

**INTERNATIONAL LAW
COMMISSION: THE
OBLIGATION TO
EXTRADITE OR
PROSECUTE (*AUT
DEDERE AUT
JUDICARE*)**

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CONTENTS

INTERNATIONAL LAW COMMISSION: THE OBLIGATION TO EXTRADITE OR PROSECUTE (<i>AUT DEDERE AUT JUDICARE</i>)	5
INTRODUCTION	5
I. THE <i>AUT DEDERE AUT JUDICARE</i> OBLIGATION	7
A. Definition and distinction from universal jurisdiction	7
B. The <i>aut dedere aut judicare</i> obligation in conventional law: A dual alternative evolving toward a triple option	9
C. Enacted legislation on criminal matters including the obligation to extradite or prosecute	11
D. Enacted and draft legislation on criminal matters including a third alternative	17
II. COMMENTS AND INFORMATION RECEIVED BY THE ILC FROM GOVERNMENTS	21
III. JURISPRUDENCE BY NATIONAL AND INTERNATIONAL COURTS AND UN TREATY BODIES	23
IV. CONCLUSIONS	28
V. RECOMMENDATIONS	29
KEY TO TREATIES	31
Selected Treaties > International	31
Selected Treaties > Regional > Organisation of American States	32
Selected Treaties > Regional > Council of Europe	33
Selected Treaties > Regional > African Union	33
ANNEX I. <i>AUT DEDERE AUT JUDICARE</i> PROVISIONS	35
A. International	35
B. Regional. Organization of American States (OAS)	53
C. Regional. Council of Europe	58

D. Regional. African Union	61
ANNEX II. RESERVATIONS AND DECLARATIONS TO TREATIES RELATING TO <i>AUT DEDERE AUT JUDICARE</i>.....	65
A. International treaties.....	65
B. OAS treaties	73
C. Council of Europe treaties	75
D. African Union treaties.....	77
ANNEX III. CHARTS ON SIGNATURES AND RATIFICATIONS OF SELECTED TREATIES ...	79
A. Ratifications and signatures of selected international treaties with universal jurisdiction and <i>aut dedere aut judicare</i> obligations	80
B. Ratification and signatures of selected treaties of the Organization of American States with universal jurisdiction and <i>aut dedere aut judicare</i> obligations.....	99
C. Ratification and signatures of selected treaties of the Council of Europe with universal jurisdiction and <i>aut dedere aut judicare</i> obligations	101
D. Ratification and signatures of selected treaties of the African Union with universal jurisdiction and <i>aut dedere aut judicare</i> obligations	103

INTERNATIONAL LAW COMMISSION: THE OBLIGATION TO EXTRADITE OR PROSECUTE (*AUT DEDERE AUT JUDICARE*)

“[T]he principle of extraditing or prosecuting cannot be considered in a uniform way, because its eventual customary status could be proved in a case-by-case analysis, depending on each given category of crimes. From this perspective, we believe in the existence of an *opinio iuris* regarding the more serious crimes against international law, namely the genocide and the crimes against humanity. A similar conclusion can be drawn as regards war crimes...”

Statement by Argentina before the GA Sixth Committee, 2007, available at:[Error! Hyperlink reference not valid.](#)

INTRODUCTION

This report is the first of a series designed to inform interested readers about the work of the International Law Commission (ILC) on human rights concerns. The ILC is a subsidiary body of international law experts established by the United Nations (UN) General Assembly in

1947. According to its Statute, the ILC shall have as its object the promotion of the progressive development of international law and its codification.¹

In 2004 the ILC decided to return to the topic it first identified for study in 1949 and to include the issue “obligation to extradite or prosecute (*aut dedere aut judicare*)” as part of its long-term program of work.² A year later the Commission included the topic on its agenda and appointed Zdzislaw Galicki as Special Rapporteur on the matter.³ Since then the Special Rapporteur has submitted three reports to the Commission, containing a set of preliminary observations and draft articles concerning the substance of the topic and a plan of action.⁴ According to the 2007 ILC Report on the work of its Fifty-ninth Session, the Special Rapporteur will submit by 2010-2011 a fourth and, if necessary, a fifth report and the ILC would complete the first reading of the draft articles on the obligation to extradite or prosecute.⁵ In 2008 the ILC set up a working group on the topic under the chairmanship of Alain Pellet. The mandate and membership of the working group will be determined in 2009.⁶

Amnesty International is following the work of the Special Rapporteur - as well as the work of other Special Rapporteurs - with particular interest because of the close relationship between this obligation and the exercise of universal jurisdiction by states regarding crimes under international law.

Unfortunately, the response by states to the request made by the UN General Assembly in 2006 to submit information on international treaties, domestic legal regulations, judicial practice and crimes or offenses regarding the topic has been quite limited.⁷ Very few states – only 23 - have responded and, in most cases, the information provided has not been

¹ Statute of the International Law Commission, adopted by the General Assembly in Resolution 174 (II) of 21 November 1947, as amended by resolutions 485 (V) of 12 December 1950, 984 (X) of 3 December 1955, 985 (X) of 3 December 1955 and 36/39 of 18 November 1981. Available at: http://untreaty.un.org/ilc/texts/instruments/english/statute/statute_e.pdf.

² See Official Records of the General Assembly, Fifty-ninth Session, Supplement No.10 (A/59/10) para.362 (jurisdiction with regard to crimes committed outside national territory).

³ Official Records of the General Assembly, Sixtieth Session, Supplement No.10 (A/60/10) para.500.

⁴ See, Preliminary Report on the obligation to extradite or prosecute (*aut dedere aut judicare*), of 7 June 2006, A/CN.4/571; First Report on the obligation to extradite or prosecute (*aut dedere aut judicare*), of 11 June 2007, A/CN.4/585 and Third Report on the obligation to extradite or prosecute (*aut dedere aut judicare*) of 10 June 2008, A/CN.4/603.

⁵ International Law Commission, Report on the work of its Fifty-ninth Session (7 May to 5 June and 9 July to 10 August 2007), General Assembly, Official Records, Sixty-second Session, Supplement No.10 (A/62/10), p.235. Available at: <http://untreaty.un.org/ilc/reports/2007/2007report.htm>.

⁶ International Law Commission, Report on the work of the Sixtieth session (2008), A/63/10, para.315. Available at: <http://untreaty.un.org/ilc/reports/2008/2008report.htm>.

⁷ GA Res.61/34 of 4 December 2006.

complete.⁸ To help fill in some gaps in this information, pending further and more complete responses from states, Amnesty International has prepared an annex containing the text of those treaty provisions providing for the obligation to extradite or prosecute (Annex I). A second annex provides information on the most relevant declarations or reservations made by states with regard to extradition (Annex II). Finally, four charts with information concerning the status of signatures and ratifications of selected international and regional treaties containing the obligation to extradite or prosecute, is also annexed to these pages (Annex III). Those charts give more comprehensive information about the scope of the obligation accepted by states than they have provided so far to the ILC.

If a comparison were done between the information reported by states and the third annex at the end of the document, it is easy to conclude that the work of the Commission might lead to a misconception on the nature and scope of the obligation and, therefore, in some cases, to an unduly narrow perception of the extent that universal jurisdiction is recognized by states. Amnesty International plans to address this problem by issuing similar reports on the ILC's study of the *aut dedere aut judicare* obligation as it progresses, with detailed information about state practice and *opinio juris* in each of the 192 UN member states.⁹

I. THE *AUT DEDERE AUT JUDICARE* OBLIGATION

A. DEFINITION AND DISTINCTION FROM UNIVERSAL JURISDICTION

As Amnesty International explained in its 2001 global survey of universal jurisdiction, there are two important related, but conceptually distinct, rules of international law.¹⁰

Universal jurisdiction is the *ability* of the court of any state to try persons for crimes committed outside its territory which are not linked to the state by the nationality of the

⁸ See document A/CN.4/579 of 5 March 2007 and its addendums A/CN.4/579/Add.1 of 30 April 2007, A/CN.4/579/Add.2 of 5 June 2007, A/CN.4/579/Add.3 of 2 July 2007 and A/CN.4/579/Add.4 of 11 July 2007. See also A/CN.4/599 of 30 May 2008.

⁹ Amnesty International has published the first three of 192 papers in its *No safe haven series* on all UN member states, which will include information on the implementation of the *aut dedere at judicare* obligation: *Germany: End impunity through universal jurisdiction*, AI Index: EUR 23/003/2008, October 2008; *España: Ejercer la jurisdicción universal para acabar con la impunidad*, AI Index: EUR 41/017/2008, October 2008 (English translation forthcoming 2009); *Sweden: End impunity through universal jurisdiction*, AI Index: EUR 42/001/2009, January 2009.

¹⁰ Amnesty International, *Universal Jurisdiction: The duty to enact and implement legislation*, AI Index: IOR 53/002-018/2001, September 2001. Available at: www.amnesty.org and as CD-ROM. As noted in the previous footnote, this 722-page study is being updated, revised and expanded to include information on criminal and civil universal jurisdiction in all 192 UN member states.

suspect or the victims or by harm to the state's own national interests.¹¹ Sometimes this rule is called permissive universal jurisdiction. This rule is now part of customary international law, although it is also reflected in treaties, national legislation and jurisprudence concerning crimes under international law (such as genocide, crimes against humanity and war crimes), ordinary crimes of international concern (such as hostage-taking and hijacking of aircraft) and ordinary crimes under national law (such as murder, assault and kidnapping). When a national court is exercising jurisdiction over conduct amounting to crimes under international law or ordinary crimes of international concern committed abroad, as opposed to conduct simply amounting to ordinary crimes, the court is really acting as an agent of the international community enforcing international law.¹²

Under the related *aut dedere aut judicare* (extradite or prosecute) rule, a state may not provide a safe haven for a person suspected of certain categories of crimes. Instead, it is *required* either to exercise jurisdiction (which would necessarily include universal jurisdiction in certain cases) over a person suspected of certain categories of crimes or to extradite the person to a state able and willing to do so or to surrender the person to an international criminal court with jurisdiction over the suspect and the crime.¹³ As a practical matter, when

¹¹ This definition is limited to adjudicative jurisdiction and does not involve executive or legislative jurisdiction. Other definitions are similar, albeit narrower. *See, for example*, Menno T. Kamminga, *Final Report on the Exercise of Universal Jurisdiction in Respect of Gross Human Rights Offences*, Committee on International Human Rights Law and Practice, International Law Association, London Conference 2000 (*Final ILA Report*) 3 ("Under the principle of universal jurisdiction a state is entitled or even required to bring proceedings in respect of certain serious crimes, irrespective of the location of the crime, and irrespective of the nationality of the perpetrator or the victim.").

¹² The Supreme Court of Israel in the *Eichmann* case explained:

"Not only do all the crimes attributed to the appellant bear an international character, but their harmful and murderous effects were so embracing and widespread as to shake the international community to its very foundations. The State of Israel therefore was entitled, pursuant to the principle of universal jurisdiction and in the capacity of a guardian of international law and an agent for its enforcement, to try the appellant. That being the case, no importance attaches to the fact that the State of Israel did not exist when the offences were committed" *Attorney General of Israel v. Eichmann*, 36 Int'l L. Rep. 277, 304 (Israel Sup. Ct. 1962).

¹³ The contemporary phrase *aut dedere aut judicare* literally means "either surrender (or deliver) or try (or judge)". However, it is usually described as an obligation to extradite or prosecute. The phrase is a modern adaptation of the phrase *aut dedere aut punire* (surrender or punish) used by Grotius in *De Jure Belli ac Pacis*, Bk. II, Ch. XXI, §§ IV-VI, and, before him, by Covarruvias (1512-1574). The modern version is designed to be more consistent with the fundamental principle of criminal law of the presumption of innocence. The contemporary formulation does not fully reflect this principle, since the duty to prosecute - as opposed to the duty to investigate - arises only at the point when the prosecutors have sufficient admissible evidence. It would be better to use the phrase *aut dedere aut prosequi* (extradite or prosecute), as used by a leading commentator, although this phrase still does not capture all the nuances of the duty. *See generally* Marc Henzelin, *Le Principe de l'Universalité en Droit Pénal International: Droit et Obligation pour les États de Poursuivre et Juger selon le Principe de l'Universalité* (Bâle/Genève/Munich: Helbing & Lichtenhahn et Bruxelles: Bruylant 2000). The principle is more accurately reflected in the obligation in provisions of various treaties, such as Article 7 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requiring that the state where the suspect is located, if it does not extradite that person, to submit the case to its competent authorities for the purpose of prosecution. If the decision not to prosecute were taken on impermissible grounds which were inconsistent with the independence of the prosecutor or if the legal proceedings were taken with the purpose of shielding the suspect from criminal responsibility, the obligation to

the *aut dedere aut judicare* rule applies, the state where the suspect is found must ensure that its courts can exercise all possible forms of geographic jurisdiction, including universal jurisdiction, in those cases where it will not be in a position to extradite the suspect to another state or to surrender that person to an international criminal court.

These two definitions, on universal jurisdiction and the *aut dedere aut judicare* principle, have been provisionally adopted by the Special Rapporteur in his first report.¹⁴

In addition, the oldest international law society, the *Institut de Droit International*, concluded in 1983 that “the rule *aut judicare aut dedere* should be strengthened and amplified, and it should provide for detailed methods of legal assistance”.¹⁵ The ILC included a rule on the *aut dedere aut judicare* obligation in the 1996 Draft Code of Crimes against the Peace and Security of Mankind (1996 Draft Code), explaining:

“The fundamental purpose of this principle is to ensure that individuals who are responsible for particularly serious crimes are brought to justice by providing for the effective prosecution and punishment of such individuals by a competent jurisdiction”.¹⁶

B. THE *AUT DEDERE AUT JUDICARE* OBLIGATION IN CONVENTIONAL LAW: A DUAL ALTERNATIVE EVOLVING TOWARD A TRIPLE OPTION

The *aut dedere aut judicare* obligation is contained in a number of conventions of different nature, covering both crimes under international as well as ordinary crimes of international concern and international private law.¹⁷ Up to the end of the last century most instruments

extradite would remain, unless the state where the person was located could obtain that evidence through mutual legal assistance, for example by video conferencing. Of course, if another state had sufficient admissible evidence, and the requested state where the suspect was located did not, the obligation to extradite would also still remain. The above history of these phrases and their rationales is based in part on accounts in a number of sources, including: M. Cherif Bassiouni & Edward M. Wise, *Aut Dedere Aut Judicare: The Duty to Extradite or Prosecute in International Law* 3-5 (Dordrecht/Boston/London: Martinus Nijhoff Publishers 1995); M. Cherif Bassiouni, *The Sources and Content of International Criminal Law: A Theoretical Framework*, in M. Cherif Bassiouni, ed., *International Criminal Law* 3, 5 (Ardsley, New York: Transnational Publishers, Inc. 2nd. ed. 1999); Henri Donnedieu de Vabres, *Introduction à l'étude du droit pénal international: essai d'histoire et de critique sur la compétence criminelle dans les rapports avec l'étranger* 183 (Paris: Sirey 1922); Henzelin, *supra*, 98 n.477.

¹⁴ International Law Commission, Preliminary report on the obligation to extradite or prosecute (*aut dedere aut judicare*), A/CN.4/571, para.31.

¹⁵ Institut de Droit International, New Problems of Extradition, VI(1), available at: www.idi-jil.org/idiE/resolutionsE/1983_camb_03_en.PDF.

¹⁶ Draft Code of Crimes against the Peace and Security of Mankind with commentaries, 1996, commentary to Article 8, para.3. International Law Commission, Report of the International Law Commission on the Work of its Forty-Eighth Session, 51 U.N. G.A.O.R. Supp. (N.10) at 9, U.N. Doc. A/51/10 (1996) (untreaty.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf).

¹⁷ Bustamante Code of International Private Law, adopted at the Sixth International Conference of American States in Havana in 1928. States parties: Bolivia, Brazil, Costa Rica, Cuba, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru and Venezuela. Article 345 provides that States parties are not obliged to extradite its nationals, in which case it is a duty to prosecute them (“*Los Estados contratantes no están obligados a entregar a sus nacionales. La*

just expressed the obligation in terms of a dual option - either extradite to another state or prosecute before the courts of the state where the suspect was located. Since the establishment of the two *ad hoc* International Criminal Tribunals, the International Criminal Court and a number of other international courts later, it appears to be reasonable to conclude that a state handing over a person requested by any international court would satisfy its duty and would not be breaking any obligation under international law. As discussed below (see Section I.D), states have begun to provide for such a triple option in legislation, which is not only state practice, but evidence that two branches of the state – the legislature and the executive - believe that the legislation is permitted under international law.

