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International cooperation, with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities**Issue paper on the “Impact of the COVID-19 pandemic on international cooperation in criminal matters: challenges encountered, good practices and lessons learnt in the aftermath of the pandemic”¹****Executive summary by the Secretariat****I. Introduction**

1. The coronavirus disease (COVID-19) pandemic had an unprecedented impact also on law enforcement and criminal justice systems around the world. In the area of international cooperation in criminal matters, the crisis affected the functioning of central and other competent authorities in a large number of States. However, the pandemic also necessitated the adoption of new strategies and practices to cope with the challenges.
2. The impact of the COVID-19 pandemic on international cooperation in criminal matters has been discussed in different intergovernmental fora (twelfth meeting of the Working Group on International Cooperation of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, hereinafter referred to as “UNTOC”, in March 2021; and fourteenth United Nations Congress on Crime Prevention and Criminal Justice in March 2021). Important recommendations on this issue were adopted by the Working Group on International Cooperation of the Conference of the Parties to the UNTOC in March 2021, one year after the beginning of the pandemic, and subsequently endorsed by the Conference in its resolution 11/1 (Annex I).
3. More information and data are necessary to provide a picture of real-time changes and facilitate predictions and assessments of the possible long-term impact of the COVID-19 pandemic on the work of competent criminal justice and law enforcement authorities and, in particular, central authorities involved in international cooperation in criminal matters. There is also a need for more systematic research and

* [CTOC/COP/2024/1](#).

¹ This document has not been formally edited.



analysis to evaluate the pandemic's impact on transformations and new practices related to international cooperation to combat transnational organized crime. The present issue paper intends to address this need.

4. The issue paper – the executive summary of which is brought to the attention of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in an unedited version – was prepared by Prof. Saskia Hufnagel, Professor at the University of Sydney Law School and Co-Director of the Sydney Institute of Criminology. Mr. Dimosthenis Chrysikos, Crime Prevention and Criminal Justice Officer in the Organized Crime and Illicit Trafficking Branch, Division of Treaty Affairs of UNODC, Vienna, reviewed and provided valuable inputs.

5. The United Nations Office on Drugs and Crime (UNODC) wishes to acknowledge the contributions of experts participating in an informal expert group meeting on international cooperation, held from 23 to 25 October 2023,² which were also taken into account for the elaboration of the issue paper.

6. The issue paper has also benefited from expert inputs provided by officials of the following national authorities:

(a) Australia, Attorney-General's Department, International Crime Treaties and Policy Section, with input by the Australian Federal Police;

(b) Brazil, Ministry of Justice, Department of Asset Recovery and International Legal Cooperation;

(c) China, Ministry of Justice; Department of International Cooperation;

(d) Romania, Ministry of Justice, Directorate International Law and Judicial Cooperation;

(e) Spain, Fiscal de Sala de Cooperación Penal Internacional, Fiscalía General del Estado;

(f) Thailand, Office of the Attorney-General, Director General International Affairs Department; and

(g) United States of America, Department of Justice, Office of International Affairs.

7. The issue paper was prepared to implement the Joint Plan of Action on Crime Prevention and Criminal Justice under the strategic cooperation between the Ministry of Justice of China and UNODC and supported through the generous contribution of China.

II. Executive Summary

A. COVID-19 and the changing workplace in criminal justice and international cooperation

8. The COVID-19 pandemic had many cultural, economic, political and social consequences that all influenced, to a greater or lesser extent, criminal justice and international cooperation in criminal matters. Restrictions such as the limitations to international travels, the closure of borders, the physical distancing requirements and the interruption and/or slowing down of mailing services, had an impact on cooperation across borders. The restrictions resulted, for example, in physical changes to criminal justice work environments and their functioning, such as the introduction of "working from home" arrangements, videoconferencing and the use of email to transmit requests for international cooperation.

² [Informal Expert Group Meeting on International Cooperation in Criminal Matters 2023](https://www.unodc.org/informal-expert-group-meeting-on-international-cooperation-in-criminal-matters-2023) (unodc.org).

9. Another very important restriction to the operations of criminal justice and international cooperation in criminal matters was related to staff shortages due to sickness and increasing childcare responsibilities while schools were closed and the consequent introduction of wide-ranging modifications to methods of working. In the first three months of the pandemic, many courts had suspended proceedings entirely, but towards the middle of 2020, proceedings resumed (some in person and some online) and by 2021 international work was in most countries as busy as usual.

