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

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**Consideration of notification requirements in accordance with relevant articles of the United Nations Convention against Transnational Organized Crime (article 5, paragraph 3; article 6, paragraph 2 (d); article 13, paragraph 5; article 16, paragraph 5 (a); article 18, paragraphs 13 and 14; and article 31, paragraph 6)**

## **Notifications, declarations and reservations received by the Secretary-General**

### **Note by the Secretariat**

#### **I. Introduction**

1. The present note provides information on the notifications submitted to the Secretary-General in accordance with the relevant provisions of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention (resolution 55/25, annex III). Declarations and reservations made by States parties at the time of signature or ratification, acceptance, approval or accession in relation to the Organized Crime Convention and the two of its Protocols that are already in force (the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (General Assembly resolution 55/25, annex II) and the Migrants Protocol) are also included.

2. The full text of the notifications, declarations and reservations received by the Secretary-General will be made available on the web sites of the United Nations Treaty Collection (<http://untreaty.un.org>) and of the United Nations Office on Drugs and Crime ([www.unodc.org/unodc/en/crime\\_cicp\\_signatures.html](http://www.unodc.org/unodc/en/crime_cicp_signatures.html)).

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\* CTOC/COP/2004/1.



## **II. Notifications**

### **A. Organized Crime Convention**

3. The Secretary-General has received notifications from the States parties listed below.

#### **1. Criminalization of participation in an organized criminal group (article 5, paragraph 3)**

4. The following States parties submitted notifications to the Secretary-General: Armenia, Estonia, Latvia, Lesotho, Mexico, Norway, Uzbekistan and Venezuela.

#### **2. Criminalization of the laundering of proceeds of crime (article 6, paragraph 2 (d))**

5. Finland provided copies of its laws giving effect to article 6 of the Convention.

6. Slovakia notified the Secretary-General of the authority that would furnish copies of its relevant laws and regulations in accordance with the provision contained in article 6, paragraph 2 (d).

#### **3. International cooperation for purposes of confiscation (article 13, paragraph 5)**

7. Slovakia notified the Secretary-General of the authority that would furnish copies of its relevant laws and regulations in accordance with the provision contained in article 13, paragraph 5.

8. Although not required to do so by the Convention, the Governments of Lithuania and the Russian Federation declared that they considered the Convention the necessary and sufficient treaty basis for the taking of the measures referred to in article 13, paragraphs 1 and 2, in accordance with article 13, paragraph 6, under certain circumstances.

#### **4. Extradition (article 16, paragraph 5 (a))**

9. The following States parties submitted notifications to the Secretary-General: Armenia, Azerbaijan, Belarus, Belize, Botswana, El Salvador, Estonia, Lao People's Democratic Republic, Latvia, Lesotho, Lithuania, Malta, Mauritius, Mexico, Romania, Russian Federation, Slovenia, Ukraine, Uzbekistan and Venezuela.

#### **5. Mutual legal assistance (article 18, paragraph 13)**

10. The following States parties submitted notifications to the Secretary-General: Armenia, Azerbaijan, Belize, Botswana, Cook Islands, Denmark, Ecuador, El Salvador, Estonia, Lao People's Democratic Republic, Latvia, Lesotho, Lithuania, Malta, Mauritius, Mexico, New Zealand, Norway, Poland, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Sweden, Ukraine, Uzbekistan and Venezuela.

11. The following States parties also provided detailed contact information with regard to their authorities: Denmark, Latvia, Norway and Romania.

12. In addition, the Government of the Russian Federation declared that, in urgent circumstances, it would receive requests for mutual legal assistance and

communications through the International Criminal Police Organization under certain conditions, in accordance with article 18, paragraph 13.

**6. Mutual legal assistance (article 18, paragraph 14)**

13. The following States parties submitted notifications to the Secretary-General: Armenia, Azerbaijan, Belize, Botswana, Cook Islands, Denmark, El Salvador, Estonia, Lao People's Democratic Republic, Latvia, Lesotho, Lithuania, Malta, Mauritius, Mexico, New Zealand, Norway, Poland, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Sweden, Ukraine, Uzbekistan and Venezuela.