Indeed, six decades ago the drafters of the Geneva Conventions of 1949 envisaged that the third option would fully satisfy the *aut dedere aut judicare* obligation. The ICRC Commentary to article 49 of the First Convention asserts, as early as 1952, that “[t]here is nothing in the paragraph to exclude the handing over of the accused to an international penal tribunal”.¹⁸

The triple option was expressly included in the 1996 Draft Code of Crimes, adopted by the ILC, with respect to other crimes under international law. The Draft Code sets out the *aut dedere aut judicare* obligation in its Article 9, as follows:

“Without prejudice to the jurisdiction of an international criminal court, the State Party in the territory of which an individual alleged to have committed a crime set out in article 17 [genocide], 18 [crimes against humanity], 19 [crimes against United Nations and associated personnel] or 20 [war crimes] is found shall extradite or prosecute that individual.”¹⁹

In its commentary to that article, the ILC explains a possible third alternative course of action. In that case, a state would fulfill its obligations under international law either by extraditing the alleged offender who is found in its territory to another state, surrendering him or her to an international criminal court or prosecuting that person before its own courts.²⁰

The 2006 International Convention for the Protection of All Persons from Enforced Disappearance expressly provides for three alternatives for states. Article 11 reads as follows:

“The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the

nación que se niegue a entregar a uno de sus ciudadanos estará obligada a juzgarlo”).

¹⁸ International Committee of the Red Cross, The Geneva Conventions of 12 August 1949, Commentary, I Geneva Convention, Geneva, 1952, p.366.

¹⁹ Draft Code of Crimes, Article 9, Obligation to extradite or prosecute. Available, with commentaries at http://untreaty.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf

²⁰ *Yearbook of the International Law Commission, 1996*, vol. II, Part Two, p.32.

case to its competent authorities for the purpose of prosecution.”²¹

Therefore, according to the Convention, states will comply with their duty if they either extradite the alleged responsible to another state, surrender him or her to a permanent or *ad hoc* international criminal court or submit the case to their own courts for the purpose of investigation and prosecution.

C. ENACTED LEGISLATION ON CRIMINAL MATTERS INCLUDING THE OBLIGATION TO EXTRADITE OR PROSECUTE

A number of states have over the last years provided for the obligation to extradite or prosecute. The non exhaustive examples below should be read as complementing what states have reported to the ILC.

The Criminal Code of **Azerbaijan** provides that citizens or foreigners who have committed crimes against the peace and mankind, war crimes, terrorism, hostage-taking, torture, piracy and also other crimes, including those contained in treaties to which Azerbaijan is a party, shall be punished, irrespective of a place of committing a crime. The Code appears to contain a provision stating that if they are not extradited, a criminal proceeding shall be instituted.²²

The Criminal Code of **Bosnia and Herzegovina** provides for the duty to prosecute a non-citizen who has committed abroad a crime against a foreign state or other non-citizen, as long as the crime is punishable by no less than five years' imprisonment under the law of the place of perpetration of the crime and extradition has not been granted. This provision is not limited

²¹ International Convention for the Protection of All Persons from Enforced Disappearance, adopted on 20 December 2006 during the Sixty-first Session of the General Assembly by resolution A/RES/61/177. Not yet into force (81 signatories states and 7 parties, as of 15 January 2009). Indeed, such possibility had been mentioned by the *Institut de Droit International* in its 2005 resolution on universal jurisdiction (http://www.idi-iil.org/idiE/resolutionsE/2005_kra_03_en.pdf).

²² 2005 Criminal Code of the Azerbaijan Republic, Articles 12 (3) and 13 (3). (<http://www.legislationline.org/download/action/download/id/1658/file/4b3ff87c005675cfd74058077132.htm/preview>) provides:

“12.3. Citizens of the Azerbaijan Republic, foreigners and persons without the citizenship, who have committed crimes against the peace and mankind's, war crimes, terrorism, financing of terrorism, stealing of an air ship, capture of hostages, torture, a sea piracy, illegal circulation of narcotics and psychotropic substances, manufacturing or sale of false money, attack on persons or the organizations using the international protection, the crimes connected to radioactive materials, and also other crimes, punish of which stipulated in international agreements to which the Azerbaijan Republic is a party, shall be instituted to criminal liability and punishment under the Present Code, irrespective of a place of committing a crime..”

“13.3. If the persons, who have committed a crime outside of limits of the Azerbaijan Republic, shall not distributed out to the foreign state, and this action (action or inaction) is admitted as a crime according to the present Code, they shall be instituted to criminal proceedings in the Azerbaijan Republic.”

to crimes under international law.²³

According to the Penal Code of **Cape Verde**, national criminal law applies to crimes under international law committed abroad when the alleged perpetrator is found in any territory under the jurisdiction of Cape Verde and extradition is not granted. Likewise, the obligation to prosecute must be exercised in case of other crimes committed abroad by Cape Verde citizens or by foreign citizens against Cape Verde citizens, or with regard to crimes that Cape Verde has undertaken to prosecute through international conventions, when the extradition of the alleged offender is not granted.²⁴

²³ 2003 Criminal Code of Bosnia and Herzegovina, available at:

www.nottingham.ac.uk/law/hrlc/international-criminal-justice-unit/implementation-database.php

Article 12. Applicability of the Criminal legislation of Bosnia and Herzegovina to Offences Perpetrated outside the Territory of Bosnia and Herzegovina.

- (1) The criminal legislation of Bosnia and Herzegovina shall apply to anyone who, outside of its territory, perpetrates:
- a) Any criminal offence against the integrity of Bosnia and Herzegovina prescribed in Chapter Sixteen (*Criminal Offences against The Integrity of Bosnia and Herzegovina*) of this Code;
 - b) The criminal offence of counterfeiting of money or of counterfeiting of securities of Bosnia and Herzegovina, the criminal offence of counterfeiting of instruments of value or of forgery of trademarks, measures and weights issued on the basis of regulations made by the institutions of Bosnia and Herzegovina, as defined in Articles 205 through 208 of this Code;
 - c) A criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or intergovernmental agreements;
 - d) A criminal offence against an official or responsible person in the institutions of Bosnia and Herzegovina, related to his duty.
- (2) The criminal legislation of Bosnia and Herzegovina shall be applied to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence other than those specified in paragraph 1 of this Article.
- (3) The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates a criminal offence against Bosnia and Herzegovina or its citizen which is not specified in paragraph 1 of this Article.
- (4) The criminal legislation of Bosnia and Herzegovina shall be applied to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or non-citizen of Bosnia and Herzegovina a criminal offence for which, under the law in force in the place of perpetration of a criminal offence, a punishment of imprisonment for a term of five years or a more severe punishment may be imposed.
- (5) In the cases referred to in paragraphs 2 and 3 of this Article, the criminal legislation of Bosnia and Herzegovina shall be applied only if the perpetrator of the criminal offence is found within the territory of Bosnia and Herzegovina, or has been extradited to it, while in the case referred to in paragraph 4 of this Article, only if the perpetrator is found within the territory of Bosnia and Herzegovina and is not extradited to another state.

²⁴ Penal Code, art.4. "*Artigo 4º(Factos praticados fora do território nacional).*

a)- Salvo convenção internacional em contrário, a lei penal cabo-verdiana é aplicável a factos praticados fora do território da Cabo Verde nos seguintes casos:

b) Quando constituírem os crimes previstos nos artigos 138º, números 2 e 3, e 267º a 278º [crimes against the international community], desde que o agente seja encontrado em Cabo Verde e não possa ser extraditado.

d) Quando forem cometido por Cabo-verdianos, ou por estrangeiros contra cabo-verdianos, desde que o agente seja encontrado em Cabo Verde, os factos sejam igualmente puníveis pela legislação do lugar em que tiverem sido praticados e constituírem crime que legalmente admita extradição e esta

Among other cases of extraterritoriality, the Penal Code of **Colombia** applies to foreigners who are found in Colombia and who have committed a crime abroad against a foreigner. Article 16 (6) imposes as conditions that the crime is not political, punishable by three years' imprisonment or a heavier penalty and an extradition request is denied. The provision does not appear to be limited to crimes under international law.²⁵

The **El Salvador** Penal Code includes a provision whereby crimes under international law or crimes of concern to the international community as defined by a convention to which El Salvador is a state party and gross human rights violations committed outside its territory by foreigners shall be subjected to Salvadorian law. The Penal Code states that preference to seek trial shall be given through extradition to the state in whose territory the crime was committed, if the trial has not yet commenced in El Salvador.²⁶

não possa em concreto ser concedida.

e) Quando se trate de crimes que o Estado cabo-verdiano, por convenção internacional, se tenha obrigado a julgar."

²⁵ Código Penal, Ley 599/2000, of 24 July 2000, available at: www.ramajudicial.gov.co/csj_portal/Min/15992000.htm. Article 16 provides:

"Artículo 16. Extraterritorialidad. La ley penal colombiana se aplicará:

1. A la persona que cometa en el extranjero delito contra la existencia y la seguridad del Estado, contra el régimen constitucional, contra el orden económico social excepto la conducta definida en el Artículo 323 del presente Código, contra la administración pública, o falsifique moneda nacional, documento de crédito público, o estampilla oficial, aun cuando hubiere sido absuelta o condenada en el exterior a una pena menor que la prevista en la ley colombiana.

En todo caso se tendrá como parte cumplida de la pena el tiempo que hubiere estado privada de su libertad.

2. A la persona que esté al servicio del Estado colombiano, goce de inmunidad reconocida por el derecho internacional y cometa delito en el extranjero.

3. A la persona que esté al servicio del Estado colombiano, no goce de inmunidad reconocida por el derecho internacional y cometa en el extranjero delito distinto de los mencionados en el numeral 1º, cuando no hubiere sido juzgada en el exterior.

4. Al nacional que fuera de los casos previstos en los numerales anteriores, se encuentre en Colombia después de haber cometido un delito en territorio extranjero, cuando la ley penal colombiana lo reprima con pena privativa de la libertad cuyo mínimo no sea inferior a dos (2) años y no hubiere sido juzgado en el exterior.

Si se trata de pena inferior, no se procederá sino por querrela de parte o petición del Procurador General de la Nación.

5. Al extranjero que fuera de los casos previstos en los numerales 1, 2 y 3, se encuentre en Colombia después de haber cometido en el exterior un delito en perjuicio del Estado o de un nacional colombiano, que la ley colombiana reprima con pena privativa de la libertad cuyo mínimo no sea inferior a dos años (2) y no hubiere sido juzgado en el exterior.

En este caso sólo se procederá por querrela de parte o petición del Procurador General de la Nación.

6. Al extranjero que haya cometido en el exterior un delito en perjuicio de extranjero, siempre que se reúnan estas condiciones:

a) Que se halle en territorio colombiano;

b) Que el delito tenga señalada en Colombia pena privativa de la libertad cuyo mínimo no sea inferior a tres (3) años;

c) Que no se trate de delito político, y

d) Que solicitada la extradición no hubiere sido concedida por el gobierno colombiano. Cuando la extradición no fuere aceptada habrá lugar a proceso penal.

En el caso a que se refiere el presente numeral no se procederá sino mediante querrela o petición del Procurador General de la Nación y siempre que no hubiere sido juzgado en el exterior."

²⁶ Código Penal de El Salvador, Decreto legislativo 1030, of 27 April 1997; available at:

The Penal Code of **Estonia** includes a provision stating that when a foreign offender who allegedly committed a crime abroad is not extradited, he or she must be held accountable before national courts “if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act”. The provision appears to apply to all crimes, without exception.²⁷

In **Finland**, the Penal Code provides for the duty to try or extradite as long as the conduct, committed outside of Finland, is punishable by imprisonment for more than six months and if the state in whose territory the offence was committed has requested that charges be brought in a Finnish court or that the offender be extradited because of the offence, but the extradition request has not been granted. The *aut dedere aut judicare* principle does not seem to be limited to crimes under international law.²⁸

Articles 7 and 8 of the Criminal Code of **Kazakhstan** provides for the duty to try or prosecute in cases stipulated by an international treaty binding to Kazakhstan.²⁹

www.csi.gob.sv/leyes.nsf/ed400a03431a688906256a84005aec75/29961fcd8682863406256d02005a3cd4?OpenDocument.

“Principio de universalidad. Art. 10.- También se aplicará la ley penal salvadoreña a los delitos cometidos por cualquier persona en un lugar no sometido a la jurisdicción salvadoreña, siempre que ellos afectaren bienes protegidos internacionalmente por pactos específicos o normas del derecho internacional o impliquen una grave afectación a los derechos humanos reconocidos universalmente.”

“Art. 11.- En los casos a que se refieren los dos artículos anteriores, se aplicará la ley vigente en el lugar de la comisión del hecho punible, si sus disposiciones son más favorables al imputado que las contenidas en la ley penal salvadoreña; sin embargo, se dará preferencia a la pretensión del Estado en cuyo territorio se hubiere cometido el delito, si reclamare el juzgamiento antes de que se inicie el ejercicio de la acción penal.”

²⁷ Penal Code, of 6 June 2001, as amended (19 May 2004, entered into force 1 July 2004 - RT I 2004, 46, 329), art. 7 (1). Available at:

www.legislationline.org/upload/legislations/07/6a/4d16963509db70c09d23e52cb8df.htm.

Article 7 (Applicability of penal law by reason of person concerned) provides:

“The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act and if:

- 1) the act is committed against a citizen of Estonia or a legal person registered in Estonia;
- 2) the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act, or if the offender is an alien who has been detained in Estonia and is not extradited . . .”.

²⁸ Penal Code of Finland, 39/1889, as amended, Section 8 (see also Section 7). Available at: www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf.

²⁹ These provisions appear to establish a general obligation to prosecute crimes subject to universal jurisdiction, save those cases where extradition is granted. Law No. 167 of 16 July 1997 of the Republic of Kazakhstan, Criminal Code of the Republic of Kazakhstan, available at:

www.legislationline.org/upload/legislations/25/c8/ca1cfb8a67f8a1c2ffe8de6554a3.htm.

Article 7 (The Effect of Criminal Law with Regard to Persons Who Committed a Crime Outside of the Boundaries of the Republic of Kazakhstan) provides in paragraph (4):

“Foreigners who committed crimes outside of the boundaries of the Republic of Kazakhstan shall be

The 2008 Act on the Punishment on Crimes under the Jurisdiction of the International Criminal Court of the Republic of **Korea**, seems to implicitly incorporate the obligation regarding genocide, crimes against humanity and war crimes.³⁰

The Criminal Code of The Former Yugoslav Republic of **Macedonia** includes an *aut dedere aut judicare* provision for all kind of crimes, as long as the conduct committed abroad by a foreigner found in Macedonia is punishable with a five-year imprisonment term or a more severe punishment.³¹

The 2006 Criminal Code of **Malta** contains a provision which states that: “the courts in Malta shall also have jurisdiction over the offences laid down in this sub-title [acts of terrorism, funding of terrorism and ancillary offences] where... the offender is a person suspected or convicted of an offence laid down in this sub-title and whose surrender or extradition to another country for such an offence is refused by Malta...”.³²

The 2003 **Montenegro** Criminal Code contains an extradite or prosecute clause for crimes – without specifying categories committed abroad by foreigners, if the conduct is punishable

subject to criminal liability in accordance with the present Code in cases in which a given crime was directed against the interests of the Republic of Kazakhstan, and in cases stipulated by an international treaty of the Republic of Kazakhstan, if those foreigners were not convicted in that other state, and are brought to criminal liability on the territory of the Republic of Kazakhstan.”

Article 8 (Extradition of Persons Who Committed a Crime) provides:

- “1. Citizens of the Republic of Kazakhstan who committed a crime on the territory of another state shall not be subject to extradition to that other state, unless it is otherwise established by international treaties.
2. Foreigners and stateless persons who committed a crime outside of the boundaries of the Republic of Kazakhstan, who are on the territory of the Republic of Kazakhstan, may be extradited to another state to be brought to criminal liability, or to serve punishment in accordance with an international treaty of the Republic of Kazakhstan.”

