obligation, did "not refer to the customary international rules, including State immunity, that derive from sovereign equality but to the principle of sovereign equality itself". The particular provisions of the Convention helped to coordinate but did not direct the actions of States parties. On the second question of overextended jurisdiction in the criminalization of money-laundering by France, in relation to the widest range of predicate offences, including offences committed outside jurisdiction, the Court concluded that it lacked jurisdiction over the matter.

V. Jurisprudence relating to confiscation provisions in the Organized Crime Convention

36. Criminalizing the conduct from which substantial illicit profits are made does not adequately punish or deter organized criminal groups. Even if arrested and convicted, some of these offenders are still able to enjoy their illegal gains for their personal use and for maintaining the operations of their criminal enterprises. Despite some sanctions, the perception would still remain that crime pays in such circumstances and that Governments have been ineffective in removing the means for the continued activities of criminal groups.

37. Practical measures are necessary in order to keep offenders from profiting from their crimes. One of the most important ways to do so is to ensure that States have strong confiscation regimes that provide for the identification, freezing, seizure and confiscation of illicitly acquired funds and property. Effective and efficient measures targeting the proceeds of crime can serve as a powerful deterrent and contribute significantly to the restoration of justice by removing the incentives for offenders to engage in illegal activities in the first place. Specific international cooperation mechanisms are also necessary to enable countries to give effect to foreign freezing and confiscation orders and to provide for the most appropriate use of confiscated

proceeds and property. Significant variation exists in the methods and approaches employed by different legal systems to enable confiscation.

38. The European Court of Human Rights discussed non-conviction-based confiscation orders in the context of relevant international instruments in the case of *G.I.E.M. S.R.L. and Others v. Italy* (Application No. 1828/06 and two others) of 2018. The Court cited, among other instruments, article 12 of the Organized Crime Convention and stated that "different types of confiscation procedure have been created to ensure greater efficiency in the fight against cross-border crime, organized crime and other serious offences. The most important international law provisions on confiscation are article 37 of the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol thereto; article 5 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; articles 77 § 2 (b), 93 § 1 (k) and 109 § 1 of the Rome Statute of the International Criminal Court, established in 1998; article 8 of the 1999 International Convention for the Suppression of the Financing of Terrorism; article 12 of the 2000 United Nations Convention against Transnational Organized Crime; article 31 of the 2003 United Nations Convention against Corruption; and article 16 of the 2003 Convention of the African Union on Preventing and Combating Corruption."

39. The Court went on to observe that "a study of these international agreements reveals a general acceptance of the principle of confiscating the physical object of an offence (*objectum sceleris*), the instruments used to commit an offence (*instrumentum sceleris*), the proceeds of crime (*productum sceleris*) or other property of equivalent value ('value confiscation'), proceeds which have been transformed or intermingled with other property, and any income or other benefits derived indirectly from proceeds. All of these confiscation measures depend on a prior conviction. Confiscation measures cannot be imposed on legal entities or individuals who are not parties to the proceedings, except in the case of third parties without a bona fide defence." On that basis, the Court stated that non-conviction-based confiscation was exceptional in international law. It opined that "among the above-mentioned instruments, only article 54 § 1 (c) of the 2003 United Nations Convention against Corruption recommends that parties, for the purposes of mutual legal assistance, should consider taking such measures as may be necessary to allow confiscation of property without a criminal conviction in cases in which the offender cannot be prosecuted 'by reason of death, flight or absence or in other appropriate cases'".

40. This general position adopted in the Conventions referred to by the Court formed the central rationale for its conclusion on the applicant's claim regarding article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Court concluded that "having regard to the principle that a person cannot be punished for an act engaging the criminal liability of another, a confiscation measure applied, as in the present case, to individuals or legal entities which are not parties to the proceedings, is incompatible with article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms".

VI. Jurisprudence concerning international cooperation provisions in the Organized Crime Convention

41. Comprehensive, multi-agency and flexible cross-border cooperation is essential to ensure the appropriate investigation and prosecution of transnational organized crime. International cooperation in criminal matters occurs when States share information and resources to achieve the common goal of combating organized criminal groups and their criminal activities.