**7. Prevention (article 31, paragraph 6)**

14. The following States parties submitted notifications to the Secretary-General: Azerbaijan, Botswana, Finland, Norway and Slovakia.

15. The following States parties also provided detailed contact information with regard to their authorities: Azerbaijan, Botswana and Finland.

**B. Migrants Protocol**

**Measures against the smuggling of migrants by sea (article 8, paragraph 6)**

16. The following States parties submitted notifications to the Secretary-General: Azerbaijan, Latvia, Romania and South Africa.

17. The following States parties also provided detailed contact information with regard to their authorities: Latvia and Romania.

**III. Declarations**

18. The Secretary-General has received declarations from States parties regarding the Conventions and the two Protocols that have entered into force (the Trafficking in Persons Protocol and the Migrants Protocol).

19. With regard to the Organized Crime Convention and its two Protocols already in force (the Trafficking in Persons Protocol and the Migrants Protocol), the Government of Algeria declared that its ratification of the instruments did not signify recognition of Israel nor did it entail the establishment of relations of any kind with Israel.

20. The Government of Azerbaijan made a declaration concerning the territorial application of the Convention and its two Protocols in force.

**A. Organized Crime Convention**

21. In accordance with article 36, paragraph 3, of the Convention, the European Community made a declaration to the effect that it had competence in relation to articles 7, 9, 30 and 31, paragraph 2 (c), with some exceptions in accordance with the provisions of the Treaty establishing the European Community, as amended by the Amsterdam Treaty. In addition, the Community considered itself bound by other

provisions of the Convention to the extent that they were related to the application of articles 7, 9, 30 and 31, paragraph 2 (c), in particular the articles concerning purpose, definitions and final provisions. The scope and exercise of Community competence were subject to continuous development and any relevant modification of the extent of the competence would be notified accordingly.

22. The European Community also declared that the Convention would apply, with regard to the competence of the Community, to the territories in which the Treaty establishing the European Community, as amended by the Amsterdam Treaty, was applied and under the conditions laid down in that Treaty, in particular its article 299. Pursuant to article 299, the declaration was not applicable to the territories of the member States in which the Treaty did not apply and was without prejudice to such acts or positions as might be adopted under the Convention by the member States concerned on behalf of and in the interests of those territories.

23. With regard to article 35, paragraph 2, of the Convention, the European Community stated that only arbitration would be available in disputes involving the Community, in accordance with article 34, paragraph 1, of the Statute of the International Court of Justice, which read: "Only states may be parties in cases before the Court."

24. In addition, the Governments of Ukraine and Uzbekistan provided details of their domestic legislation in relation to articles 2, paragraphs (a), (b) and (g), and 7 of the Convention.

25. The full text of the declarations referred to above will be made available on the web site of the United Nations Treaty Collection (<http://untreaty.un.org>).

#### **1. Belarus**

26. Belarus stated that it intended to apply the provisions of article 10 of the Convention insofar as this would not contravene its own national legislation.

#### **2. Ecuador**

27. With regard to article 10 of the Organized Crime Convention, the Government of Ecuador pointed out that the concept of criminal liability of legal persons was not at the moment embodied in Ecuadorian legislation. When legislation progressed in that area, the reservation would be withdrawn.

#### **3. Nicaragua**

28. The Government of Nicaragua declared that such measures as might be necessary to harmonize the Organized Crime Convention with its domestic law would be the outcome of processes of revision of criminal legislation that Nicaragua was currently pursuing or might pursue in the future. Moreover, Nicaragua reserved the right, at the time of the deposit of its instrument of ratification of the Convention, to invoke, in accordance with the general principles of international law, article 19 of the Vienna Convention on the Law of Treaties.<sup>1</sup>

#### **4. Russian Federation**

29. The Russian Federation stated that it would have jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of the Organized Crime

Convention in the cases envisaged in article 15, paragraphs 1 and 3, of the Convention.