³⁰ 2008 Act on the Punishment on Crimes under the Jurisdiction of the International Criminal Court, Article 3, (“This Act shall be also applied to a foreigner, who is present in the territory of the Republic of Korea after having committed any crime against humanity, etc. outside the Republic of Korea”). Available at: http://korea.na.go.kr/abo/zin_read.jsp?cha=34&boarditemid=1000008397.

³¹ Criminal Code of the Republic of Macedonia, available at www.legislationline.org/legislation.php?tid=1&lid=6272

Article 119 (Application of the criminal legislature to a foreigner who commits a crime abroad).

(1) The criminal legislature is applicable also to a foreigner who commits a crime outside the territory of the Republic of Macedonia but directed against her or against her citizen, also when this does not concern crimes listed in article 117, if he finds himself on the territory of the Republic of Macedonia or is extradited.

(2) The criminal legislature is also applicable to a foreigner who commits a crime abroad, against a foreign country or a foreigner, who according to that legislature may be sentenced to five years of imprisonment or to a more severe punishment, when he finds himself on the territory of the Republic of Macedonia, and when he is not extradited to the foreign country. If not otherwise determined by this Code, in such a case the court may not pronounce a punishment more severe than the punishment that is prescribed by law of the country in which the crime was committed.

³² Article 328 M, Criminal Code. See also Article 5(1)(h) on the duty to try when the extradition request has been denied either on reasons of Maltese nationality of the person requested or the crime being subject to death penalty in the country which made the request. Available at: www.legislationline.org/upload/legislations/4a/84/8881d69dda92a96bc8e400db18dd.pdf.

with not less than five years' imprisonment under the law of the country in which the crime was committed.³³

The 2007 Penal Code of **Panama** includes a provision under which all crimes, without exception, committed by a national or a foreigner abroad, if not extradited, shall be subject to investigation and prosecution according to Panama's criminal legislation.³⁴

The 1991 Penal Code of **Peru** states that national legislation may be applied to nationals and foreigners when a request for extradition is not granted.³⁵ The Code does not specify on the nature of crimes subject to this provision.

The Penal Code of **Portugal** provides the duty to prosecute if a foreigner is found within Portugal and his or her extradition request or an European arrest order is denied.³⁶ The Penal

³³ Criminal Code, ("Official Gazette of the Republic of Montenegro " no. 70/2003, and Correction, no. 13/2004), available at: www.legislationline.org/legislation.php?tid=1&lid=6221

Article 137 (Applicability of criminal legislation of Montenegro to a foreigner who commits a criminal offence abroad).

"(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who, outside the territory of Montenegro, commits a criminal offence against it or its national for criminal offences other than those referred to in Article 135 of the present Code, should s/he be apprehended in the territory of Montenegro or extradited to the SMN.

(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence for which under the law of the country it was committed in, a prison penalty may be pronounced in duration of five years or more, should s/he be caught in the territory of Montenegro but not extradited to a foreign country. If not otherwise prescribed by the present Code, a court of law may not in such an instance pronounce a penalty more severe than one prescribed by the law of the country in which the criminal offence was committed."

³⁴ Código Penal de Panamá, Ley No.14, of 18 May 2007 (Available at: www.gacetaoficial.gob.pa/pdfTemp/25796/4580.pdf). Article 20 provides:

"Artículo 20. También se aplicará la ley penal panameña a los delitos cometidos en el extranjero, cuando:

1. Produzcan o deban producir sus resultados en el territorio panameño.
2. Sean cometidos en perjuicio de un panameño o sus derechos.
3. Sean cometidos por agentes diplomáticos, funcionarios o empleados panameños que no hubieran sido juzgados en el lugar de su comisión por razones de inmunidad diplomática.
4. Una autoridad nacional haya negado la extradición de un panameño o de un extranjero."

³⁵ Código Penal de Perú, of 8 April 1991 (Available at: <http://spij.minjus.gob.pe/CLP/contenidos.dll?f=templates&fn=default-codpenal.htm&vid=Ciclope:CLPdemo>) Article 3 provides: "Artículo 3 ("Principio de Representación"). La Ley Penal peruana podrá aplicarse cuando, solicitada la extradición, no se entregue al agente a la autoridad competente de un Estado extranjero."

³⁶ Penal Code, Article 5. It states: "*Factos praticados fora do território português.*

1 — *Salvo tratado ou convenção internacional em contrário, a lei penal portuguesa é ainda aplicável a factos cometidos fora do território nacional:*

a) *Quando constituírem os crimes previstos nos artigos 221.º, 262.º a 271.º, 308.º a 321.º e 325.º a 345.º;*

b) *Contra portuguesas, por portuguesas que viverem habitualmente em Portugal ao tempo da sua prática e aqui forem encontrados;*

c) *Quando constituírem os crimes previstos nos artigos 159.º a 161.º, 171.º, 172.º, 175.º, 176.º e*

Code applies to all crimes, save those contained in the Act implementing the Rome Statute – in which case the triple alternative applies.

The 2005 Penal Code of **Serbia** contains a general provision on the duty to extradite or prosecute which covers crimes other than those which set out conventionally the *aut dedere aut judicare* obligation.³⁷

D. ENACTED AND DRAFT LEGISLATION ON CRIMINAL MATTERS INCLUDING A THIRD ALTERNATIVE

In recent years several states have provided for a third alternative option when enacting legislation implementing the Rome Statute of the International Criminal Court or other criminal legislation. Indeed, in the case of surrenders to the International Criminal Court, it is a duty for states parties to the Rome Statute to surrender persons – pursuant the Statute - and not an alternative. Sometimes these pieces of enacted or draft legislation provide clearly for the obligation to extradite or prosecute, while at other times the *aut dedere aut judicare* rule appears to be optional. The following examples of enacted and draft legislation, will illustrate this point.

278.º a 280.º, desde que o agente seja encontrado em Portugal e não possa ser extraditado ou entregue em resultado de execução de mandado de detenção europeu ou de outro instrumento de cooperação internacional que vincule o Estado Português;
d) Quando constituírem os crimes previstos nos artigos 144.º, 163.º e 164.º, sendo a vítima menor, desde que o agente seja encontrado em Portugal e não possa ser extraditado ou entregue em resultado de execução de mandado de detenção europeu ou de outro instrumento de cooperação internacional que vincule o Estado Português;
e) Por portuguesas, ou por estrangeiros contra portuguesas, sempre que:
i) Os agentes forem encontrados em Portugal;
ii) Forem também puníveis pela legislação do lugar em que tiverem sido praticados, salvo quando nesse lugar não se exercer poder punitivo; e
iii) Constituírem crime que admita extradição e esta não possa ser concedida ou seja decidida a não entrega do agente em execução de mandado de detenção europeu ou de outro instrumento de cooperação internacional que vincule o Estado Português;
f) Por estrangeiros que forem encontrados em Portugal e cuja extradição haja sido requerida, quando constituírem crimes que admitam a extradição e esta não possa ser concedida ou seja decidida a não entrega do agente em execução de mandado de detenção europeu ou de outro instrumento de cooperação internacional que vincule o Estado Português;
g) Por pessoa colectiva ou contra pessoa colectiva que tenha sede em território português.
 2 — *A lei penal portuguesa é ainda aplicável a factos cometidos fora do território nacional que o Estado Português se tenha obrigado a julgar por tratado ou convenção internacional.*”

³⁷ Serbia and Montenegro 2005 Criminal Code, Official Gazette of RS, Nos. 85/2005, 88/2005, 107/2005 (available at: www.osce.org/documents/fr/y/2006/02/18196_en.pdf). Article 9 (Applicability of Criminal Legislation of Serbia to a Foreign Citizen Committing a Criminal Offence Abroad) reads:

“(1) Criminal legislation of Serbia shall also apply to a foreigner who commits a criminal offence against Serbia or its citizen outside the territory of Serbia other than those defined in Article 7 hereof, if they are found on the territory of Serbia or Montenegro or if extradited to the State Union of Serbia and Montenegro.

(2) Criminal legislation of Serbia shall also apply to a foreigner who commits a criminal offence abroad against a foreign state or foreign citizen, when such offence is punishable by five years' imprisonment or a heavier penalty, pursuant to laws of the country of commission, if such person is found on the territory of Serbia and is not extradited to the foreign state. Unless otherwise provided by this Code, the court may not impose in such cases a penalty heavier than set out by the law of the country where the criminal offence was committed.”

In 2007, **Argentina** enacted the Law Implementing the Rome Statute. It contains a provision under the title “*aut dedere aut iudicare* principle”, which provides as follows:

[w]hen a person suspected of having committed a crime defined in this law is found in the territory of the Republic or in any place under its jurisdiction and it does not extradite or surrender him or her to the International Criminal Court, the Argentine Republic shall take all measures as may be necessary to exercise its jurisdiction with regard to such an offense.³⁸

The triple alternative set out in this law is applicable to genocide, crimes against humanity and war crimes, as defined by the law. The Federal Criminal Procedural Code already encompassed a dual alternative as early as 1885.

The Bill implementing the Rome Statute in **Brazil**, submitted by the Presidency to the Congress, provides that when a foreigner suspected of genocide, crimes against humanity or war crimes is found in its territory Brazilian law will apply, unless an extradition request by a state or a surrender to the International Criminal Court is granted.³⁹

The 2003 Law on the Application of the Statute of the International Criminal Court and on the Prosecution of Criminal Acts against the International Law on War and Humanitarian Law of **Croatia** includes a wording which may imply the duty to try before Croatian national courts whenever a trial before the International Criminal Court or any other foreign court is not taking place. Article 10(2) provides, suggesting the triple option, that:

³⁸ Law 26.200 (“Art. 4° Principio *aut dedere aut iudicare*. Cuando se encuentre en territorio de la República Argentina o en lugares sometidos a su jurisdicción una persona sospechada de haber cometido un crimen definido en la presente ley y no se procediera a su extradición o entrega a la Corte Penal Internacional, la República Argentina tomará todas las medidas necesarias para ejercer su jurisdicción respecto de dicho delito”).

³⁹ *Projeto de Lei, Dispõe sobre o crime de genocídio, define os crimes contra a humanidade, os crimes de guerra e os crimes contra a administração da justiça do Tribunal Penal Internacional(2008)*. Art. 128. O art. 7º do Decreto-Lei nº 2.848, de 7 de dezembro de 1940 (Código Penal, Parte Geral), passa a ter a seguinte redação:

“Art. 7º III - os crimes de genocídio, contra a humanidade, de guerra, contra a administração da justiça do Tribunal Penal Internacional e outros que venham a ser acrescidos à jurisdição desse Tribunal com a adesão do Brasil, ainda que cometidos no estrangeiro, por agente que não seja brasileiro.

§ 3º b) houve representação do Advogado-Geral da União.

§ 4º Nos casos do inciso III, a aplicação da lei brasileira obedecerá às seguintes regras:

I - nos crimes praticados no estrangeiro, por agente não brasileiro, a aplicação da lei brasileira dependerá do concurso das seguintes condições:

a) entrar o agente no território nacional ou ter havido representação do Advogado-Geral da União;

b) não estar sendo o agente processado no estrangeiro ou não ter aí sido condenado;

c) não ter sido concedida a extradição, nem requisitada a entrega ao Tribunal Penal Internacional;

II - nos crimes contra a administração da justiça do Tribunal Penal Internacional, a aplicação da lei penal brasileira dependerá do concurso das seguintes condições:

a) ser o agente brasileiro ou o crime ter sido praticado no território nacional, ou, nas demais hipóteses, estarem presentes as condições do inciso I;

b) houver requisição do Tribunal Penal Internacional;

c) não ter sido o agente condenado no estrangeiro ou não ter sido processado pelo Tribunal Penal Internacional.” (NR)

“[p]erpetrators (...) shall also be prosecuted in the Republic of Croatia, regardless of the place of commission of the crime and citizenship of the perpetrator, if the perpetrator has been arrested in or extradited to the Republic of Croatia, and the criminal prosecution has not been conducted before the International Criminal Court or before a court of another state, or if the conditions are not in place for holding a trial against the perpetrator before the International Criminal Court, a court of the state in which the crime was committed, a court of the state whose citizen the perpetrator is or another court competent for the trial, before which the conduct of a fair procedure can be expected.”⁴⁰

In **France**, the *Projet de Loi* implementing the Rome Statute, adopted by Senate in June 2008, also contains a triple alternative regarding genocide, crimes against humanity and war crimes.⁴¹

Although the Criminal Code of **Georgia** does not include a clear reference to the *aut dedere aut judicare* principle as an obligation, it provides, after declaring that foreigners or stateless persons who commit a serious or grave crime abroad may be subject to punishment before Georgian courts, that if such persons are on the territory of Georgia they may be extradited to another state or surrendered to the ICC for criminal prosecution.⁴²

⁴⁰ Article 10(2), Law on the Application of the Statute of the International Criminal Court and on the Prosecution of Criminal Acts against the International Law on War and Humanitarian Law, Number: 01-081-03-3537/2, Zagreb, 24 October 2003. Available at: http://www.nottingham.ac.uk/shared/shared_hrlcicju/Croatia/November_2003_Law_on_the_Application_of_the_Statute_of_the_International_Criminal_Court_English_.pdf

⁴¹ *Disposition modifiant le Code de Procédure Pénale*, Available at : http://ameli.senat.fr/publication_pl/2006-2007/308.html. Article 7 *bis* (nouveau).
 « 1 Après l'article 689-10 du code de procédure pénale, il est inséré un article 689-11 ainsi rédigé :
 2 « Art. 689-11. – Peut être poursuivie et jugée par les juridictions françaises toute personne qui réside habituellement sur le territoire de la République et qui s'est rendue coupable à l'étranger de l'un des crimes relevant de la compétence de la Cour pénale internationale en application de la convention portant Statut de la Cour pénale internationale signée à Rome le 18 juillet 1998, si les faits sont punis par la législation de l'État où ils ont été commis ou si cet État ou l'État dont il a la nationalité est partie à la convention précitée.
 3 « La poursuite de ces crimes ne peut être exercée qu'à la requête du ministère public si aucune juridiction internationale ou nationale ne demande la remise ou l'extradition de la personne. À cette fin, le ministère public s'assure auprès de la Cour pénale internationale qu'elle décline expressément sa compétence et vérifie qu'aucune autre juridiction internationale compétente pour juger la personne n'a demandé sa remise et qu'aucun autre État n'a demandé son extradition. »

⁴² Article 6 (2), The Criminal Code of Georgia, amendments, art. 6 (2) (available at http://www.nottingham.ac.uk/shared/shared_hrlcicju/Georgia/Law_on_Amendments_to_the_Criminal_Code.pdf). Article 5 (3) (3) of the Criminal Code provides:

“A foreign national or a stateless person not residing permanently in Georgia, who commits abroad an act provided by this Code but not considered as a crime by the legislation of the country where it was committed, shall be imposed criminal liability according to this Code if this is a serious or a grave crime or if criminal responsibility for this crime is provided by international treaty of Georgia.

The 2004 Act Implementing the Rome Statute in **Portugal** includes a provision whereby that law - which makes genocide, crimes against humanity and war crimes criminal under Portuguese law - is also applicable to crimes committed abroad if the alleged perpetrator is found in Portugal and cannot be extradited to another state or surrendered to the International Criminal Court.⁴³

The Penal Code of **Switzerland** may be a good example of the evolution from the dual alternative, regarding those crimes punishment of which is required in an international convention to which Switzerland is a party, towards the triple alternative, as stated in a draft amendment to the Penal Code. The draft amendment has been adopted by the Federal Council, with regard to genocide, crimes against humanity and war crimes. The draft legislation, if enacted, will establish the duty to try a suspect before national courts in those cases of crimes committed abroad – regardless of the nationality of the alleged perpetrator or the victim - when the suspect is found in Switzerland and is neither extradited to another state nor surrendered to an international criminal court whose jurisdiction Switzerland has recognized.⁴⁴

Article 6(2) The citizen of a foreign state as well as the stateless person being on the territory of Georgia, may be extradited to another state or surrendered to the ICC for criminal prosecution or for serving a sentence in manner and to the extent determined by the International Agreement of Georgia.