42. The Organized Crime Convention contains a range of measures to enable and facilitate international cooperation between States parties. Those measures include extradition (art. 16), mutual legal assistance (art. 18), the transfer of sentenced persons (art. 17), joint investigations (art. 19), transfer of criminal proceedings (art. 21), and law enforcement cooperation (art. 27). The cases below highlight the

relevance of the Convention as the legal basis for international cooperation, with an emphasis on extradition and mutual legal assistance.

43. The question of how the Organized Crime Convention can be used to extradite a fugitive in the absence of a bilateral (or other) extradition treaty between two States lay at the heart of a case before the Supreme Court of British Columbia in 2013. The accused in that case allegedly assisted in the planning of a robbery of a post office vehicle in Gdansk, Poland, on 5 October 1999, that was carried out by an organized criminal group. It was further alleged that he was involved in an earlier robbery that had led to his association with the group and the 1999 robbery. The accused was apprehended in Canada. In the absence of any bilateral extradition treaty, Poland sought his extradition on the basis of article 16 of the Convention. The Supreme Court of British Columbia approved the extradition of the accused in *Poland (Republic) v. Grynia* of 2013, BCSC 1203. The accused then applied for a stay of proceedings under the Canadian Charter of Rights and Freedoms, arguing that Poland had misused the Convention as a "back door" approach to effect his extradition for an offence under Polish domestic law for which no bilateral treaty with Canada existed. The Court did not find an abuse of process and dismissed the argument in *Poland (Republic) v. Grynia* of 2013, BCSC 1777. The accused was later extradited to Poland on charges relating to robbery and participation in the activities of, and committing indictable offences for, an organized criminal group.

44. The relevance of the Organized Crime Convention is also aptly demonstrated by a 2007 case involving the United Arab Emirates and the Netherlands. An extradition request made by the United Arab Emirates followed the armed robbery of a jewellery store at a shopping centre in Dubai in 2007. The jewellery and watches stolen from the store were valued at 14.7 million United Arab Emirates dirhams. The suspect in the case was believed to be part of a notorious group that specialized in thefts and robberies from jewellery stores in a range of countries. When the United Arab Emirates first requested extradition of the suspect, the Netherlands refused in the absence of any legal basis to grant the request. Subsequently, the United Arab Emirates ratified the Convention and resubmitted its extradition request to the Netherlands. The High Court in The Hague granted the request on the basis of the Convention, and the suspect was extradited in February 2009. Later investigations, however, revealed that the person was not involved in the theft.

45. In a further case, involving Costa Rica, El Salvador, Guatemala and Nicaragua, national authorities from the four States cooperated in a major drug trafficking investigation. The case concerned an organized criminal group that operated an unregistered freight company offering transportation services between those Central American States and Mexico. The vehicles used were registered to individuals acting as subsidiaries to conceal any link to the freight company. Between 2004 and 2008, authorities in Costa Rica and Nicaragua made seven separate interceptions, confiscating a total of 3,800 kg of cocaine and a total of $2,219,000 in cash. On the basis of the Organized Crime Convention and the 1988 Convention, the authorities sought mutual legal assistance to obtain a range of documents and files, including bank records, witness statements and certified documents. Several of the accused later faced criminal charges relating to drug trafficking, conspiracy and criminal association, participation in an organized criminal group, and various customs offences before a court in San Miguel, El Salvador.

VII. Follow-up and possible recommendations

46. States that have not yet done so should consider ratifying or acceding to the Organized Crime Convention and the Protocols thereto in order to fully benefit from the provisions of the Convention.

47. In preparation for the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols

thereto, States may wish to update their records in the SHERLOC knowledge management portal.

48. States may consider providing additional case law on the application of, and national implementing legislation on, the Organized Crime Convention and the Protocols thereto for SHERLOC.

49. States may wish to consider providing extrabudgetary resources for the further development and maintenance of the SHERLOC portal to promote the implementation of the Organized Crime Convention and the Protocols thereto and strengthen the exchange of lessons learned and challenges in the implementation of those instruments.