



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

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**Working Group of Government
Experts on Technical Assistance**
Vienna, 28–31 May 2018

**Working Group on
International Cooperation**
Vienna, 28–31 May 2018

Draft report on the meetings of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation, held in Vienna from 28 to 31 May 2018

Addendum

II. Recommendations (*continued*)

Working Group on International Cooperation

1. States parties to the Organized Crime Convention should consider providing to the Secretariat information on their procedural requirements for incoming extradition and mutual legal assistance requests for further dissemination or wider availability, as appropriate, as well as for awareness-raising on potential gaps and technical assistance needs.
2. States parties that make extradition conditional on the existence of a treaty and do not take the Organized Crime Convention as a legal basis for extradition should continue to seek, where appropriate, to conclude, in accordance with article 16, paragraph 5(b) of the Convention, treaties on extradition with other States parties in order to implement article 16 of the Convention.
3. States parties to the Convention should consider simplifying evidentiary requirements in extradition proceedings, in accordance with article 16, paragraph 8, of the Organized Crime Convention.
4. States parties should consider making more frequent — or on a regular basis — use of informal consultations at different stages of extradition proceedings to enable exchange of information on legal requirements or facilitate decision-making in the extradition process.
5. States parties are encouraged to devote further attention to the need for raising awareness about the utility and added value of the Organized Crime Convention as a legal basis for international cooperation and for enhancing the effectiveness of implementation of its pertinent provisions through training and capacity building.
6. States parties should consider to further promote the direct transmission of international cooperation requests between central authorities to streamline and expedite international cooperation in criminal matters under the Organized Crime Convention.



7. States parties are encouraged to make best use of resources to increase the efficiency and effectiveness of central and/or other competent authorities in dealing with international cooperation requests. In doing so, States parties may wish to consider putting in place, or request technical assistance for the development of, case management systems within their central authorities to monitor and better administer the increasing workload of requests.

III. Summary of deliberations (*continued*)

B. Working Group on International Cooperation

Discussion of challenges faced in the course of extradition proceedings

8. At its first and second meetings, on 28 May 2018, the Working Group considered agenda item 2, entitled “Discussing challenges faced in the course of extradition proceedings, including through: (a) consultations between the requested and requesting State; (b) sharing of information regarding extradition proceedings, and (c) Technical assistance at the regional and global levels to support central authorities”. The discussion on the agenda item was facilitated by the panellist Philomena Creffield (United Kingdom).

9. The panellist delivered a presentation on the operating model and the i-casework of the United Kingdom central authority in the field of international cooperation in criminal matters. The presentation outlined the main challenges faced in the daily casework of the central authority and shed light to good practices, especially with regard to the case management system used in administering its caseload.

10. Speakers shared their experiences, including good practices, such as the posting of liaison officers abroad, in international cooperation in criminal matters. Some speakers provided a brief update of applicable laws and treaties in their countries to regulate international cooperation issues. One speaker also referred to the principle of reciprocity as a legal basis to extradite in the absence of a treaty.

11. Many speakers referred to the main challenges encountered in extradition proceedings, including, among others, the following: differences between legal systems of the requested and requesting State; varying evidentiary requirements that need to be met to grant an extradition request; concurrent extradition requests and criteria to be taken into account when deciding which of them to prioritize; identification of offenders, especially in cross-border cases involving cybercrime; humanitarian considerations, including in relation to the health condition of the fugitive; prison conditions in the requesting State; and statute of limitations and relevant applicable laws.

12. Some speakers highlighted that the increasing number of incoming and outgoing requests, coupled with the limited skills and capacity of staff, had posed serious challenges to the effectiveness of international cooperation.

13. Many speakers underlined the importance of informal consultations in extradition proceedings as a means of exchanging information on legal requirements and standards (particularly in cases where difficulties to fulfil the dual criminality requirement are encountered), providing additional clarifications as may be necessary or discussing assurances linked to the surrender of the person sought, especially where human rights or humanitarian considerations are involved (for example, death penalty cases; potential torture or inhuman or degrading treatment or punishment).

14. In highlighting the significance of the protection of human rights in extradition proceedings, also through informal consultations, caution was expressed about certain forms of police-to-police cooperation taking place as “disguised extradition” or “irregular form of rendition” of persons sought.

15. Some speakers noted that — especially in extradition cases — confidentiality was a constant challenge for practitioners, particularly when conflicting with

legislative obligations for disclosure. In mutual legal assistance cases, confidentiality was mentioned as an issue of practice that had gained significance in view of the risk that premature disclosure of information, particularly at the investigative stage, could be damaging to the case in question. One speaker was in favour of developing a Protocol to delineate operational standards on how to address confidentiality issues in mutual legal assistance cases.

16. A number of speakers highlighted the importance of international cooperation to combat terrorism and its growing links to transnational organized crime. In this context, one speaker underlined as main challenge the lack of judicial cooperation or parallel asylum proceedings in certain cases and further referred to the application of the principle “*aut dedere aut judicare*” as an alternative to avoid impunity of criminals.

17. Many speakers stressed the pivotal role of central authorities in overcoming practical challenges and delays in international cooperation, including through enhancing coordination with domestic execution authorities. Apart from the core functions of central authorities to send and receive requests, speakers also referred to the work of those authorities as facilitators of international cooperation, which may include the provision of information on national mutual legal assistance laws and procedures to other States prior to the formal submission of a request.

18. Some speakers indicated that the central authority, as a single focal point for incoming and outgoing requests, may act as a key collector and provider of statistical information on related issues. In this connection, they highlighted the importance of giving careful consideration to the collection of data, making best use of statistics and putting in place workflow processes and case management systems within the central authority to improve standard practices.

IV. Organization of the meetings

B. Statements (*continued*)

19. Under agenda item 2 of the Working Group on International Cooperation, statements were made by representatives of the following States parties to the Convention: Algeria, Colombia, Honduras, Jamaica, Russian Federation, South Africa.