⁴³ Lei n.º 31/2004, *adapta a legislação penal portuguesa ao Estatuto do Tribunal Penal Internacional, tipificando as condutas que constituem crimes de violação do direito internacional humanitário – 17.ª alteração ao código penal.*

Artigo 5.º, Aplicação no espaço: factos praticados fora do território português 1 - As disposições da presente lei são também aplicáveis a factos praticados fora do território nacional, desde que o agente seja encontrado em Portugal e não possa ser extraditado ou seja decidida a sua não entrega ao Tribunal Penal Internacional.

⁴⁴ The Penal Code of Switzerland, available at http://www.admin.ch/ch/fr/rs/311_0/index.html, provides as follows:

- « Art. 6. Crimes ou délits commis à l'étranger, poursuivis en vertu d'un accord international.
- 1) Le présent code est applicable à quiconque commet à l'étranger un crime ou un délit que la Suisse s'est engagée à poursuivre en vertu d'un accord international:
 - a. si l'acte est aussi réprimé dans l'État où il a été commis ou que le lieu de commission de l'acte ne relève d'aucune juridiction pénale et
 - b. si l'auteur se trouve en Suisse et qu'il n'est pas extradé.
 - 2) Le juge fixe les sanctions de sorte que l'auteur ne soit pas traité plus sévèrement qu'il ne l'aurait été en vertu du droit applicable au lieu de commission de l'acte.
 - 3) Sous réserve d'une violation grave des principes fondamentaux du droit constitutionnel et de la CEDH, l'auteur ne peut plus être poursuivi en Suisse pour le même acte:
 - a. s'il a été acquitté à l'étranger par un jugement définitif;
 - b. s'il a subi la sanction prononcée contre lui à l'étranger, que celle-ci lui a été remise ou qu'elle est prescrite.
 - 4) Si, en raison de cet acte, l'auteur a été condamné à l'étranger et qu'il n'y a subi qu'une partie de la peine prononcée contre lui, le juge impute cette partie sur la peine à prononcer. Il décide si la mesure ordonnée et partiellement exécutée à l'étranger doit être poursuivie ou imputée sur la peine prononcée en Suisse. »

The *Projet de Loi fédérale Projet portant modification de lois fédérales en vue de la mise en oeuvre du Statut de Rome de la Cour pénale internationale*

The Law Implementing the Rome Statute in **Uruguay**, enacted in 2006, provides that in those cases where a person suspected of having committed a crime defined by the law (genocide, crimes against humanity, war crimes, torture, enforced disappearances, extrajudicial executions and certain other crimes) is found in Uruguay or in any other territory under its jurisdiction, there is a duty to carry out all measures needed in order to exercise Uruguay's jurisdiction, unless an extradition by a state or a surrender by the International Criminal Court is requested. The provision also states that the investigation or prosecution shall be carried out as if the crime had been committed in Uruguay, regardless the territory where the crime was committed and irrespective of the alleged perpetrator or victim's nationality.⁴⁵

II. COMMENTS AND INFORMATION RECEIVED BY THE ILC FROM GOVERNMENTS

Pursuant to UN General Assembly Resolution 61/34 of 4 December 2006, states were invited to provide information to the ILC on international treaties to which they were bound, containing the obligation to extradite or prosecute and reservations made to limit the application of this obligation; domestic legal regulations concerning the obligation; judicial practice reflecting the application of the obligation and crimes or offences to which the

(www.ejpd.admin.ch/etc/medialib/data/sicherheit/gesetzgebung/internationaler_strafgerichtshof.Par.0015.File.tmp/entw-f.pdf) provides:

« Art. 264m (nouveau), Quiconque commet à l'étranger un des actes visés aux titres 12bis et 12ter ou à l'art. 264k est punissable s'il se trouve en Suisse et qu'il n'est pas extradé ni remis à un tribunal pénal international dont la compétence est reconnue par la Suisse. Lorsque l'auteur n'est pas de nationalité suisse et que l'acte n'a pas été commis contre un ressortissant suisse, les autorités peuvent suspendre la poursuite pénale ou y renoncer, sous réserve de la conservation des preuves:

a. si une autorité étrangère ou un tribunal pénal international dont la compétence est reconnue par la Suisse poursuit l'infraction et que l'auteur est extradé ou remis à ce tribunal, ou

b. si l'auteur ne se trouve plus en Suisse et qu'il n'est pas probable qu'il y retourne.

L'art. 7, al. 4 et 5, est applicable, à moins que l'acquittement, la remise de peine ou la prescription de la peine à l'étranger n'aient eu pour but de protéger indûment l'auteur de toute peine. »

⁴⁵ Law 18.026, *de cooperación con la Corte Penal Internacional en materia de lucha contra el genocidio, los crímenes de guerra y de lesa humanidad*. Artículo 4 (2):

“Cuando se encontrare en territorio de la República o en lugares sometidos a su jurisdicción, una persona sospechada de haber cometido un crimen de los tipificados en los Títulos I a IV de la Parte II de la presente ley, el Estado uruguayo está obligado a tomar las medidas necesarias para ejercer su jurisdicción respecto de dicho crimen o delito, si no recibiera solicitud de entrega a la Corte Penal Internacional o pedidos de extradición, debiendo proceder a su enjuiciamiento como si el crimen o delito se hubiese cometido en territorio de la República, independientemente del lugar de su comisión, la nacionalidad del sospechado o de las víctimas . . .”.

obligation is applied in the legislation or practice of a state. A year later, through Resolution 62/66 of 6 December 2007, the invitation to states was expanded to cover additional topics, such as: “a) whether the state has authority under its domestic law to extradite persons in cases not covered by a treaty or to extradite persons of its own nationality? b) Whether the state has authority to assert jurisdiction over crimes occurring in other States that do not involve one of its nationals? c) Whether the State considers the obligation to extradite or prosecute as an obligation under customary international law and if so to what extent?” As of 31 May 2008, 23 states have submitted reports to the ILC.⁴⁶

The reports submitted by the few states which did so are often partial, contradictory or simply mistaken. Although some states have reported a number of conventions providing for the *aut dedere aut judicare* obligation, some others have excluded the same instruments, presumably as not containing such a provision.⁴⁷ At the same time while some states have asserted that the obligation to extradite or prosecute does not exist outside international treaties,⁴⁸ some others have stated that a rule of customary international law in respect of certain categories of crimes could not be *a priori* ruled out and requires further study by the Special Rapporteur.⁴⁹

Finally, some states have stated that the Convention on the High Seas (1958), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) and the Convention on the Law of the Sea (1982) contain the obligation to extradite or prosecute. However, these conventions do not contain such a duty, but they provide for permissive universal jurisdiction.

Amnesty International has concluded that no less than 37 international or regional instruments provide for the *aut dedere aut judicare* obligation, exceeding by far the number of conventions which states normally include in their reports. Several states have also reported on a number of bilateral extradition agreements which, according to them, include

⁴⁶ Res.61/34 of 4 December 2006 and 62/66 of 6 December 2007. Those states are, in chronological order: Austria, Croatia, Japan, Monaco, Qatar, Thailand and United Kingdom (A/CN.4/579 of 5 March 2007); Chile, Ireland, Lebanon, Mexico, Slovenia, Sweden and Tunisia (A/CN.4/579/Add.1 of 30 April 2007); United States of America, Latvia, Serbia and Sri Lanka (A/CN.4/579/Add.2 of 5 June 2007); Kuwait (A/CN.4/579/Add.3 of 2 July 2007); Poland (A/CN.4/579/Add.4 of 11 July 2007); Chile (complementing information), Guatemala, Mauritius, The Netherlands and Russian Federation (A/CN.4/599 of 30 May 2008). More recent information may have been received by the ILC, but any such information has yet to be published.

⁴⁷ See, for example, the omission in Japan, Thailand and United States of America reports to the ILC concerning their *aut dedere aut judicare* obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as providing for the obligation.

⁴⁸ The USA asserted at A/CN.4/579/Add.2, para.2, that “The United States does not believe that there is a general obligation under customary international law to extradite or prosecute individuals for offences not covered by international agreements containing such obligation”. The statement cited no evidence in support of this claim.

⁴⁹ See statement by Russia at A/CN.4/599, in particular paras.47-55 (“We do not yet see such convincing evidence of the existence of a customary rule *aut dedere aut judicare*. [T]he question of the establishment of an obligation *aut dedere aut judicare* in customary international law with respect to a small number of criminal acts that arouse the concern of the entire international community merits separate analysis. This concerns primarily genocide, war crimes and crimes against humanity”).

the obligation. This paper makes no reference to bilateral extradition treaties, but it is important to pay attention to them as they may contribute to elucidate the true nature of the obligation and its scope.

Annex I is a compilation of treaty provisions containing the *aut dedere aut judicare* obligation, which allows the reader to revise and confirm Amnesty International's view. Annex II contains the few interpretative declarations or reservations made by states to provisions containing this obligation. Finally, Annex III to this document shows an up-to-date list of selected international and regional instruments containing the obligation and their status of signature and ratification (as of 7 January 2009).⁵⁰

III. JURISPRUDENCE BY NATIONAL AND INTERNATIONAL COURTS AND UN TREATY BODIES

In addition to the limited number of judicial decisions reported by states to the ILC, a number of other judicial decisions containing the obligation to extradite or prosecute has arisen in judicial pronouncements.

In 1998, a Trial Chamber of the **International Criminal Tribunal for the former Yugoslavia** concluded in the *Furundzija* case that, independently of any treaty, there is an obligation to extradite or try persons suspected of torture because of its *jus cogens* nature of the prohibition of torture. The Trial Chamber stated:

“Furthermore, at the individual level, that is, that of criminal liability, it would seem that one of the consequences of the *jus cogens* character bestowed by the international community upon the prohibition of torture is that every state is entitled to investigate, prosecute and punish or extradite individuals accused of torture, who are present in a territory under its jurisdiction. Indeed, it would be inconsistent on the one hand to prohibit torture to such an extent as to restrict the normally unfettered treaty-making power of sovereign states, and on the other hand bar states from prosecuting and punishing those torturers who have engaged in this odious practice abroad. This legal basis for states' universal jurisdiction over torture bears out and strengthens the legal foundation for such jurisdiction found by other courts in the inherently universal character of the crime. It has been held that international crimes being universally condemned wherever they occur, every State has the right to

⁵⁰ A number of States, as Austria, Guatemala, Japan, Mexico, Slovenia, Sweden and the United States of America have stated in their reports to the ILC that their reservations to multilateral treaties do not affect provisions relating to the obligation to extradite or prosecute.

prosecute and punish the authors of such crimes.⁵¹

In the *Goiburú v. Paraguay* case, the **Inter American Court of Human Rights** explained the scope of the *aut dedere aut judicare* obligation regarding the terms of the American Convention on Human Rights by concluding that:

“[a] State cannot grant direct or indirect protection to those accused of crimes against human rights by the undue application of legal mechanisms that jeopardize the pertinent international obligations. Consequently, the mechanisms of collective guarantee established in the American Convention, together with the regional and universal international obligations on this issue, bind the States of the region to collaborate in good faith in this respect, either by conceding extradition or prosecuting those responsible for the facts of this case on their territory.”⁵²

The **Committee against Torture** has concluded, while explaining the scope of Article 7 of the Convention, that:

“The Committee recalls that, under article 7 of the Convention, “the State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution”. It notes that the obligation to prosecute the alleged perpetrator of acts of torture does not depend on the prior existence of a request for his extradition. The alternative available to the State party under article 7 of the Convention exists only when a request for extradition has been made and puts the State party in the position of having to choose between (a) proceeding with extradition or (b) submitting the case to its own judicial authorities for the institution of criminal proceedings, the objective of the provision being to prevent any act of torture from going unpunished.”⁵³

Although courts in **Argentina** have not yet exercised jurisdiction based on the *aut dedere aut judicare* obligation, the issue is mentioned in several rulings. In cases before the Supreme Court, like *Simón*,⁵⁴ *Astiz*,⁵⁵ *Lariz Iriondo*,⁵⁶ there are separate opinions developing the

⁵¹ ICTY, Trial Chamber, *Prosecutor v. Anto Furundzija*, Judgment of 10 December 1998, para.156. Available at: <http://www.un.org/icty/furundzija/trialc2/judgement/index.htm>.

⁵² Inter-American Court of Human Rights, case of *Goiburú et al. v. Paraguay*, Judgment of September 22, 2006 (Merits, Reparations and Costs), para.132, available at www.corteidh.or.cr/docs/casos/articulos/seriec_153_ing.pdf.

⁵³ *Suleymane Guengueng et autres v. Sénégal*, para.9(7). Communication No. 181/2001, CAT/C/36/D/181/2001 of 19 May 2006.

⁵⁴ S. 1767. XXXVIII, recurso de hecho, *Simón, Julio Héctor y otros s/ privación, ilegítima de la libertad*, causa N°17.768C, 14 June 2005 (see separate opinion of Judge Zaffaroni, para.31).

⁵⁵ A. 1553. XXXIX. R.O. *Astiz, Alfredo Ignacio s/ extradición*, of 11 December 2003 (separate opinion Judge Maqueda, para.4°).

concept.

The Federal Court of **Australia** asserted, in the cases concerning the *Native Title Amendment Act 1998* and the *Arabunna People*, the customary character of the obligation *aut dedere aut judicare*. It states that:

“It follows from the obligation to prosecute or extradite, imposed by international customary law on Australia as a nation State, that it would be constitutionally permissible for the Commonwealth Parliament to enact legislation providing for the trial within Australia of persons accused of genocide, wherever occurring”.

“[t]he prohibition of genocide is a peremptory norm of customary international law, giving rise to a non-derogable obligation by each nation State to the entire international community. This is an obligation independent of the *Convention on the Prevention and Punishment of the Crime of Genocide*. It existed before the commencement of that Convention in January 1951, probably at least from the time of the United Nations General Assembly resolution in December 1946. I accept, also, that the obligation imposed by customary law on each nation State is to extradite or prosecute any person, found within its territory, who appears to have committed any of the acts cited in the definition of genocide set out in the Convention. It is generally accepted this definition reflects the concept of genocide, as understood in customary international law.⁵⁷”

In **Chile**, the Appeals Court of Santiago stated in the *Sandoval* case that, among other consequences of the crime of enforced disappearance (as defined by the Inter-American Convention on Forced Disappearance of Persons) are: individual criminal responsibility, state responsibility, the inadmissibility of due obedience, the non-applicability of statutory limitations, universal jurisdiction and the obligation to extradite or prosecute.⁵⁸

In the *Fujimori* extradition case, the Supreme Court of Chile declared that the 1932

⁵⁶ L. 845. XL. R.O., *Lariz Iriondo, Jesús María s/ solicitud de extradición* of 10 May 2005 (separate opinion of Judge Belluscio, p.70).

⁵⁷ Federal Court of Australia, *Re Thompson; Ex parte Nulyarimma* (1998) 136 ACT 9,1 September 1999 (Available at: <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/1999/1192.html?query=duty%20to%20extradite>).

⁵⁸ Rol N° 11.821-2003 Pronunciada por la Quinta Sala de la II^{ta}. Corte de Apelaciones de Santiago integrada por los Ministros Montiglio Rezzio, Gómez Sepúlveda y Llanos Mansilla) of 5 January 2004, (“39°. *Que la Convención sobre Desaparición Forzada de Personas al tipificar el delito de Desaparición Forzada de personas como un Delito Internacional, acarrea las siguientes consecuencias jurídicas: la responsabilidad individual y la responsabilidad del Estado, la inadmisibilidad de la eximente de obediencia debida a una orden superior, la jurisdicción universal, la obligación de extraditar o juzgar a los responsables del delito, la obligación de no otorgar asilo a los responsables del delito, la imprescriptibilidad de la acción penal, la improcedencia de beneficiarse de actos del poder ejecutivo o legislativo de los cuales pueda resultar la impunidad del delito y la obligación de investigar y sancionar a los responsables del delito.*”) Chile has signed but had not yet ratified the Inter-American Convention on Forced Disappearance of Persons as of 15 January 2009.