10. When courts reopened in the second wave of the pandemic, adjustments had to be made to facilitate their safe working. Such adjustments included staggered hearings, online hearings via video links, as well as physical barriers to facilitate social distancing and limit the spread of the virus. In international cooperation in criminal matters, hearing witnesses via video links facilitated cooperation in a number of countries where these practices were allowed.

11. The impact of the COVID-19 pandemic on different modalities of international cooperation in criminal matters is summarized below.

1. Extradition

12. An area of international cooperation in criminal matters that was particularly disrupted by the pandemic was extradition, both generally and in more streamlined processes related to it (surrender based on European Arrest Warrants). The measures relating to the COVID-19 pandemic had an impact on the execution of the actual surrenders, which in several States were postponed until the end of the crisis. As reported, the main obstacles encountered were the limitations of flights to third countries and the closure of borders.

13. Where surrender was not possible in an individual case due to the measures taken in response to the COVID-19 crisis, what was reported as an established practice was the decision of the executing judicial authorities to postpone the surrender. This step was generally considered sufficient to address the situation. While some countries excluded detainees for purposes of extradition from early-release schemes, others opted for the suspension or lifting of detention due to the impact of COVID-19 pandemic on prisoners.

2. Mutual Legal Assistance

14. The COVID-19 pandemic did not completely interrupt mutual legal assistance, but in many cases slowed down the responses to requests, at least at the beginning of the crisis. In some countries, it became necessary to prioritize requests in order to cope with the backlog created by the pandemic. The following criteria were used to prioritize mutual legal assistance requests: the urgency of the case; the seriousness of the nature of the offence; whether a pre-trial arrest was made; the potential risk of losing crucial evidence; and the stage of the proceedings to which the request in question relates.

15. Another reason for delays in the area of mutual legal assistance was that many States restructured or reshaped the powers and mandates of law enforcement authorities during the pandemic. Staff was assigned predominantly the task of enforcing the COVID-19 confinement rules. Consequently, resources were lacking for the operational actions needed for the execution of mutual legal assistance requests. The backlog created during the pandemic due to a re-allocation of resources was, however, balanced with the lower number of requests due to less travel of suspects.

16. The prioritization of requests, the use of technology, such as videoconferencing, the electronic transmission of requests and e-evidence, as well as the increase in dedicated staff and specific contact points or information on contact points were used as responses to facilitate the continuing submission of mutual legal assistance requests during the pandemic. Such measures also helped to fight delays and backlogs in mutual legal assistance practice caused by the pandemic.

3. Transfer of sentenced persons

17. With regard to the transfer of sentenced persons, the impact of the COVID-19 pandemic was not as significant as in extradition proceedings, because the urgency of such transfers was not as high. Transfers usually depended on policy choices following rationales such as the alleviation of the hardships faced by those serving sentences in foreign countries; the facilitation of the rehabilitation and reintegration of prisoners; the reduction of the cost of providing consular services to nationals imprisoned overseas and the cost of housing foreigners in national prison systems; the enhancement of cooperation in judicial and penal matters; and the recognition of good international relations between States. For the years 2020 and 2021, transfers stopped completely by many States, but later resumed albeit to a more limited extent than before the pandemic.

18. Practical issues encountered by national authorities included, most prominently, the closure of borders and the cancellation of flights, as well as processes requiring physical contact and medical screening. Sanitary rules had to be observed, similar to extradition procedures and the execution of the European Arrest Warrants, in the interest of the sentenced persons and the escorting officers. Throughout the course of the pandemic, requirements for travel changed. While, at the beginning, persons transferred to other States were in principle placed in quarantine, it was later sufficient to conduct PCR tests. Some States also specified that decisions on the recognition of judgments for the continued enforcement or conversion of sentences would still be issued.

4. Joint investigations

19. Joint investigative teams continued to operate regularly in many countries during the pandemic period. The main challenges encountered were that travel and in-person meetings between the members of the joint investigation teams did not take place regularly or took place to a very limited extent depending on the restrictions imposed by national authorities. Thus, in a regional context with specific support for joint investigations, the pandemic did not appear to have a notable impact on cooperation. In a wider international context, however, investigations were hampered by reduced travel capacities and reduced human resources.

