

The International Convention for the Suppression of Acts of Nuclear Terrorism

and related UNODC assistance

“Acts of nuclear terrorism may result in the gravest consequences and may pose a threat to international peace and security”, reads the preamble of the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT), and adds that “existing multilateral legal provisions do not adequately address those attacks”.

The International Convention for the Suppression of Acts of Nuclear Terrorism, also known as ICSANT, is one of the key legal instruments that the international community has developed to prevent and suppress nuclear terrorism.

After over a lustrum of negotiations under the auspices of the United Nations (UN), ICSANT was adopted in 2005. It entered into force in 2007 and, as of January 2022, has 118 States Parties. Its Depository is the Secretary-General of the UN.

Its preamble also highlights that the Convention is the result of the conviction of the *“urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of nuclear terrorism and for the prosecution and punishment of their perpetrators”*.

This article will briefly explain the main features of this Convention, including how it supports international cooperation, and the type of assistance that the UN Office on Drugs and Crime (UNODC) offers to Member States in order to promote its universalization and effective implementation.

Main features of the Convention

ICSANT requires that States Parties thereto establish as criminal offences in their domestic legislation, and make them punishable by appropriate penalties, certain specified conduct. Such conduct must involve nuclear or other radioactive material, nuclear facilities and devices. But how are those defined? What is a nuclear facility under ICSANT? Is any type of radioactive material covered by the Convention? What does a device mean?

Radioactive material is to be understood as nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration, and which may cause death, serious bodily injury or substantial damage to property or to the environment.

Nuclear facilities are defined as any nuclear reactor or any plant or conveyance being used for the production, storage, processing or transport of radioactive material. This means that, for instance, a van transporting a radioactive source is considered a nuclear facility under ICSANT.

Finally, devices are described as any nuclear explosive device or any radioactive material dispersal or radiation emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or to the environment. A dirty bomb, for instance, would fall under this definition.

For an activity to be a crime under ICSANT, it needs to be intentional and unlawful, and be carried out with the intent to cause serious bodily injury or death, or substantial damage to property or to the environment. Moreover, in the case of use or threat of use of radioactive material or a device, or use or damage of a nuclear facility, the specific intent could also be, but not necessarily, “to compel a natural or legal person, an international organization or a State to do or refrain from doing an act”

(terrorist motivation). Therefore, we can affirm that terrorist motivation is not a *conditio sine qua non* for a conduct to be a crime under ICSANT. For instance, a person who acquires a radioactive source and uses it to poison a foreign cousin to kill him/her, would be committing a crime under ICSANT. The foreign element has been included in the example to highlight that, in accordance with article 3 of the Convention, there needs to be a transnational element for it to be applicable.

States Parties need to establish jurisdiction, under certain circumstances, over all offences described in ICSANT (i.e., its national legislation must enable a State Party to detain and, if appropriate, extradite or investigate and prosecute the alleged offender). This is in line with the principle to extradite or prosecute, enshrined in the Convention. The purpose of this system of quasi-universal jurisdiction is to ensure that there is no safe haven for perpetrators of crimes under ICSANT in States Parties to it.

Cooperation provisions include the requirement to exchange information, in accordance with national law, related to the detection, prevention, suppression and investigation of offences set out in the Convention, and to take measures to prevent their commission. Furthermore, States Parties are obligated to afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings related to ICSANT. The Convention also requires States Parties to undertake certain measures related to handling radioactive material, devices and facilities seized following the commission of an offence set forth in the Convention.

Assistance provided by UNODC

UNODC, pursuant to the mandate conferred to it by the UN General Assembly, provides assistance to Member States to become party to and effectively implement ICSANT.

UNODC offers outreach via national, regional and global workshops, legislative assistance, and capacity building for criminal justice officials. To support these activities, UNODC has developed a number of tools including a mock trial, eLearning courses, webinars and a manual on ICSANT-related fictional cases.

In September 2021, UNODC launched its [website](#) on ICSANT, available in all UN official languages, and regularly updated.

All these activities and tools aim at promoting the universalization and the effective implementation of ICSANT, an instrument that will only realize its full potential once adhered to, and fully implemented, worldwide. As highlighted in one of the Key Findings of the 10th Anniversary event of the entry into force of ICSANT, co-hosted by Canada and UNODC in 2017, the Convention, when fully implemented, provides a common, minimum baseline standard for legal frameworks for nuclear security.

Although steady progress has been made in the 15 years that the Convention has been in force, still more than one third of the countries in the world are not covered by it. UNODC is sparing no efforts to improve this situation.

UNODC's work in the area of preventing nuclear terrorism is currently carried out thanks to the support and funding from Canada and the European Union.

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