Extradition Treaty between Chile and Peru permits both states to deny the extradition of a national citizen. However, the Supreme Court also recognized that in such cases there is a duty to prosecute the case before national courts as if the crime had been committed in its own territory.⁵⁹ A few months before, Chile had reported to the ILC that the 1932 Extradition Treaty contained the *aut dedere aut judicare* obligation.⁶⁰

In **France**, the *Cour de Cassation*, in the *Disparus de Beach* case, has confirmed the *aut dedere aut judicare* obligation regarding the crime of torture, as contained in the Criminal Procedure Code, when the suspect is found in France.⁶¹

In **Guatemala**, the Constitutional Court decided on 12 December 2007 not to grant two extradition requests made by an investigating Judge of Spain, based on the erroneous conclusion that in its view Spain could not exercise universal jurisdiction in the case. The case in Spain, known as the *Rios Montt* case, is mainly based on the genocide of Mayan population in Guatemala during the armed conflict and killings and other crimes committed against internationally protected persons in the Spanish embassy in Guatemala City in 1981 by Guatemalan officials. According to the Constitutional Court, while rejecting the extradition requests, Guatemala is under the obligation to prosecute the alleged crimes before its courts, including the alleged charge of genocide. The assertion by the Constitutional Court is not based on any treaty provision and no treaty is quoted as the basis for such a statement. The Constitutional Court simply refers to it as a rule (*regla*) and an obligation (*obligación*).⁶²

⁵⁹ *Suprema Corte de Justicia de Chile, 21 de septiembre de 2007* ("A mayor abundamiento, el artículo 4° del referido tratado indica que las Altas Partes Contratantes convienen en que no es obligatoria la extradición de sus propios nacionales. En este caso, el Gobierno requerido deberá proveer al enjuiciamiento del criminal reclamado, a quien se aplicarán las leyes penales del país de refugio, como si el hecho perseguido hubiese sido perpetrado en su propio territorio" ("Undécimo").

⁶⁰ See A/CN.4/579/Add.1 of 30 April 2007, para.II, A), 4, (j).

⁶¹ 04-87.245, Arrêt n° 7513 du 10 janvier 2007, Cour de cassation - Chambre criminelle ("Vu les articles 689, 689-1, 689-2, 40, 41 et 80 du code de procédure pénale; attendu que, d'une part, selon les trois premiers de ces textes, peut être poursuivie et jugée par les juridictions françaises, si elle se trouve en France, toute personne qui, hors du territoire de la République, s'est rendue coupable de torture au sens de l'article 1er de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, adoptée à New York, le 10 décembre 1984 ... »). Available at : http://www.courdecassation.fr/jurisprudence_2/chambre_criminelle_578/arrets_579/br_arret_9778.html.

⁶² The Constitutional Court declared, for example: "Si bien la jurisdicción del Estado guatemalteco no puede reconocer como viable la solicitud de extradición de ciudadanos de este país, no sólo por no autorizarlo el Tratado correspondiente sino por no permitirlo el Artículo 27, párrafo tercero de la Constitución Política de la República de Guatemala, en aquellos casos en que existe indudable vinculación con delitos políticos, quedaría a salvo la facultad de la parte interesada de promover la denuncia ante el Ministerio Público para que inicie la persecución por los delitos que pudieran resultar y, en tal caso basado en la regla *aut dedere aut judicare*, es indudable que sería obligación del Estado requerido cumplir con su función esencial de impartir justicia" (page 54). And: "No obstante, como se ha manifestado, nada impediría la aplicación de la regla *aut dedere aut judicare*, que la parte interesada o el Ministerio Público de Guatemala pudiesen invocar" (page 59). The ruling is available, in Spanish, at the web page of the Guatemala Constitutional Court: <http://www.cc.gob.gt>. For a comprehensive analysis of the judgment see: Amnesty International, *Guatemala: The refusal to grant the extraditions requested by Spain for crimes under international law*, AI Index: AMR 34/013/2008, May 2008 (available at:

In the **Netherlands**, the Hague Court of Appeals, in the case of an Afghan citizen accused of violation of the laws and customs of the war, referred to the "*adagium aut dedere aut punire*" in order to reject the claim that the court lacked jurisdiction. The court also concluded that, in the case, the exercise of the obligation to extradite or prosecute implies the exercise of universal jurisdiction.⁶³

In **Peru**, the Constitutional Court recalled that all states are permitted to exercise universal jurisdiction regarding crimes under international law and ordinary crimes of international concern. According to the Constitutional Court torture and enforced disappearances are subject to universal jurisdiction based on the obligation to extradite or prosecute, as well as corruption – as stated in Article V of the Inter-American Convention against Corruption.⁶⁴

In **Spain**, the Supreme Court overruled in 2007 a first instance preliminary judgment by a lower court and declared that Spain had jurisdiction to try non-Spaniards alleged responsible of smuggling migrants found on the high seas. According to the Supreme Court Spain may exercise universal jurisdiction over those foreigners alleged responsible of smuggling immigrants, even if found on the high seas, based on provisions contained in the Organic Law of the Judiciary and the 1982 Convention on the Law of the Sea. The Supreme Court also recalled that states are under the duty to enact implementing legislation with regard to crimes under international law, including the *aut dedere aut iudicare* principle.⁶⁵

In responding to the refusal by Guatemala to grant the five extradition requests, the investigating judge in Madrid asserted that the *aut dedere aut iudicare obligation* is based not only on conventional law, but also on customary international law and it arises out of the *jus cogens* character of the prohibition of genocide and crimes against humanity.⁶⁶ According

<http://amnesty.org/en/library/info/AMR34/013/2008/en?refresh> (also available in Spanish).

⁶³ LJN AZ7147, Court of Appeal The Hague 2200613205. Date of verdict: January 29, 2007 ("The above leads to the fact that the defence plea as described under a) in relation with the lack of jurisdiction should be rejected. The court of appeal again underlines that – also in view of the *adagium 'aut dedere aut punire'* – in the present case it concerns the exercise of secondary universal jurisdiction. And the interest of the presence of suspects in the territory of the prosecuting state is also underlined in the explanatory memorandum to the International Crime Act.", at para.5.4.4.).

⁶⁴ Tribunal Constitucional, 8 August 2008. Exp.No.01271-2008-PHC/TC, *Huaura, José Enrique Crousillat López Torres*.

⁶⁵ Tribunal Supremo. Sala de lo Penal, Sección: 1, Nº de Recurso: 2027/2006, Nº de Resolución: 554/2007 of 27 June 2007. ("*No quedaría debidamente perfilado el ámbito de la jurisdicción española sin aludir al llamado principio de la justicia supletoria, también denominado del Derecho penal de representación, el cual opera en caso de inexistencia de solicitud o de no concesión de extradición, al permitir al Estado donde se encuentra el autor, con aplicación de la Ley penal, juzgarlo. El fundamento de este principio no es otro que el de la progresiva armonización de las distintas legislaciones como consecuencia de la estructura semejante de los Tratados internacionales, en cuanto vienen a diseñar unos tipos punibles e imponen normalmente a los Estados la obligación de introducirlos en sus ordenamientos jurídicos. De ahí que la incorporación de tales tipos penales en el Derecho interno permita la aplicación en su caso de la regla "aut dedere aut iudicare", si no se concediere la extradición*").

⁶⁶ Audiencia Nacional, Juzgado Central de Instrucción Uno, D. Previas 331/1999 of 16 January

to the judge, Guatemala has violated its duty under international law by refusing either to investigate former President Ríos Montt in Guatemala or extradite him to Spain.

Likewise, in the *Martínez de Perón* case, the National Court of Spain (*Audiencia Nacional*), while rejecting an extradition request made by Argentina against an alleged perpetrator of imprisonment, enforced disappearances and torture in the period between 1 July 1974 and 24 March 1976, stated that if an extradition is not granted, Spain was obliged to submit the case to its own competent authorities for the purpose of prosecution. In this concrete case, the National Court of Spain found that no investigation could take place in view of the nature of crimes involved: since the crimes were not part of a widespread or systematic practice and, therefore, did not amount to crimes against humanity, prosecution was barred by statutory limitations.⁶⁷ Given the scale of crimes committed in Argentina between 1974 and 1976 the finding that these crimes were not part of a widespread or systematic practice is contrary to the facts.⁶⁸

IV. CONCLUSIONS

In 1996, the ILC adopted, after half a century of deliberation, the Draft Code of Crimes against the Peace and Security of Mankind. The Draft Code provided that states in the territory of which an individual alleged to have committed genocide, crimes against humanity, crimes against United Nations and associated personnel or war crimes is found, were required to extradite or prosecute that individual. It goes without saying that it would not be in accordance with the mandate of the ILC progressively to develop international law to abandon that position and to conclude that states may relieve themselves from the *aut dedere aut judicare* obligation, at least with regard to crimes under international law, based on a contention that this obligation is simply a conventional obligation.

It is disappointing that reports by states to the ILC have not been complete and only few states have submitted reports. Those weaknesses may lead to a misconception concerning on the widespread acceptance of the obligation to try or prosecute by states, as shown in Annex

2008, Judge Santiago Pedraz, considerando quinto.

⁶⁷ Audiencia Nacional, Sala de lo Penal, Sección Segunda, Rollo de Sala 12/2007, Extradición 1/2007, Juzgado Central de Instrucción nº 3, 28 April 2008 (“*Por tanto si se opta por la denegación de la extracción por esta causa, el Estado requerido asume la obligación de juzgar en su territorio al reclamado, a petición de la Parte requirente (aut dedere aut punire). Parece evidente que para que se produzca esa asunción de competencia, es necesario que así lo interesen las autoridades requirentes, y que se cumplan los requisitos y formalidades legales para su enjuiciamiento en nuestro país, conforme al ordenamiento interno. En este caso, ni se observan los requisitos relativos a los hechos penales motivadores de la solicitud de extradición al concurrir una causa extintiva de la responsabilidad penal, como es la prescripción de los mismos, como más adelante abundaremos...*”).

⁶⁸See Amnesty International, Informe de una Misión de Amnistía Internacional a la República Argentina, 1976, p.12.

III. As Special Rapporteur Zdzislaw Galicki pointed out in his Third Report, the number of international and regional treaties containing this obligation is growing every year and this could be an indication of state practice. Moreover the Special Rapporteur has correctly stated that “the development of international practice based on the growing number of treaties establishing and confirming such an obligation may lead at least to the beginning of the formulation of an appropriate customary norm.”⁶⁹

Likewise, this Amnesty International paper shows that several states have provided for the obligation to extradite or prosecute while implementing the Rome Statute or amending their criminal legislation, even for crimes whose conventions do not contain such a provision (such as genocide and some war crimes which do not amount to “grave breaches”), or crimes which are not covered by any convention (such as murder, extermination, deportation and most sexual crimes). Therefore, the existence of an obligation under customary international law or its beginning could reasonably be presumed. Several decisions by national courts, as reported above, seem to confirm such an interpretation, at least regarding crimes under international law, such as genocide, crimes against humanity, war crimes, torture, enforced disappearances and extralegal, arbitrary or summary executions.

V. RECOMMENDATIONS

In order to reach a conclusion on the nature and scope of the obligation to extradite or prosecute the ILC should:

- Seek information concerning state practice, not only from states and international organizations but also from other experts on international law, including non-governmental organizations, with relevant information.
- Examine the state practice and *opinio juris* of all 192 member states regarding the scope of this obligation.
- Keep Article 9 of the Draft Code of Crimes against the Peace and Security of Mankind as the minimum when formulating the ILC’s final document at the completion of its study.

⁶⁹ Third Report, *supra* note 4, para.124.

KEY TO TREATIES

r = ratification	a = accession
d = succession	p = party (where r/a/d unconfirmed)
s = signature	d-s = succession to signature
A = acceptance	AA = approval

Treaties are listed in chronological order by date of adoption. States Parties, be they by depositing an instrument of ratification, accession, succession, acceptance or approval, have been indicated on the chart in bold.

SELECTED TREATIES > INTERNATIONAL

1929 Counterfeiting	International Convention for the Suppression of Counterfeiting Currency, 1929
1949 Geneva	Geneva Conventions, 1949
1961 Narcotics	Single Convention on Narcotic Drugs, 1961
1970 The Hague	Convention for the Suppression of Unlawful Seizure of Aircraft, 1970
1971 Psychotropic	Convention on Psychotropic Substances, 1971
1971 Montreal	Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aviation, 1971
1972 Narcotics	Protocol amending the Single Convention on Narcotic Drugs, 1972
1973 Diplomats	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973
1977 Protocol I	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977
1979 Hostages	International Convention against the Taking of Hostages, 1979
1979 Nuclear	Convention on the Physical Protection of Nuclear Material, 1979
1984 Torture	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
1988 Maritime	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988

1989 Mercenaries	International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 1989
1994 Peacekeepers	Convention on the Safety of United Nations and Associated Personnel, 1994
1997 Terrorist Bombings	International Convention for the Suppression of Terrorist Bombings, 1997
1999 Financing Terrorism	International Convention for the Suppression of the Financing of Terrorism, 1999
2000 Organized Crime	UN Convention against Transnational Organized Crime, 2000
2000 Trafficking (Protocol)	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000
2000 Smuggling (Protocol)	Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime, 2000
2001 Firearms (Protocol)	Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime, 2001
2005 Nuclear Terrorism	International Convention for the Suppression of Acts of Nuclear Terrorism, 2005
2005 Personnel Safety (Protocol)	Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel, 2005
2006 Enforced Disappearances	International Convention for the Protection of All Persons from Enforced Disappearances, 2006 (not yet in force)

SELECTED TREATIES > REGIONAL > ORGANISATION OF AMERICAN STATES

1971 International Terrorism	Convention to Prevent and Punish the Acts of Terrorism taking the Forms of Crimes against Persons and Related Extortion that are of International Significance, 1971
1985 Torture	Inter-American Convention to Prevent and Punish Torture, 1985
1994 Minors	Inter-American Convention on International Traffic in Minors, 1994
1994 Forced Disappearance	Inter-American Convention on the Forced Disappearance of Persons, 1994
1996 Corruption	Inter-American Convention Against Corruption, 1996
1997 Firearms	Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, 1997
2002 International	Inter-American Convention Against Terrorism, 2002

Terrorism

SELECTED TREATIES > REGIONAL > COUNCIL OF EUROPE

1977 Terrorism (Suppression)	European Convention on the Suppression of Terrorism, 1977
1998 Environment	Convention on the Protection of the Environment through Criminal Law, 1998 (not yet in force)
2005 Terrorism (Prevention)	Council of Europe Convention on the Prevention of Terrorism, 2005

SELECTED TREATIES > REGIONAL > AFRICAN UNION

1977 Mercenarism	OUA Convention for the Elimination of Mercenarism in Africa, 1977
1999 Terrorism	OUA Convention on the Prevention and Combating of Terrorism, 1999
2003 Corruption	African Union Convention on Preventing and Combating Corruption, 2003

ANNEX I. *AUT DEDERE AUT JUDICARE* PROVISIONS

A. INTERNATIONAL

1929 COUNTERFEITING CURRENCY

Article 9

Foreigners who have committed abroad any offence referred to in Article 3, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence had been committed in the territory of that country.

The obligation to take proceedings is subject to the condition that extradition has been requested and that the country to which the application is made cannot hand over the person accused for some reason which has no connection with the offence.

Article 10

The offences referred to in Article 3 shall be deemed to be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the High Contracting Parties.

The High Contracting Parties who do not make extradition conditional on the existence of a treaty or reciprocity, henceforward recognise the offences referred to in Article 3 as cases of extradition as between themselves.

Extradition shall be granted in conformity with the law of the country to which application is made.

1949 GENEVA CONVENTIONS

Geneva Convention I

Art. 49. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

Art. 50. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Geneva Convention II

Art 50. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

Art 51. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Geneva Convention III

Art 129. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

Art 130. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

Geneva Convention IV

Art. 146. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

Art. 147. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

1961 NARCOTICS

As amended by 1972 Narcotics (Article 14).

Article 36. Penal provisions

1. (a) Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever,

brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

(b) Notwithstanding the preceding sub-paragraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

1970 THE HAGUE

Article 4

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

1971 PSYCHOTROPIC

Article 22. Penal Provisions

1. (a) Subject to its constitutional limitations, each Party shall treat as a punishable offence, when committed intentionally, any action contrary to a law or regulation adopted in pursuance of its obligations under this Convention, and shall ensure that serious offences shall be liable to adequate punishment, particularly by imprisonment or other penalty of deprivation of liberty.

(b) Notwithstanding the preceding subparagraph, when abusers of psychotropic substances have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to punishment, that such abusers undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 20.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (i) If a series of related actions constituting offences under paragraph 1 has been committed in different countries, each of them shall be treated as a distinct offence;

(ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgment given.

