



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

1 December 2005

**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**

The purpose of the present questionnaire is to collect information from States parties and signatories to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex III), in accordance with guidance provided by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its second session and in the context of the programme of work approved at that session (CTOC/COP/2005/8, decision 2/4). The information to be provided will relate to the following areas, as determined by the Conference of the Parties, for consideration at its third session:

- (a) Matters related to protection and assistance measures for smuggled migrants;
- (b) Matters related to the return of smuggled migrants;
- (c) Matters related to border measures, security and control of documents and legitimacy and validity of documents.

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

Yes No

I. Matters related to protection and assistance measures for smuggled migrants

1. Has your country taken any legislative or other appropriate measures to preserve and protect the rights of smuggled migrants, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 16, para. 1, of the Protocol)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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2. Has your country taken any appropriate measures to afford smuggled migrants protection against violence that may be inflicted upon them by individuals or groups (art. 16, para. 2)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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3. Has your country taken any measures to enable the provision of appropriate assistance to smuggled migrants whose lives or safety are endangered (art. 16, para. 3)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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4. In implementing protection and assistance measures for smuggled migrants, do your country’s competent authorities take into account the special needs of women and children (art. 16, para. 4)?

Yes No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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5. In the case of detention of smuggled migrants, do your country’s competent authorities comply with the obligation under the Vienna Convention on Consular Relations to inform those persons without delay about the provisions of the Convention concerning notification to and communication with consular officers (art. 16, para. 5)?

Yes No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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Please provide either a copy of your country’s relevant legislation (or, where appropriate, relevant regulations and administrative rules), where feasible in electronic form, or website addresses, if any, where such legislation (or, where appropriate, regulations or rules) may be found.

II. Matters related to the return of smuggled migrants

6. Do your country’s competent authorities facilitate and accept, without undue or unreasonable delay, the return of a smuggled migrant who is a national of, or has the right of permanent residence in, your country at the time of his/her return (art. 18, para. 1, of the Protocol)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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7. Do your country’s competent authorities facilitate and accept the return of a smuggled migrant who had the right of permanent residence in your country at the time of entry into the receiving State (art. 18, para. 2)?

() Yes () No

If the answer is “Yes”, please specify.

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8. Are your country's competent authorities obliged to verify, at the request of the receiving State party, without undue or unreasonable delay, whether a smuggled migrant is a national of, or has the right of permanent residence in, your country (art. 18, para. 3)?

() Yes () No

(a) If the answer is "No", please explain.

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(b) If the answer is "Yes", please specify.

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9. In order to facilitate the return of a smuggled migrant who is without proper documentation, are your country's competent authorities obliged to issue, at the request of the receiving State party, such travel documents or other authorization as may be necessary to enable the smuggled migrant to travel and re-enter the territory of your country (art. 18, para. 4)?

() Yes () No

(a) If the answer is "No", please explain.

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(b) If the answer is "Yes", please specify.

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10. What kind of measures are taken in your country to carry out the return of smuggled migrants in an orderly manner?

Please specify and provide any available information on how the need to ensure the safety and dignity of smuggled migrants is taken into account in the process of their return (art. 18, para. 5).

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11. Do your country's competent authorities cooperate with relevant international organizations in implementing measures to carry out the return of smuggled migrants (art. 18, para. 6)?

() Yes () No

If the answer is "Yes", please specify.

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12. Has your country entered into any bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of smuggled migrants (art. 18, para. 8)?

() Yes () No

If the answer is "Yes", please specify.

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Please provide either a copy of your country's relevant legislation (or, where appropriate, relevant regulations and administrative rules), where feasible in electronic form, or website addresses, if any, where such legislation (or, where appropriate, regulations or rules) may be found.

III. Matters related to border measures, security and control of documents and legitimacy and validity of documents

13. Has your country adopted any legislative or other appropriate measures to prevent means of transport operated by commercial carriers from being used in the commission of the offence of smuggling of migrants (art. 11, para. 2, of the Protocol)?

() Yes () No

(a) If the answer is "No", please explain.

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(b) If the answer is “Yes”, please specify and provide any available information on whether such measures include establishing the obligation of commercial carriers to ascertain that all passengers are in possession of the travel documents required for entry into the country, as well as on any sanctions in case of violation of such obligation (art. 11, paras. 3 and 4).

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14. Have your country’s competent authorities strengthened border measures in order to prevent and detect the smuggling of migrants (art. 11, para. 1)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.

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15. Does your country’s legislation provide for any measures that permit the denial of entry or revocation of visas of persons implicated in the commission of offences related to the smuggling of migrants (art. 11, para. 5)?

() Yes () No

If the answer is “Yes”, please specify.

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16. Has your country taken any measures to strengthen cooperation with the border control agencies of other States parties, by, inter alia, establishing and maintaining direct channels of communication (art. 11, para. 6)?

() Yes () No

If the answer is “Yes”, please specify.

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17. Has your country taken any measures to ensure the adequacy of the quality and the integrity and security of travel or identity documents issued by its competent authorities (art. 12)?

() Yes () No

(a) If the answer is “No”, please explain.

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(b) If the answer is “Yes”, please specify.¹

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18. Are your country’s competent authorities obliged to verify, at the request of another State party, within a reasonable time, the legitimacy and validity of travel or identity documents issued or purported to have been issued in your country’s name and suspected of being used for the smuggling of migrants (art. 13)?

() Yes () No

(a) If the answer is “No”, please explain.

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¹ To the extent that the response to this question includes information on criminalization issues related to travel or identity documents that were already addressed in the first questionnaire on the implementation of the Migrants Protocol, the Conference of the Parties to the Convention requests States parties and invites signatories to the Protocol to take action as follows: if States parties and signatories to the Protocol have not completed and submitted the questionnaire for the first reporting cycle, they can provide the information required in the context of both that questionnaire and the present one. If States have already responded to the relevant questions in the first questionnaire, they can update herewith the information sent to the secretariat, if they deem it appropriate and necessary.

(b) If the answer is “Yes”, please specify.

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IV. Other information

19. Please provide any other information you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider at this stage regarding aspects of, or difficulties in, implementing the Migrants Protocol, other than those mentioned above.

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Country: _____

Date on which the questionnaire was received:

____/____/____
(day/month/year)

The official(s) responsible for responding to the questionnaire is (are):

Ms./Mr. _____

Title and/or position: _____

Agency and/or office: _____

Mailing address: _____

Telephone number: _____

Telefax number: _____

E-mail address: _____

Deadline for submission of the questionnaire: 15 April 2006

Completed questionnaires should be sent to:

Division for Treaty Affairs
United Nations Office on Drugs and Crime
Vienna International Centre
P.O. Box 500
1400 Vienna, Austria

Attn.: Demostenes Chryssikos

Telephone: (+43-1) 26060-5586

Telefax: (+43-1) 26060-5841

E-mail: demostenes.chryssikos@unodc.org