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

28 July 2004

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 Convention at its first session and in the context of the programme of work approved at that session (decision 1/6). The information to be provided will relate to the following areas, as determined by the Conference of the Parties, for consideration at its second session:

- (a) Basic adaptation of national legislation in accordance with the Protocol;
- (b) Examination of criminalization legislation and difficulties encountered in the implementation of article 6 of the Protocol;
- (c) Enhancing international cooperation and developing technical assistance to overcome difficulties identified in the implementation of the Protocol;
- (d) Views on and experience gained in the implementation of articles 15 and 16 of the Protocol.¹

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

Yes No

¹ The Conference adopted decision 1/6 on the understanding that the exchange of views on and experience gained in the implementation of articles 15 and 16 of the Protocol would not imply collection of information by the Secretariat, but would serve as a guide for preparations by States parties and observers for the second session of the Conference.



I. Definition and criminalization requirements under the Migrants Protocol

1. Is smuggling of migrants criminalized under your domestic legislation?

() Yes () No

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

(b) If the answer is “Yes”, is smuggling of migrants defined in your country as a criminal offence in accordance with article 3, subparagraph (a), of the Protocol?

() Yes () No

2. If the answer to question 1 (b) is “No”, please specify how smuggling of migrants is defined in your domestic legislation.

3. Does your domestic legislation make a distinction between smuggling of migrants and trafficking in persons?

() Yes () No

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

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

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)?

() Yes () No

5. If the answer to question 4 is “No”, please explain.

6. 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)?

() Yes () No

7. If the answer to question 6 is “No”, please explain.

8. Does your country’s legislation establish as a criminal offence the attempt to commit the offences referred to in questions 1, 4 and 6 above (art. 6, para. 2 (a), of the Protocol)?

() Yes () No

9. If the answer to question 8 is “No”, please explain.

10. Is participating as an accomplice in the offences referred to in questions 1, 4 and 6 above criminalized under your domestic legislation (art. 6, para. 2 (b), of the Protocol)?

() Yes () No

11. If the answer to question 10 is “No”, please explain.

12. Are organizing or directing other persons to commit the offences referred to in questions 1, 4 and 6 above criminalized under your domestic legislation (art. 6, para. 2 (c), of the Protocol)?

Yes No

13. If the answer to question 12 is “No”, please explain.

14. Does your domestic legislation establish as aggravating circumstances to any of the offences referred to in questions 1, 4, 6, 10 and 12 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)?

Yes No

15. If the answer to question 14 is “No”, please explain.

16. 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)?

Yes No

17. If the answer to question 16 is “Yes”, please specify.

Please provide a copy of your country’s relevant legislation and web site addresses, if any, where such legislation may be found.

II. International cooperation requirements under the Migrants Protocol

In view of the fact that the provisions of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) apply, mutatis mutandis, to the Migrants Protocol, issues related to international cooperation requirements under the Protocol are to be addressed in section II of a separate questionnaire on the implementation of the Convention.

This questionnaire is being sent to States parties and signatories to the Convention in order to collect relevant information in accordance with decision 1/2 of the Conference of the Parties to the Convention, adopted at its first session, held in Vienna from 28 June to 8 July 2004.

III. Difficulties encountered and assistance required

A. Difficulties encountered

18. If domestic legislation has not been adapted to the Protocol's requirements on the issues dealt with in questions 1-17, what steps remain to be taken? (For example, is legislation being drafted? Has legislation been submitted for approval?) Please specify.

19. Are there any difficulties hampering the adoption of adequate national legislation?

() Yes () No

20. If the answer to question 19 is "Yes", please specify.

B. Need for technical assistance

21. Does your country require technical assistance to overcome such difficulties?

() Yes () No

22. If the answer to question 21 is "Yes", please specify.

C. Technical assistance provided

23. Does your country provide technical assistance to other countries in the areas covered by this questionnaire?

(a) Bilaterally?

() Yes () No

and/or

(b) Through international organizations?

() Yes () No

24. If the answer to question 23 (b) is “Yes”, please specify which organizations.

25. If the answer to question 23 is “Yes”, please specify the types of technical assistance provided.

IV. Other information

26. 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.

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 2005

Completed questionnaires should be sent to:

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