(b) It is desirable that the offences referred to in paragraph 1 and paragraph 2(a)(ii) be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the Parties, and, as between any of the Parties which do not make extradition conditional on the existence of a treaty or on reciprocity, be recognised as extradition crimes; provided that extradition shall be granted in conformity with the law of the Party to which application is made, and that the Party shall have the right to refuse to effect the arrest or grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

3. Any psychotropic substance or other substance, as well as any equipment, used in or intended for the commission of any of the offences referred to in paragraphs 1 and 2 shall be liable to seizure and confiscation.

4. The provisions of this article shall be subject to the provisions of the domestic law of the Party concerned on questions of jurisdiction.

5. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

1971 MONTREAL

Article 5

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 (a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

1973 DIPLOMATS

Article 2

1. The intentional commission of:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means

of transport of an internationally protected person likely to endanger his person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such attack

shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

Article 3

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

Article 6

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

(a) the State where the crime was committed;

(b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;

(c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;

(d) all other States concerned; and

(e) the international organisation of which the internationally protected person concerned is an official or an agent.

Article 7

The State Party in whose territory the alleged offender is present shall, if it does not extradite

him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

1977 GENEVA PROTOCOL I

Art. 80. Measure for execution

1. The High Contracting Parties and the Parties to the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.
2. The High Contracting Parties and the Parties to the conflict shall give orders and instructions to ensure observance of the Conventions and this Protocol, and shall supervise their execution.

Art. 85. Repression of breaches of this Protocol

1. The provisions of the Conventions relating to the repression of breaches and grave breaches, supplemented by this Section [Section II – Repression of breaches of the Conventions and of this Protocol], shall apply to the repression of breaches and grave breaches of this Protocol.

Art. 88. Mutual assistance in criminal matters

2. Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1 of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.
3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.

1979 HOSTAGES

Article 5

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 1 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

Article 6

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the alleged offender is present shall, in accordance with its laws, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. That State Party shall immediately make a preliminary inquiry into the facts.

Article 8

1. The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connexion with any of the offences set forth in article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which he is present.

1979 NUCLEAR

Article 7

1. The intentional commission of:

(a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(b) a theft or robbery of nuclear material;

(c) an embezzlement or fraudulent obtaining of nuclear material;

(d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;

(e) a threat:

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or

(ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and

- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is presented in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

1984 TORTURE

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States

mentioned in paragraph 1 of this article.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

1988 MARITIME

Article 6

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

Article 7

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

Article 10

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the

law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

1989 MERCENARIES

Article 9

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 3 and 4 of the present Convention in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

Article 10

1. Upon being satisfied that the circumstances so warrant, any State Party in whose territory the alleged offender is present shall, in accordance with its laws, take him into custody or take such other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. The State Party shall immediately make a preliminary inquiry into the facts.

Article 12

The State Party in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that state.

1994 PEACEKEEPERS

Article 10 - Establishment of jurisdiction

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 15 to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

Article 13 - Measures to ensure prosecution or extradition

1. Where the circumstances so warrant, the State Party in whose territory the alleged

offender is present shall take the appropriate measures under its national law to ensure that person's presence for the purpose of prosecution or extradition.

Article 14 - Prosecution of alleged offenders

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the law of that State. Those authorities shall take their decision in the same manner as in the case of an ordinary offence of a grave nature under the law of that State.

1997 TERRORIST BOMBINGS

Article 6

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence as set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given

to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, subparagraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraphs 1 and 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 8

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

1999 FINANCING TERRORISM

Article 5

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organised under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 7

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2000 ORGANISED CRIME

Article 15 - Jurisdiction

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

Article 16 - Extradition

9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or

her presence at extradition proceedings.

2000 TRAFFICKING

Article 1 - Relation with the United Nations Convention against Transnational Organized Crime

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided therein.

2000 SMUGGLING

Article 1 - Relation with the United Nations Convention against Transnational Organized Crime

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided therein.

2001 FIREARMS

Article 1 - Relation with the United Nations Convention against Transnational Organized Crime

2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided therein.

2005 NUCLEAR TERRORISM

Article 9

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the State Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

Article 10

1. Upon receiving information that an offence set forth in article 2 has been committed or is being committed in the territory of a State Party or that a person who has committed or who is alleged to have committed such an offence may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.

Article 11

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 9 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2005 PERSONNEL SAFETY

Article 1. Relationship

This Protocol supplements the Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 December 1994 (hereinafter referred to as "the Convention"), and as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted as a single instrument.

2006 ENFORCED DISAPPEARANCES

Article 9

2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.

Article 10

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

Article 11

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

B. REGIONAL. ORGANIZATION OF AMERICAN STATES (OAS)

1971 INTERNATIONAL TERRORISM

Article 5

When extradition requested for one of the crimes specified in Article 2 is not in order because the person sought is a national of the requested state, or because of some other legal or constitutional impediment, that state is obliged to submit the case to its competent authorities for prosecution, as if the act had been committed in its territory. The decision of these authorities shall be communicated to the state that requested extradition. In such proceedings, the obligation established in Article 4 shall be respected.

Article 7

The contracting states undertake to include the crimes referred to in Article 2 of this convention among the punishable acts giving rise to extradition in any treaty on the subject to which they agree among themselves in the future. The contracting states that do not subject extradition to the existence of a treaty with the requesting state shall consider the crimes referred to in Article 2 of this convention as crimes giving rise to extradition, according to the conditions established by the laws of the requested state.

Article 8

To cooperate in preventing and punishing the crimes contemplated in Article 2 of this convention, the contracting states accept the following obligations:

- e. To comply most expeditiously with the requests for extradition concerning the criminal acts contemplated in this convention.

1985 TORTURE

Article 12

Every State Party shall take the necessary measures to establish its jurisdiction over the crime described in this Convention in the following cases:

- When torture has been committed within its jurisdiction;
- When the alleged criminal is a national of that State; or
- When the victim is a national of that State and it so deems appropriate.

Every State Party shall also take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within the area under its jurisdiction and it is not appropriate to extradite him in accordance with Article 11.

This Convention does not exclude criminal jurisdiction exercised in accordance with domestic law.

Article 14

When a State Party does not grant the extradition, the case shall be submitted to its competent authorities as if the crime had been committed within its jurisdiction, for the purposes of investigation, and when appropriate, for criminal action, in accordance with its national law. Any decision adopted by these authorities shall be communicated to the State that has requested the extradition.

1994 MINORS

Article 9

The following shall have competence in cases of crimes involving international traffic in minors:

- a) the State Party where the wrongful conduct occurred;
- b) the State Party that is the habitual residence of the minor;
- c) the State Party in which the alleged offender is located if said offender has not been extradited;
- d) the State Party in which the minor who is a victim of said traffic is located.

For the purposes of the preceding paragraph, the State Party that first conducted formal proceedings concerning the wrongful act shall have preference.

1994 ENFORCED DISAPPEARANCE

Article IV

The acts constituting the forced disappearance of persons shall be considered offences in every State Party. Consequently, each State Party shall take measures to establish its jurisdiction over such cases in the following instances:

- a. When the forced disappearance of persons or any act constituting such offense was committed within its jurisdiction;
- b. When the accused is a national of that state;
- c. When the victim is a national of that state and that state sees fit to do so.

Every State Party shall, moreover, take the necessary measures to establish its jurisdiction over the crime described in this Convention when the alleged criminal is within its territory and it does not proceed to extradite him.

This Convention does not authorize any State Party to undertake, in the territory of another State Party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other Party by its domestic law.

Article VI

When a State Party does not grant the extradition, the case shall be submitted to its competent authorities as if the offense had been committed within its jurisdiction, for the

purposes of investigation and when appropriate, for criminal action, in accordance with its national law. Any decision adopted by these authorities shall be communicated to the state that has requested the extradition.

1996 CORRUPTION

Article V. Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in question is committed in its territory.
2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory.
3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another country on the ground of nationality of the alleged criminal.
4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party under its domestic law.

Article XIII. Extradition

1. This article shall apply to the offenses established by the States Parties in accordance with this Convention.
6. If extradition for an offense to which this article applies is refused solely on the basis of the nationality of the person sought, or because the Requested State deems that it has jurisdiction over the offense, the Requested State shall submit the case to its competent authorities for the purpose of prosecution unless otherwise agreed with the Requesting State, and shall report the final outcome to the Requesting State in due course.
7. Subject to the provisions of its domestic law and its extradition treaties, the Requested State may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the Requesting State, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure his presence at extradition proceedings.

1997 FIREARMS

Article V. Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in question is committed in its territory.

2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory.

3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another country on the ground of the nationality of the alleged criminal.

4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party under its domestic law.

Article XIX. Extradition

1. This article shall apply to the offenses referred to in Article IV of this Convention.

6. If extradition for an offense to which this article applies is refused solely on the basis of the nationality of the person sought, the Requested State Party shall submit the case to its competent authorities for the purpose of prosecution under the criteria, laws, and procedures applied by the Requested State to those offenses when they are committed in its own territory. The Requested and Requesting States Parties may, in accordance with their domestic laws, agree otherwise in relation to any prosecution referred to in this paragraph.

2002 INTERNATIONAL TERRORISM

Article 2. Applicable international instruments

1. For the purposes of this Convention, "offenses" means the offenses established in the international instruments listed below:

- a. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.
- b. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.
- c. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973.
- d. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979.
- e. Convention on the Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980.
- f. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988.

g. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988.

h. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988.

i. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997.

j. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999.

2. Upon depositing its instrument of ratification to this Convention, a state party that is not a party to one or more of the international instruments listed in paragraph 1 of this article may declare that, in application of this Convention to such state party, that particular instrument shall be deemed not to be included in that paragraph. The declaration shall cease to have effect as soon as that instrument enters into force for that state party, which shall notify the depositary of this fact.

3. When a state party ceases to be a party to one of the international instruments listed in paragraph 1 of this article, it may make a declaration, as provided in paragraph 2 of this article, with respect to that instrument.

C. REGIONAL. COUNCIL OF EUROPE

1977 TERRORISM (SUPPRESSION)

Article 6

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over an offence mentioned in Article 1 in the case where the suspected offender is present in its territory and it does not extradite him after receiving a request for extradition from a Contracting State whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

A Contracting State in whose territory a person suspected to have committed an offence mentioned in Article 1 is found and which has received a request for extradition under the conditions mentioned in Article 6, paragraph 1, shall, if it does not extradite that person, submit the case, without exception whatsoever and without undue delay, to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

1998 ENVIRONMENT

Article 5 – Jurisdiction

1. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention when the offence is committed:

- a. in its territory; or
- b. on board a ship or an aircraft registered in it or flying its flag; or
- c. by one of its nationals if the offence is punishable under criminal law where it was committed or if the place where it was committed does not fall under any territorial jurisdiction.

2. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party after a request for extradition.

3. This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

4. Each Party may, at the time of signature or when depositing its instrument of ratification,

acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraphs 1 c and 2 of this article, in part or in whole, shall not apply.

Article 9 – Corporate liability

1. Each Party shall adopt such appropriate measures as may be necessary to enable it to impose criminal or administrative sanctions or measures on legal persons on whose behalf an offence referred to in Articles 2 or 3 has been committed by their organs or by members thereof or by another representative.
2. Corporate liability under paragraph 1 of this article shall not exclude criminal proceedings against a natural person.
3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 of this article or any part thereof or that it applies only to offences specified in such declaration.

2005 TERRORISM (PREVENTION)

Article 14 – Jurisdiction

1. Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention:
 - a. when the offence is committed in the territory of that Party;
 - b. when the offence is committed on board a ship flying the flag of that Party, or on board an aircraft registered under the laws of that Party;
 - c. when the offence is committed by a national of that Party.
2. Each Party may also establish its jurisdiction over the offences set forth in this Convention:
 - a. when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, in the territory of or against a national of that Party;
 - b. when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, against a State or government facility of that Party abroad, including diplomatic or consular premises of that Party;
 - c. when the offence was directed towards or resulted in an offence referred to in Article 1 of this Convention, committed in an attempt to compel that Party to do or abstain from doing any act;
 - d. when the offence is committed by a stateless person who has his or her habitual residence in the territory of that Party;
 - e. when the offence is committed on board an aircraft which is operated by the Government of that Party.
3. Each Party shall take such measures as may be necessary to establish its jurisdiction over

the offences set forth in this Convention in the case where the alleged offender is present in its territory and it does not extradite him or her to a Party whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested Party.

4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

5. When more than one Party claims jurisdiction over an alleged offence set forth in this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

Article 18 – Extradite or prosecute

1. The Party in the territory of which the alleged offender is present shall, when it has jurisdiction in accordance with Article 14, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that Party. Those authorities shall take their decision in the same manner as in the case of any other offence of a serious nature under the law of that Party.

2. Whenever a Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that Party to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this Party and the Party seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

D. REGIONAL. AFRICAN UNION

1977 MERCENARISM

Article 8 – Jurisdiction

Each contracting State shall undertake to take such measures as may be necessary to punish, in accordance with the provisions of Article 7, any person who commits an offence under Article 1 of this Convention and who is found on its territory if it does not extradite him to the State against which the offence has been committed.

1999 TERRORISM

Article 6

1. Each State Party has jurisdiction over terrorist acts as defined in Article 1 when:
 - (a) the act is committed in the territory of that State and the perpetrator of the act is arrested in its territory or outside it if this punishable by its national law;
 - (b) the act is committed on board a vessel or a ship flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
 - (c) the act is committed by a national or a group or nationals of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - (a) the act is committed against a national of that State; or
 - (b) the act is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises, and any other property, of that State;
 - (c) the act is committed by a stateless person who has his or her habitual residence in the territory of that State; or
 - (d) the act is committed on board an aircraft which is operated by any carrier of that State; and
 - (e) the act is committed against the security of the State Party.
3. Upon ratifying or acceding to this Convention, each State Party shall notify the Secretary General of the Organization of African Unity of the jurisdiction it has established in accordance with paragraph 2 under its national law. Should any change take place, the State Party concerned shall immediately notify the Secretary General.
4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the acts set forth in Article 1 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 or 2.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed any terrorist act as defined in Article 1 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.
2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution.
3. Any person against whom the measures referred to in paragraph 2 are being taken shall be entitled to:
 - (a) communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled, to protect that person's rights or, if that person is a stateless person, the State in whose territory that person habitually resides;
 - (b) be visited by a representative of that State;
 - (c) be assisted by a lawyer of his or her choice;
 - (d) be informed of his or her rights under sub-paragraphs (a), (b) and (c).
4. The rights referred to in paragraph 3 shall be exercised in conformity with the national law of the State in whose territory the offender or alleged offender is present; subject to the provision that the said laws must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

Article 8

4. A State Party in whose territory an alleged offender is present shall be obliged, whether or not the offence was committed in its territory, to submit the case without undue delay to its component authorities for the purpose of prosecution if it does not extradite that person.

2003 CORRUPTION

Article 13. Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - (a) the breach is committed wholly or partially inside its territory;
 - (b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and
 - (c) the alleged criminal is present in its territory and it does not extradite such person to another country.
 - (d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in

accordance with its domestic law.

3. Notwithstanding the provision of paragraph 1 of this Article, a person shall not be tried twice for the same offence.

Article 15 - Extradition

6. Where a State Party in whose territory any person charged with or convicted of offences is present and has refused to extradite that person on the basis that it has jurisdiction over offences, the Requested State Party shall be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution, unless otherwise agreed with the Requesting State Party, and shall report the final outcome to the Requesting State Party.

7. Subject to the provisions of its domestic law and any applicable extradition treaties, a Requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the Requesting State Party, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure that the person is present at the extradition proceedings.

ANNEX II. RESERVATIONS AND DECLARATIONS TO TREATIES RELATING TO *AUT DEDERE AUT JUDICARE*

A. INTERNATIONAL TREATIES

1929 INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF COUNTERFEITING CURRENCY

Reservations:

1. **Andorra** – Having seen the provisions of article 431 of the Penal Code of Andorra and article 2(a) of the Organic Law on Extradition, the extradition envisaged in article 10 of this Convention shall be granted in the case of persons who, having knowingly received counterfeit currency, attempt to place it in circulation or have placed it in circulation after realizing that it was not authentic.

1949 GENEVA CONVENTIONS

Reservations:

1. **Guinea-Bissau** – Article 13 [GC I]: “The Council of State of the Republic of Guinea-Bissau does not recognize the ‘conditions’ provided for in subparagraph (2) of this article concerning members of other militias and members of other volunteer corps, including those of organised resistance movements, because these conditions are not suited to the people’s wars waged today.”