5. International cooperation for purposes of confiscation

20. What has emerged from the responses to information-gathering mechanisms of Eurojust and the European Judicial Network, in particular, is that while in many States the situation with respect to freezing and confiscation orders has remained unchanged during the COVID-19 crisis, several other States have been prioritizing the issuing of certificates for the mutual recognition of freezing and confiscation orders only in urgent cases. As reported, this was in most cases not the result of any specific policy decision but, rather, was an indirect effect of the general limitations on judicial activities. However, that prioritization did not usually negatively affect freezing orders because those orders are generally considered to be urgent due to the risk of dissipation of assets.

B. Adaptation of procedures to the emergency

21. Generally, since the start of the pandemic, countries employed various measures to keep cooperation in criminal matters afloat. Technology played an important role in overcoming restrictions posed by the pandemic. The use of technology in the field of international cooperation included videoconferencing in mutual legal assistance proceedings, the electronic transmission of requests in extradition and other proceedings, the use and acceptance of electronic signatures and the paperless administration of work in central and other competent authorities more generally.

C. Legal changes to facilitate cooperation and innovative use of existing legislation

22. Despite the inclusion of several new procedures in the toolbox of international cooperation, it was surprising that only limited legal changes were needed at the national level to implement them. In most of the jurisdictions assessed, most problems were solved through more flexible interpretation of legal frameworks and case law to accept, for example, email correspondence/documentation and allow for videoconferencing in the area of international cooperation in criminal matters.

23. Particularly in relation to videoconferencing, the use of this remote justice tool was also based on mutual legal assistance provisions of relevant multilateral instruments that existed long before the pandemic as a means of providing viva voce evidence in cases where it is impossible or undesirable for a witness to travel (article 18, paragraph 18, of the UNTOC; article 46, paragraph 18, of the United Nations Convention against Corruption (hereinafter referred to as “UNCAC”); and article 9 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters).

24. The COVID-19 pandemic and the consequent increase in crimes involving electronic evidence acted as additional reminders of the acute need to streamline current methods for dealing with such requests. At the normative level, the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, established by the General Assembly in its resolution 74/247, finalized the “draft United Nations convention against cybercrime; Strengthening international cooperation for combating certain crimes committed by means of information and communications technology systems and for the sharing of evidence in electronic form of serious crime” on 9 August 2024. The draft convention applies to “the collecting, obtaining, preserving and sharing of evidence in electronic form for the purpose of criminal investigations or proceedings” and provides for procedural measures, both domestically and in the field of international cooperation, which also include the preservation, search and seizure, and the interception of electronic data.

25. At the bilateral level, one negative – but of temporary nature – effect of the pandemic was that bilateral treaties and agreements on international cooperation in criminal matters were not being negotiated during the time of the crisis at the same speed as before. Despite the availability of videoconferencing, most treaty negotiations were significantly delayed, thus hampering advancements in the normative context of international cooperation.

26. However, at the regional level, the pandemic reinforced the usefulness of the 2019 Treaty on the Electronic Transmission of Requests for International Legal Assistance among Central Authorities (concluded and signed by some countries at the twenty-first Plenary Assembly of the Conference of Ministers of Justice of the Ibero-American Countries, held in Medellin, Colombia). Moreover, the new Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on “the digitalization of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation” included provisions on, among others, the legal effects of electronic documents, the electronic signatures and electronic seals and the hearing through videoconferencing or other distance communication technology in criminal matters.

D. Support by regional, multilateral and international organizations, institutions and networks

27. Since the beginning of the pandemic, UNODC began collecting information on emergency measures taken by central and other competent authorities involved in international cooperation in criminal matters during the COVID-19 pandemic. That information was obtained through the secretariats of regional judicial cooperation

networks, including the European Judicial Network, the Ibero-American Network of International Legal Cooperation, the Southeast European Prosecutors Advisory Group and the Network of Prosecutors and Central Authorities from Source, Transit and Destination Countries in response to Transnational Organized Crime in Central Asia and Southern Caucasus (CASC) Network, or through regional organizations such as the Council of Europe, or was directly provided by the national central authorities themselves.

28. While not specific to the pandemic, the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network) was reported to have been very useful in investigating and prosecuting corruption cases throughout the pandemic. Similarly, the UNODC Online Directory of National Competent Authorities (CNA Directory) was reported to have been used throughout COVID-19 to facilitate direct contacts with other central and competent authorities.

