

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

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Draft report

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Addendum

Draft questionnaire on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Does your country need assistance in providing the information requested in
this questionnaire?

I. Definition and criminalization requirements under the Protocol

1. Is smuggling of migrants criminalized under your domestic legislation?
2. If the answer to question 1 is "Yes", is smuggling of migrants defined in your country as a criminal offence in accordance with article 3, subparagraph (a), of the Protocol?
3. Does your domestic legislation make a distinction between smuggling of migrants and trafficking in persons? (See also question 13 of the draft questionnaire on the implementation of the Trafficking in Persons Protocol (CTOC/COP/2004/L.1/Add.1).)
4. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3, subpara. (c), of the Protocol) for the purpose of



smuggling of migrants criminalized under your domestic legislation (art. 6, para. 1 (b), of the Protocol)?

5. Is enabling a person who is not a national of or a permanent resident in your country to remain in its territory without complying with the necessary requirements for legally remaining, by using the means referred to in question 4 above or any other illegal means, criminalized under your domestic legislation (art. 6, para. 1 (c), of the Protocol)?
6. Does your country's legislation establish as a criminal offence the attempt to commit the offences referred to in questions 1, 4 and 5 above (art. 6, para. 2 (a), of the Protocol)?
7. Is participating as an accomplice in the offences referred to in questions 1, 4 and 5 above criminalized under your domestic legislation (art. 6, para. 2 (b), of the Protocol)?
8. Are organizing or directing other persons to commit the offences referred to in questions 1, 4 and 5 above criminalized under your domestic legislation (art. 6, para. 2 (c), of the Protocol)?
9. Does your domestic legislation establish as aggravating circumstances to any of the offences referred to in questions 1, 4 and 5 above conduct that endangers, or is likely to endanger, the lives or safety of the smuggled migrants or that subjects them to inhuman or degrading treatment, including for exploitation (art. 6, para. 3, of the Protocol)?
10. Does your domestic legislation provide for any measure (of a criminal or administrative nature) against smuggled migrants who have entered your country (arts. 5 and 6, para. 4, of the Protocol)?

Please provide a copy of your country's relevant legislation.

In view of the fact that the provisions of the United Nations Convention against Transnational Organized Crime apply, mutatis mutandis, to the Migrants Protocol, issues related to international cooperation requirements under the Protocol are to be addressed in section II of the draft questionnaire on the implementation of the Convention (see CTOC/COP/2004/L.1/Add.2).

II. Difficulties encountered and assistance required

A. Difficulties encountered

11. If domestic legislation has not been adapted to the Protocol's requirements on the above-mentioned issues, what steps remain to be taken? (For example, is legislation being drafted? Has legislation been submitted for approval?)
12. Are there any difficulties hampering the adoption of adequate national legislation? Please specify.

B. Need for technical assistance

13. Does your country require technical assistance to overcome such difficulties?
14. If the answer to question 13 is "Yes", please specify.

C. Technical assistance provided

15. Does your country provide technical assistance to other countries in the areas covered by this questionnaire?
 - (a) Bilaterally?
 - (b) Through international organizations? Please specify which organizations.
 16. If the answer to question 15 is "Yes", please specify the types of technical assistance provided.
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