Article 13 [GC II]: “The Council of State of the Republic of Guinea-Bissau does not recognize the conditions provided for in subparagraph (2) of this article concerning ‘members of other militias and members of other volunteer corps, including those of organized resistance movements’, because these conditions are not suited to the people’s wars waged today.”

Article 4 [GC III]: “The Council of State of the Republic of Guinea-Bissau does not recognize ‘the conditions’ provided for in paragraph A(2) of this article concerning ‘members of other militias and members of other volunteer corps, including those of organized resistance movements’, because these conditions are not suited to the people’s wars waged today.”

2. **Korea** – Article 85 [GC III]: “The Government of the Democratic People’s Republic of Korea will not be bound by Article 85, in regard to the treatment of prisoners of war convicted under the laws of the Detaining Power of prisoners of war for having committed war crimes or inhumane offences, based on the principles of Nuremberg and the Tokyo Far East International Military Tribunal.”

3. **Russian Federation** – Article 85 [GC III]: “The Union of Soviet Socialist Republics does not consider itself bound by the obligation, which follows from Article 85, to extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo their punishment.”
4. **Viet Nam** – Article 4 [GC III]: The Provisional Revolutionary Government of the Republic of South Viet Nam does not recognize the ‘conditions’ laid down in item (2) of this article concerning “members of other militias and members of other volunteer corps, including those of organized resistance movements”, because these conditions are not suited to cases of people’s wars in the world of today. Article 85 [GC III]: The Provisional Revolutionary Government of the Republic of South Viet Nam declares that prisoners of war prosecuted and convicted for crimes of aggression, crimes of genocide or war crimes, and crimes against humanity, in accordance with the principles established by the Nuremberg Tribunal, shall not benefit from the provisions of the present Convention.

1972 PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS

Reservations:

1. **India** – The Government of India reserve their position with regard to articles 5, 6, 9, 11 and 14 of the aforesaid Protocol and do not consider themselves bound by the provisions of these articles.
2. **Panama** – With a reservation regarding article 36, paragraph 2 that appears on document of May 3, 1972 signed by the Minister of Foreign Affairs of Panama. [The reservation reads as follows: With the express reservation that the amendment which article 14 of the Protocol makes to article 36, paragraph 2, of the Single Convention on Narcotic Drugs, 1961 (a) does not modify the extradition treaties to which the Republic of Panama is a party in any manner which may compel it to extradite its own nationals; (b) does not require the Republic of Panama to include, in such extradition treaties as it may conclude in the future, any provision requiring it to extradite its own nationals; and (c) may not be interpreted or applied in any manner which gives rise to an obligation on the part of the Republic of Panama to extradite any of its own nationals.]

Declarations:

1. **Brazil** – Brazil wishes to take this opportunity to repeat the declaration that was made at the appropriate occasion during the plenary session of the Protocol's Negotiating Conference which took place in Geneva from March 6th to March 24th, 1972, to the effect that the amendments to article 36 of the Convention do not oblige States with laws against extradition of nationals to extradite them.

1973 CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

Reservations:

1. **Burundi** – In respect of cases where the alleged offenders belong to a national liberation movement recognized by Burundi or by an international organization of which Burundi is a member, and their actions are part of their struggle for liberation, the Government of

the Republic of Burundi reserves the right not to apply to them the provisions of article 2, paragraph 2, and article 6, paragraph 1.

2. **Netherlands** – "In cases where the judicial authorities of either the Netherlands, the Netherlands Antilles or Aruba cannot exercise jurisdiction pursuant to one of the principles mentioned in article 3, para. 1, the Kingdom accepts the aforesaid obligation [laid down in article 7] subject to the condition that it has received and rejected a request for extradition from another State party to the Convention."
3. **Portugal** – Portugal does not extradite anyone for crimes which carry the death penalty or life imprisonment under the law of the requesting State nor does it extradite anyone for violations which carry security measure for life.

Declarations:

1. **France** – France understands that only acts which may be defined as acts of terrorism constitute crimes within the meaning of article 2 of the Convention.
2. **Luxembourg** – Luxembourg courts are competent to apply the Convention, and Luxembourg criminal law applies to the crimes referred to in article 2 of the Convention when the alleged offender is in Luxembourg territory and has not been extradited to another State, regardless of the nationality of the alleged offender and the place where the crime was perpetrated.
3. **Malaysia** – The Government of Malaysia understands the phrase "or other attack" in Article 2(1)(a) of the Convention to mean acts that are recognized as offences under its domestic laws.

The Government of Malaysia understands Article 7 of the Convention to include the right of the competent authorities to decide not to submit any particular case for prosecution before the judicial authorities if the alleged offender is dealt with under national security and preventive detention laws.

1977 PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS (PROTOCOL I)

Reservations:

1. **Austria** – Article 75 of Protocol I will be applied insofar as...sub-paragraph (h) of paragraph 4 is not incompatible with legal provisions authorizing the reopening of proceedings that have resulted in a final declaration of conviction or acquittal.
2. **Canada** – Article 11 (Protection of persons – Medical procedures): The Government of Canada does not intend to be bound by the prohibitions contained in Article 11, sub-paragraph 2(c), with respect to Canadian nationals or other persons ordinarily resident in Canada who may be interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1, so long as the removal of tissue or organs for transplantation is in accordance with Canadian laws and applicable to the population generally and the operation is carried out in accordance with normal Canadian medical practices, standards and ethics.

Article 39 (Emblems of nationality – Enemy uniforms): The Government of Canada does not intend to be bound by the prohibitions contained in paragraph 2 of Article 39 to make use of military emblems, insignia or uniforms of adverse parties in order to shield, favour, protect or impede military operations.

3. **China** – “At present, Chinese legislation has no provisions concerning extradition, and deals with this matter on a case-by-case basis. For this reason China does not accept the stipulations of Article 88, paragraph 2, of Protocol I.”
4. **Denmark** – “Denmark expresses a reservation with regard to the application of Article 75, paragraph 4(h) (Protocol I), to the effect that the provisions of this paragraph shall not prevent the reopening of criminal proceedings in cases where the rules of the Danish Code of civil and criminal procedure, in exceptional circumstances, provide for such a measure.”
5. **Iceland** – “Subject to a reservation with respect to Article 75, paragraph 4(h), of Protocol I regarding the resumption of cases which have already been tried, the Icelandic law of procedure containing detailed provisions on this matter.”
6. **Ireland** – Article 11: For the purposes of investigating any breach of the Geneva Conventions of 1949 or of the Protocols Additional to the Geneva Conventions of 1949 adopted at Geneva on 8 June 1977, Ireland reserves the right to take samples of blood, tissue, saliva or other bodily fluids for DNA comparisons from a person who is detained, interned or otherwise deprived of liberty as a result of a situation referred to in Article 1, in accordance with Irish law and normal Irish medical practice, standards and ethics.
7. **Liechtenstein** – Article 75 of Protocol I will be implemented provided that paragraph 4(h) is not incompatible with legislation providing for the reopening of a trial which has already led to a person’s conviction or acquittal.
8. **Malta** – Article 75 of Protocol I will be applied insofar as subparagraph (h) of paragraph 4 is not incompatible with legal provisions authorizing the reopening of proceedings that have resulted in a final declaration of conviction or acquittal.
9. **Mongolia** – In regard of Article 88, paragraph 2 of The Additional Protocol to the Protection of Victims in the International Armed Conflicts (‘Protocol I’) which states “The High Contracting Parties shall co-operate in the matter of extradition”, the Mongolian law which prohibits deprivation and extradition of its citizens from Mongolia shall be respected.
10. **Sweden** – “[...] subject to the reservation that Article 75, paragraph 4, sub-paragraph (h) shall be applied only to the extent that it is not in conflict with legal provisions which allow, in exceptional circumstances, the reopening of proceedings which have resulted in a final conviction or acquittal.”

Declarations:

1. **Algeria** – The Government of the People’s Democratic Republic of Algeria reserves judgement on the definition of mercenarism as set out in Article 47, para. 2 of the present Protocol, this definition being deemed restrictive.
2. **Finland** – With reference to Article 75, paragraph 4(h) of the Protocol, the Finnish Government wish to clarify that under Finnish law a judgment shall not be considered final until the time-limit for exercising any extraordinary legal remedies has expired.”
3. **France** – Le Gouvernement de la République Française considère que le terme « conflits armés » évoqué au paragraphe 4 de l’article 1, de lui-même et dans son contexte, indique une situation d’un genre qui ne comprend pas la commission de crimes ordinaires, y compris les actes de terrorisme, qu’ils soient collectifs ou isolés.

Le Gouvernement de la République Française considère qu’une zone spécifique peut être considérée comme un objectif militaire si, a cause de sa situation ou pour tout autre critère énuméré a l’article 52, sa destruction totale ou partielle, sa capture ou sa

neutralisation, compte-tenu des circonstances du moment, offre un avantage militaire décisif. Le Gouvernement de la République Française considère en outre que la première phrase du paragraphe 2 de l'article 52 ne traite pas de la question des dommages collatéraux résultant des attaques dirigées contre les objectifs militaires.

4. **Germany** – Article 75, paragraph 4, subparagraph (h) of Additional Protocol I will only be applied to the extent that it is in conformity with legal provisions which permit under special circumstances the re-opening of proceedings that had led to final conviction or acquittal.

1979 CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Reservations:

1. **France** – In approving the Convention, the French Government expresses the following reservation: the offences described in sub-paragraphs 1(e) and 1(f) of Article 7 of the Convention shall be punished in accordance with the provisions of French penal legislation.
2. **Netherlands** – [6 September 1991] The Minister for Foreign Affairs of the Kingdom of the Netherlands, declares in conformity with Article 18, paragraph 2, of the Convention on the Physical Protection of Nuclear Material, done at Vienna/New York on 3 March 1980, that the Kingdom of the Netherlands accepts the said Convention, with Annexes, for the Kingdom in Europe, and that the provisions so accepted shall be observed, subject to the following reservation: "With regard to the obligation to exercise jurisdiction referred to in Article 10 of the Convention on the Physical Protection of Nuclear Material, done at Vienna/New York on 3 March 1980, the Kingdom of the Netherlands makes the reservation, that in cases where the judicial authorities of the Netherlands are unable to exercise jurisdiction on the grounds of one of the principles referred to in Article 8, paragraph 1, of the Convention, the Kingdom shall be bound by this obligation only if it has received an extradition request from a Party to the Convention and the said request has been rejected."
3. **Netherlands** – [2 December 2005] The Minister of Foreign Affairs of the Kingdom of the Netherlands, declares, in conformity with Article 18, paragraph 2, of the Convention on the Physical Protection of Nuclear Material, done at Vienna/New York on 3 March 1980, that the Kingdom of the Netherlands accepts the said Convention, with Annexes, for Aruba, and that the provisions so accepted shall be observed, subject to the following reservation: "With regard to the obligation to exercise jurisdiction referred to in Article 10 of the Convention on the Physical Protection of Nuclear Material, done at Vienna/New York on 3 March 1980, the Kingdom of the Netherlands makes the reservation, that in cases where the judicial authorities of Aruba are unable to exercise jurisdiction on the grounds of one of the principles referred to in Article 8, paragraph 1, of the Convention, the Kingdom shall be bound by this obligation only if it has received an extradition request from a Party to the Convention and the said request has been rejected".

1984 CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Reservations:

1. **Austria** – Austria will establish its jurisdiction in accordance with article 5 of the Convention irrespective of the laws applying to the place where the offence occurred, but in respect of paragraph 1 (c) only if prosecution by a State having jurisdiction under paragraph 1 (a) or paragraph 1 (b) is not to be expected.
2. **Qatar** – Any interpretation of the provisions of the Convention that is incompatible with the precepts of Islamic law and the Islamic religion.

Declarations:

1. **Thailand** – "1. With respect to the term "torture" under Article 1 of the Convention, although there is neither a specific definition nor particular offence under the current Thai Penal Code corresponding to the term, there are comparable provisions under the aforesaid Thai Penal Code applicable to acts under Article 1 of the Convention. The term "torture" under Article 1 of the Convention shall accordingly be interpreted in conformity with the current Thai Penal Code.

The Kingdom of Thailand shall revise its domestic law to be more consistent with Article 1 of the Convention at the earliest opportunity.

2. For the same reason as stipulated in the preceding paragraph, Article 4 of the Convention which stipulates: 'Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture,' shall be interpreted in conformity with the current Thai Penal Code.

The Kingdom of Thailand shall revise its domestic law to be more consistent with Article 4 of the Convention at the earliest opportunity.

3. Article 5 of the Convention which provides: 'Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 4.....' is interpreted by the Kingdom of Thailand to mean that the jurisdiction referred to in Article 5 shall be established in accordance with the current Thai Penal Code.

The Kingdom of Thailand shall revise its domestic law to be more consistent with Article 5 of the Convention at the earliest opportunity."

2. **United States of America** – The Senate's advice and consent is subject to the following declarations: (1) That the United States declares that the provisions of articles 1 through 16 of the Convention are not self-executing.

1989 INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES

Reservations:

1. **Belgium** – No provision of the present Convention should be interpreted as implying an obligation of mutual judicial assistance if the requested State party has reason to believe that the request for judicial assistance concerning certain offences has been submitted for the purposes of prosecuting or punishing a certain person on the grounds of ethnic origin, religion, nationality or political views, or if acceding to the request would prejudice the situation of that person on any of those grounds.

No provision of the present Convention should be interpreted as implying an obligation

of extradition if the requested State party has reason to believe that the request for extradition based on the offences set forth in the Convention has been submitted for the purposes of prosecuting or punishing a certain person on the grounds of ethnic origin, religion, nationality or political views, or if acceding to the request would prejudice the situation of that person on any of those grounds.

No provision of the Convention should be interpreted as implying, for Belgium, an obligation to extradite Belgian nationals.

1994 CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL

Declarations:

1. **Netherlands** – The Kingdom of the Netherlands understands Article 14 of the Convention on the Safety of United Nations and Associated Personnel states that the competent national authorities must decide on a case submitted to them in accordance with national law and in the same manner as they would decide on ordinary offences of a grave nature. Consequently, the Kingdom of the Netherlands understands this provision to include the right of its competent judicial authorities to decide not to prosecute a person alleged to have committed a crime as referred to in Article 9, paragraph 1, if, in the opinion of the competent judicial authorities, grave considerations of procedural law indicate that effective prosecution would be possible [This wording appears to be a typographical error for the word “impossible”, as the similarly worded declaration regarding the 1999 International Convention for the Suppression of Terrorist Bombings uses the word “impossible”].

1997 INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS

Declarations:

1. **Indonesia** – The Government of the Republic of Indonesia declares that the provisions of Article 6 of the International Convention for the Suppression of Terrorist Bombings will have to be implemented in strict compliance with the principles of the sovereignty and territorial integrity of States.
2. **Malaysia** – The Government of Malaysia understands Article 8 (1) of the Convention to include the right of the competent authorities to decide not to submit any particular case for prosecution before the judicial authorities if the alleged offender is dealt with under national security and preventive detention laws.
3. **Netherlands** – The Kingdom of the Netherlands understands Article 8, paragraph 1, of the International Convention for the Suppression of Terrorist Bombings to include the right of the competent judicial authorities to decide not to prosecute a person alleged to have committed such an offence, if, in the opinion of the competent judicial authorities grave considerations of procedural law indicate that effective prosecution will be impossible.
4. **Portugal** – For the purposes of article 8, paragraph 2, of the Convention, Portugal declares that the extradition of Portuguese nationals from its territory will be authorized only if the following conditions, as stated in the Constitution of the Portuguese Republic, are met:
 - a) In case of terrorism and organised criminality; and

b) For purposes of criminal proceedings and, being so, subject to a guarantee given by the state seeking the extradition that the concerned person will be surrendered to Portugal to serve the sentence or measure imposed on him or her, unless such person does not consent thereto by means of expressed declaration.

For purposes of enforcement of a sentence in Portugal, the procedures referred to in the declaration made by Portugal to the European Convention on the transfer of sentenced persons shall be complied with.

1999 INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM

Declarations:

1. **Netherlands** – The Kingdom of the Netherlands understands Article 10, paragraph 1, of the International Convention for the Suppression of the Financing of Terrorism to include the right of the competent judicial authorities to decide not to prosecute a person alleged to have committed such an offence, if, in the opinion of the competent judicial authorities grave considerations of procedural law indicate that effective prosecution will be impossible.