29. Europol published assessments on the impact of the pandemic on serious and organized crime, while Eurojust supported national authorities to overcome the disruptions to criminal justice cooperation related to the pandemic. Both agencies were considered very useful during the pandemic, not only by European Union member States, but also by third countries as they facilitated contacts and communications on a regular basis and interacted with other regional networks.

30. In April 2020, the Council of the European Union gave a mandate to Eurojust and the European Judicial Network to prepare a compilation of information and regularly update such compilation in order to continuously assist practitioners in the application of judicial cooperation instruments under the challenging circumstances of the pandemic.

31. In the European Union context, the 2005 Network of National Experts on Joint Investigation Teams (JITs Network) and the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) in the European Union were reported to have supported cooperation in several cases during the pandemic and enabled the analysis of best practices among the member States.

32. Similar to the fostering of European cooperation by regional organizations, institutions and networks, cooperation was supported by formal and informal groups of practitioners in Latin America, such as the Ibero-American Association of Public Prosecutors. The Association collected and analysed experiences of its member States relating to cooperation during COVID-19. In the context of South America, an informal regional network which was used throughout the pandemic was the one operated within MERCOSUR.

33. In the context of the pandemic, cooperation through INTERPOL became an efficient way to submit mutual legal assistance requests in accordance with the relevant provisions of multilateral instruments such as the UNTOC and the UNCAC, which both recognize that INTERPOL can be used as a communication channel for mutual legal assistance purposes.

E. Good practices and trends in responding to challenges posed by the COVID-19 pandemic

34. Informal cooperation, such as direct contacts with competent law enforcement authorities of other countries, became more pronounced throughout the pandemic and a frequently used good practice. This communication channel did not replace the formal engagement between the central authorities, but complemented it and helped with the collection of evidence.

35. Furthermore, the pandemic had accelerated the application of technologies in criminal justice and the development of technology-based criminal justice strategies (e-justice). The crisis offered the opportunity to realize the potential for versatility, adaptability and flexibility of international cooperation in criminal matters. In some

instances, it was reported that the pandemic had a positive effect on the interaction between central authorities.

36. In the context of the Criminal Cooperation Network of the Ibero-American Association of Public Prosecutors (AIAMP), the pandemic led to an increase in the use of communication technologies and platforms. The electronic transmission of international cooperation requests, particularly by email, was reported as best practice by the member States. Furthermore, some of the AIAMP members reported that the electronic processing of international cooperation requests had been implemented by several central and competent authorities and proved to be faster and more efficient than processing requests physically. This practice was also considered legitimate under international law and fulfilled the required security standards. The latter were upheld, for example, by the use of institutional email boxes, electronic signatures, encryption or transmission through secure platforms.

F. Human rights protection in international cooperation during the pandemic

37. The pandemic caused prolonged detention periods for persons involved in extradition proceedings which, in turn, could conflict with international human rights. As evidence took longer to be established given the delays on postal transmissions, detention times in the extradition proceedings had to be either extended or, if such extensions were not justifiable, prisoners had to be released before the gathering of evidence was completed. Data protection was also considered as an issue when technologies are employed in cross-border proceedings. Access to justice in relation to extradition proceedings that may have the potential to infringe the rights of the defendant was also reported as a challenge.

38. In the field of transfer of prisoners, a danger created by the pandemic was that a transfer would put the health of the prisoner at risk. The impact of the pandemic COVID-19 in prisons was significantly more severe than among the general population making any movement between prisons a very risky endeavour. In addition, limitations imposed to contain the spread of the virus included prison lockdowns, as well as the restriction of prisoners' movements and programmes, impacting further on the prisoners' human rights.

39. The European Commission for the Efficiency of Justice issued a Declaration to stress the importance of criminal justice principles even during the times of the pandemic. In the European Union context, the Fundamental Rights Agency initiated a project to generally monitor the impact of COVID-19 on human rights in the European Union, which had a specific focus on collecting data on the situation in criminal justice settings.

40. There have been several cases where international cooperation in criminal matters was subject to judicial scrutiny with a view to the specific conditions of the pandemic. In cross-border proceedings, videoconferencing was found to facilitate judicial cooperation in criminal matters, while guaranteeing the fundamental rights of the defendant. It was also found that the use of technology made extradition at times unnecessary, facilitated the interviewing of witnesses remotely and saved time during proceedings.