30. The Russian Federation considered that the provisions of article 16, paragraph 14, of the Convention must be applied in such a way as to ensure the inevitability of responsibility for the commission of offences falling within the purview of the Convention, without detriment to the effectiveness of international cooperation in the areas of extradition and legal assistance.

31. On the basis of article 18, paragraph 7, of the Convention, the Russian Federation declared that, on the basis of reciprocity, it would apply article 18, paragraphs 9-29, instead of the relevant provisions of any treaty on mutual legal assistance concluded by it with another State party to the Convention, if, in the view of the central authority of the Russian Federation, that would facilitate cooperation.

32. The Russian Federation declared that, in accordance with article 27, paragraph 2, of the Convention, it would consider the Convention the basis for mutual law enforcement cooperation with respect to the offences covered by the Convention, on condition that such cooperation did not include the conduct of investigative or other procedural activity in the territory of the Russian Federation.

#### **5. Ukraine**

33. Ukraine declared, in relation to article 13, paragraph 6, that the Organized Crime Convention would be applied only subject to the observation of the constitutional principles and fundamental basis of the legal system of Ukraine.

34. In relation to article 26, paragraph 3, Ukraine declared that the provisions of paragraph 3 would not be applied to the organizer or leader of a criminal group in relation to granting immunity from criminal prosecution. In accordance with the legislation of Ukraine (art. 255, para. 2, of the Criminal Code of Ukraine), such persons bore criminal responsibility notwithstanding the grounds provided for in article 26 of the Convention.

#### **6. Uzbekistan**

35. Uzbekistan declared, concerning article 10 of the Organized Crime Convention, that its legislation did not provide for criminal or administrative liability with respect to legal persons.

### **B. Trafficking in Persons Protocol**

36. No declaration has been made by States parties to the Trafficking in Persons Protocol.

### **C. Migrants Protocol**

#### **1. Ecuador**

37. With regard to the Migrants Protocol, the Government of Ecuador declared that migrants were the victims of trafficking in persons on the part of criminal

organizations whose only goal was unjust and undue enrichment at the expense of persons wishing to perform honest work abroad.

38. The provisions of the Protocol must be understood in conjunction with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (General Assembly resolution 45/158, annex) and with current international instruments on human rights.

## **2. El Salvador**

39. With regard to article 9, paragraph 2, of the Migrants Protocol, El Salvador declared that only in the event of the revision of criminal judgements would the State, in accordance with its domestic legislation, by law compensate the victims of judicial errors that had been duly proved.

40. With regard to article 18, El Salvador stated that the return of smuggled migrants would take place to the extent possible and within the means of the State.

## **IV. Reservations**

41. The Secretary-General has received reservations from States parties to the Convention and the two Protocols in force (the Trafficking in Persons Protocol and the Migrants Protocol).

### **A. Organized Crime Convention**

42. The Secretary-General has received reservations in accordance with article 35, paragraph 3, of the Convention from the following States parties: Algeria, Azerbaijan, Bahrain, Belize, China, Ecuador, Egypt, El Salvador, Lao People's Democratic Republic, Lithuania, Micronesia (Federated States of), Myanmar, South Africa, Tunisia and Uzbekistan.

43. In addition, the Secretary-General has received the reservation below from the Government of Myanmar.

#### **Myanmar**

44. The Government of Myanmar expressed reservations on article 16 relating to extradition and did not consider itself bound by that article.

### **B. Trafficking in Persons Protocol**

45. The Secretary-General has received reservations in accordance with article 15, paragraph 3, of the Trafficking in Persons Protocol from the following States parties: Algeria, Azerbaijan, Bahrain, Ecuador, El Salvador, Lao People's Democratic Republic, Lithuania, Myanmar, South Africa and Tunisia.

### **C. Migrants Protocol**

46. The Secretary-General has received reservations in accordance with article 20, paragraph 3 of the Migrants Protocol from the following States parties: Algeria, Azerbaijan, Bahrain, Ecuador, El Salvador, Lao People's Democratic Republic, Lithuania, Myanmar, South Africa and Tunisia.

#### *Notes*

<sup>1</sup> United Nations, *Treaty Series*, vol. 1155, No. 18232.

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