G. Investing in the future: cooperation beyond the COVID-19 pandemic

41. In resolution 11/1 of the Conference of the Parties to the UNTOC, States parties were encouraged to provide funding on a consistent and sustainable basis to enable UNODC to provide technical assistance for capacity-building in the area of international cooperation in criminal matters, paying particular attention to emerging challenges posed by the COVID-19 pandemic that may have a lasting impact on the

work of central and other competent authorities involved in such cooperation. In the same resolution, States parties were also encouraged to make use of technology in the field of international cooperation to expedite related proceedings and address, in particular, challenges encountered in this field as a result of the COVID-19 pandemic. This may include the more frequent use of videoconferencing in mutual legal assistance, the electronic transmission of requests for international cooperation, the use and acceptance of electronic signatures and, to the extent feasible, the paperless administration of work in central and other competent authorities relating to cooperation with their foreign counterparts.

42. A major issue that was not directly related to the pandemic, but became obvious in a situation where the execution of requests was already delayed due to the pandemic, was reported to be the lack of proper drafting and translation of requests. It was recommended, in this regard, that more training both domestically and internationally be provided for criminal justice personnel to save time and add precision when drafting and sending international requests. In this regard, the UNODC mutual legal assistance request writing tool was found to be a good starting point to facilitate cooperation. Generally, support should be tailored to the individual needs of each country.

43. A specific investment that should be made in all countries was found to be the progress in digitalization. Although it was recognized that many countries have both technical and operational difficulties in digitizing documents or implementing adequate security measures allowing for processing by digital means, such digitalization could have significant benefits for international cooperation. The Conference of the Parties to the UNTOC itself, acknowledging that the COVID-19 pandemic had a profound impact on the way in which criminal justice systems operate globally and that comprehensive physical distancing measures put in place worldwide as a response to the pandemic have led to a considerable increase in the use of electronic tools, encouraged Members to allow for flexibility regarding the acceptance of official documents bearing electronic or digital signatures.

44. Even before the pandemic, the Conference had encouraged States parties 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 occasioned by international cooperation requests” (resolution 9/3, adopted in 2018). In this regard, the development and use of digital case management systems for central and competent authorities responsible for international cooperation in criminal matters could be the focus of future work of UNODC and other stakeholders.

45. With a view to specific crimes that became more prominent during the pandemic, it was essential to invest more in effective tools to combat cybercrime, in particular by promoting cross-border collection and preservation of electronic evidence, as well as freezing and confiscation of digital assets. UNODC, for example, could play a role by providing training courses and workshops and building the capacity of law enforcement authorities.

46. What can be concluded as final reflections on the “legacy” of the pandemic is that it accelerated changes that were already in the pipeline. For example, in many countries and regions, issues pertaining to electronic evidence and requesting assistance by email were debated before the pandemic, but were then institutionalized when the acute need for them arose. The motivation for change was, hence, fostered by an overwhelming necessity.

47. The most notable impact of the pandemic was the speeding up of digitalization, the acceptance of paperless practices, such as sending requests by email and accepting digital signatures, and, more generally, the use of technology in international cooperation in criminal matters. Another benefit was that the pandemic facilitated more direct access to, and cooperation among, relevant authorities.

48. The 2023 Non-Binding Guidelines for Strengthening International and Multilateral Cooperation to Further Prevent, Identify, Investigate and Prosecute Corruption During Times of Emergency and Crisis Response and Recovery offer guidance that may be considered, *mutatis mutandis*, also in the context of the impact of the COVID-19 pandemic on strengthening international cooperation in criminal matters.³

49. Despite all the benefits of using technology-based tools during the pandemic, practitioners also highlighted that these tools were not yet available to everyone and that many States either do not have the tools or the staff to use them. Thus, the following recommendations are proposed for consideration:

(a) Work geared towards the alignment of videoconferencing systems and requirements, the use of electronic signatures, as well as cross-border access to electronic evidence should be promoted; and

(b) To achieve further advancements regarding the use of technology in international cooperation, training on these technologies should be provided or enhanced and more investments should be made in human resources and infrastructure.

50. Furthermore, it is important that checks and balances are put in place to ensure that international human rights obligations and the United Nations standards and norms in crime prevention and criminal justice are respected in international cooperation practice.

³ [UNODC_Non-binding_guidelines_on_corruption_during_times_of_emergency_and_crisis_response_and_recovery_FEB24.pdf](#) (Guidelines 11 and 12).