2000 UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Reservations:

1. **Cuba** – Pursuant to article 5, paragraph 3, of the Convention, the Republic of Cuba reports that its domestic law provides that involvement of an organized criminal group in the offences established in accordance with paragraph 1 (a) (i) of this article is an aggravating factor in such conduct.
2. **Myanmar** – The Government of the Union of Myanmar wishes to express reservations on Article 16 relating to extradition and does not consider itself bound by the same.
3. **United States of America** – The United States of America reserves the right to assume obligations under the Convention in a manner consistent with its fundamental principles of federalism, pursuant to which both federal and state criminal laws must be considered in relation to the conduct addressed in the Convention. U.S. federal criminal law, which regulates conduct based on its effect on interstate or foreign commerce, or another federal interest, serves as the principal legal regime within the United States for combating organized crime, and is broadly effective for this purpose. Federal criminal law does not apply in the rare case where such criminal conduct does not so involve interstate or foreign commerce, or another federal interest. There are a small number of conceivable situations involving such rare offenses of a purely local character where U.S. federal and state criminal law may not be entirely adequate to satisfy an obligation under the Convention. The United States of America therefore reserves to the obligations set forth in the Convention to the extent they address conduct which would fall within this narrow category of highly localized activity. This reservation does not affect in any respect the ability of the United States to provide international cooperation to other Parties as contemplated in the Convention.

Declarations:

1. **Bolivia** – With respect to the definitions and characterizations set out in Articles 5, 6, 8 and 23 of the Convention, the Republic of Bolivia declares that it will first apply its national legislation in force and, secondly, the provisions of the present Convention.
2. **Latvia** – In accordance with paragraph 3 of Article 5 of the United Nations Convention against Transnational Organized Crime, adopted at New York on the 15th day of November 2000, the Republic of Latvia declares that its domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 (a) (i) of Article 5.
3. **Panama** – The Government of the Republic of Panama hereby declares that, in connection with articles 16 and 18 of the Convention, it shall not be obliged to carry out extraditions or to render mutual legal assistance in cases where the events giving rise to a request for extradition or mutual legal assistance are not offences under the criminal legislation of the Republic of Panama.
4. **Russian Federation** – The Russian Federation shall have jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of the Convention in the cases envisaged in article 15, paragraphs 1 and 3 of the Convention.

B. OAS TREATIES

1994 INTER-AMERICAN CONVENTION ON INTERNATIONAL TRAFFIC IN MINORS

Reservations:

1. **Ecuador** – Under its Constitution, Ecuador may not grant the extradition of its nationals, and their prosecution shall be subject to the laws of Ecuador.
2. **Uruguay** – On August 12, 1997, Uruguay initiated legislative formalities in connection with the Inter-American Convention against Corruption, which became national law. Uruguay therefore enters an *“express reservation to resorting to law and order when the cooperation requested specifically, seriously, and patently contravenes the rules and principles that underlie Uruguay’s distinctive legal character.”*
3. **Saint Kitts and Nevis** – In the area of extradition, in order to be fully cognizant of the extent of its obligations, the Federation of Saint Christopher and Nevis maintains the position mandated by its laws that there must be specific treaty arrangements with a requesting State. The Federation is strongly of the view that this is the only real way in which it can remain fully cognizant of all its obligations on this issue.

1996 INTER-AMERICAN CONVENTION AGAINST CORRUPTION

Declarations:

1. **Canada** – Article IX provides that the obligation of a State Party to establish the offence of illicit enrichment shall be “Subject to its Constitution and the fundamental principles of its legal system.” As the offence contemplated by Article IX would be contrary to the presumption of innocence guaranteed by Canada’s Constitution, Canada will not implement Article IX, as provided for by this provision.
2. **United States of America** – (2) Article VII (“Domestic Law”)... (5) Extradition. The United States of America shall not consider this Convention as the legal basis for

extradition to my country with which the United States has no bilateral extradition treaty in force. In such cases where the United States does have a bilateral extradition treaty in force, that bilateral extradition treaty shall serve as the legal basis for extradition for offenses that are extraditable in accordance with this Convention.

2002 INTER-AMERICAN CONVENTION AGAINST TERRORISM

Declarations:

1. **Venezuela** – The República Bolivariana of Venezuela, according to article 2.2 of the Inter-American Convention against Terrorism declares that, in application of the Convention to Venezuela, the following treaties shall be deemed not to be included in article 2.1 of the Convention, until the said instruments enter into force for the República Bolivariana of Venezuela:
 1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973.
 2. Convention on the Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980.
 3. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988.
 4. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988.
 5. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988.
2. **Guatemala** – With respect to Article 2, subarticle 1, of the Inter-American Convention against Terrorism, the Guatemalan state, upon ratifying it, issues the following statement: “That in the application of the Inter-American Convention against Terrorism, Guatemala does not consider the following treaties to be included: Convention for the suppression of unlawful acts against the safety of maritime navigation, concluded in Rome on March 10, 1988, and the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, concluded in Rome on March 10, 1988. The statement will cease to be in effect, for each of the agreements indicated, as soon as each of them enters into effect for the state of Guatemala, which will so notify the depositary.”
3. **Costa Rica** – The Republic of Costa Rica interprets the text to mean that the mechanisms and procedures established in this Convention for the offenses referred to in Article 2.1 shall be applicable to the extent that each of the acts described in the related conventions is defined as an offense in Costa Rican penal legislation”. Article 3 of the Law adopting this Convention establishes that “Article 10.3 of this Convention should be construed in such a way that its provisions may not be used to evade, in any way, the extradition procedures established in the Extradition Law and in applicable treaties on this matter.

C. COUNCIL OF EUROPE TREATIES

1977 European Convention on the Suppression of Terrorism (CETS No. 90)

Reservations:

1. **Azerbaijan** – In accordance with paragraph 1 of Article 13 of the Convention, the Republic of Azerbaijan reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence.
2. **Belgium** – The Belgian Government referring to Article 13(1) of the Convention on the Suppression of Terrorism, declares as follows: With the exception of offences committed upon the taking of hostages and other connected offences, Belgium reserves the right to refuse extradition in respect of any offence, mentioned in Article 1, which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives; in these cases, Belgium undertakes to take into due consideration, when evaluating the character of the offence, its particularly serious aspects, including: (a) that it created a collective danger to the life, physical integrity or liberty of persons; or, (b) that it affected persons foreign to the motives behind it; or (c) that cruel or vicious means have been used in the commission of the offence.
3. **Croatia** – In accordance with Article 13, paragraph 1, of the Convention, the Republic of Croatia reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention, which it considers to be a political offence, or an offence inspired by political motives. In these cases, the Republic of Croatia undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including: (a) that it created a collective danger to the life, physical integrity or liberty of persons, or (b) that it affected persons foreign to the motives behind it, or c. that cruel or vicious means have been used in the commission of the offence.
4. **Cyprus** – When depositing this instrument of ratification, the Permanent Representative declares that the Republic of Cyprus makes the following Reservation in accordance with Article 13.1 of this Convention: “The Government of the Republic of Cyprus reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence.”
5. **Estonia** – The Republic of Estonia, in accordance with Article 13, paragraph 1, of the Convention, and subject to the conditions thereof, reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention which it considers to be a political offence or an offence connected with a political offence.
6. **France** – The Government of the French Republic declares that it reserves the right to refuse extradition in accordance with the provisions of Article 13, paragraph 1, of the Convention.
7. **Greece** – In pursuance of Article 13 of the European Convention on the Suppression of Terrorism, Greece declares that it reserves the right, in accordance with paragraph 1 of the same article, to refuse extradition for any of the offences listed in Article 1 of the Convention if the person suspected of having committed the offence is being prosecuted for his or her action in favour of freedom.
8. **Hungary** – The Republic of Hungary reserves its right – notwithstanding its obligation defined in Article 13, paragraph 1 – to refuse the request for extradition in respect of any offences enumerated in Article 1, if the offence is considered to be political. The

Republic of Hungary shall interpret its reservation in the sense that homicide or offences involving homicide shall not be considered as political offences.

9. **Iceland** – The Government of Iceland, in accordance with the provisions of Article 13 of the Convention and subject to the undertaking contained in that article, reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives.
10. **Italy** – Italy declares that it reserves the right to refuse extradition and mutual assistance in criminal matters in respect to any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives: in this case Italy undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including: (a) that it created a collective danger to the life, physical integrity or liberty of persons; or, (b) that it affected persons foreign to the motives behind it; or, (c) that cruel or vicious means have been used in the commission of the offence.
11. **Malta** – The Government of Malta ratifies this Convention subject to the provisions of the Maltese Constitution relative to extradition for offences of a political nature; and, furthermore, declares that in accordance with the provisions of Article 13, paragraph 1, of the Convention, it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention if it considers it to be a political offence or connected with a political offence or inspired by political motives.
12. **Monaco** – The Principality of Monaco declares that it reserves itself the right to refuse extradition in conformity with the provisions of Article 13, paragraph 1, of the Convention.
13. **Montenegro** – Pursuant to Article 13 of the Convention, [...] Montenegro reserves the right to refuse to extradite a person because of any criminal offence mentioned in Article 1 which it considers a political criminal offence, as well as a criminal offence in connection with a political criminal offence or a criminal offence inspired by political motivation.
14. **Netherlands** – With due observance of Article 13, paragraph 1, of the Convention, the Kingdom of the Netherlands reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention including the attempt to commit or participation in one of these offences, which it considers to be a political offence or an offence connected with a political offence.
15. **Portugal** – As requested State, Portugal shall not grant extradition for offences punishable in the requesting State with either the death penalty, life imprisonment or a detention order involving deprivation of liberty for life.
16. **San Marino** – In accordance with Article 13, paragraph 1, of the Convention, the Republic of San Marino reserves its right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives.
17. **Serbia** – Pursuant to Article 13 of the Convention, Serbia [...] reserves the right to refuse to extradite a person because of any criminal offence mentioned in Article 1 which it considers a political criminal offence, as well as a criminal offence in connection with a political criminal offence or a criminal offence inspired by political motivation.

18. **Sweden** – The Swedish Government, in accordance with the provisions of Article 13 of this Convention and subject to the undertaking contained in that article, reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence.
19. **The former Yugoslav Republic of Macedonia** – In accordance with Article 13 of the Convention, the Republic of Macedonia reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by political motives; in these cases, the Republic of Macedonia undertakes to take into due consideration when evaluating the character of the offence, its particularly serious aspects, including that it created a collective danger to the life, physical integrity or liberty of persons or that it affected persons foreign to the motives behind it or that cruel or vicious means have been used in the commission of the offence.

Declarations:

1. **Netherlands** – The Kingdom of the Netherlands accepts the Convention for Aruba with the following reservation: “With due observance of Article 13, paragraph 1, of the Convention, Aruba reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention including the attempt to commit or participation in one of these offences, which it considers to be a political offence or an offence connected with a political offence.”

2005 CONVENTION ON THE PREVENTION OF TERRORISM

Reservations:

1. **Denmark** – In accordance with Article 20(2) of the Convention, the Government of the Kingdom of Denmark declares that it reserves the right to not apply Article 20(1) as far as extradition in respect of the offences referred to in Article 5, including Article 5 in relation to Article 9, is concerned.

Declarations:

1. **Hungary** – In the context of public provocation to commit a terrorist offence under Article 5, paragraph 1, of the Convention, the Republic of Hungary interprets “danger” as “clear and present danger”.
2. **Moldova** – In accordance with Article 14, paragraph 2, of the Convention, the Republic of Moldova declares that the offences specified in Articles 5-7 and 9 of the Convention are going to be under its own jurisdiction in cases mentioned in Article 14, paragraph 2, of the Convention.
3. **Russia** – The Russian Federation declares that it shall have jurisdiction over the offences established in accordance with Articles 5 to 7 and 9 of the Convention in the cases envisaged in Article 14, paragraphs 1 and 2, of the Convention.

D. AFRICAN UNION TREATIES

There are no relevant reservations or declarations.

ANNEX III. CHARTS ON SIGNATURES AND RATIFICATIONS OF SELECTED TREATIES

(as of 7 January 2009)

A. RATIFICATIONS AND SIGNATURES OF SELECTED INTERNATIONAL TREATIES WITH UNIVERSAL JURISDICTION AND *AUT DEDERE AUT JUDICARE* OBLIGATIONS

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Afghanistan		r	r	r	a	a		a		a	a	r	a			a	a	r				s		
Albania	s	r		a	a	a		a	a	a	a	a	a		a	a	r	r	r	r	a	s		r
Algeria	a	a	a	a	a	a	a	a	a	a	a	r	a			r	r	r	r	r	a			s
Andorra	a	a		a	a	a		a		a	a	r	a			a	r	s				s		
Angola		a	a	a	a	a	a		a					s				s						
Antigua and Barbuda		d	a	a	a	a	a	a	a	a	a	a					a	r						
Argentina		r	r	r	r	r	r	a	a	a	r	r	r		r	r	r	r	r	r	r	s		r
Armenia		a		a	a	a		a	a	a	a	a	a			a	r	r	r	r		s		s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Australia	a	r	r	r	r	r	r	r	r	a	r	r	a		r	a	r	r	r	r	s	s	s	
Austria	r	r	a	r	a	r	a	a	r	r	r	r	r		a	r	r	r	r	r	s	r	r	s
Azerbaijan		a	a	a	a	a		a		a	a	a	a	a	a	a	r	r	r	r	a	s	s	s
Bahamas	d	d	d	d	a	a	a	a	a	a	a	s	a			a	r	r	r	r	r			
Bahrain		a		a	a	a		a	a	a		a	a			a	r	a	a	a				
Bangladesh		d	a	a	a	a	a	a	a	a	a	a	a		r	a	a					a		
Barbados		d	d	r	a	r	a	a	a	a			a	a		a	r	s	s	s	s			
Belarus	d	r	r	r	r	r	a	r	r	a	d	r	a	r	r	r	r	r	r	r	a	r		
Belgium	r	r	r	r	a	r	r	a	r	r	r	r	a	a	r	r	r	r	r	r	r	s	s	s
Belize		a		a	a	a		a	a	a		a				a	r	a	a	a				
Benin	a	d	r	r	a	a	a	a	a	a		a	a			a	r	r	r	r	r	s		

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Bhutan		a		a	a	a		a		a							r							
Bolivia		r		a	a	a		a	a	r	a	r	a		r	a	r	r	r	s			s	r
Bosnia and Herzegovina		d		d	d	d		d	d	d	d	d	a		a	a	r	r	r	r	a	s		s
Botswana		a	a	a	a	r	a	a	a	a	a	r	a		a	a	r	r	r	r			a	
Brazil	a	r	r	r	r	r	r	a	a	a	r	r	r		r	r	r	r	r	r	r	s		s
Brunei Darussalam		a	a	a	a	a	a	a	a	a			r		a	a	a	a						
Bulgaria	r	r	r	r	a	r	a	r	r	a	r	r	r		a	a	r	r	r	r	r	s	s	s
Burkina Faso	a	d	a	a	a	a		a	r	a	a	a	a		a	a	a	r	r	r	r	s		s
Burundi		d		s	a	r		a	a			a				s	s	s	s	s		r		s
Cambodia		a	r	r	a	a	s	a	a	a	a	a	a			a	r	r	r	r	a	s		
Cameroon		d	a	a	a	a	a	a	a	a	a	a		r		a	a	r	r	r				s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Canada		r	r	r	a	r	a	r	r	r	r	r	r		r	r	r	r	r	r	s	s		
Cape Verde		a		a	a	a		a	a	a	a	a	a			a	r	r	r	r	a			s
Central African Republic		d		a	a	a		a	a	a	a					a	r	a	a	a	a	a	s	
Chad		a	r	r	a	r			a	a		a												s
Chile		r	r	r	r	a	r	a	r	r	a	r	r		a	a	r	r	r	r		s	s	s
China	s	r		a	a	a		a	a	a	a	r	r		a	a	r	r			s	s		
Colombia	r	r	a	r	a	a	a	a	a	a	a	r				a	r	r	r			s		s
Comoros		a		a	a	a		a	a	a	a	s	a			r	r	a				a		s
Congo, Republic of the		d	r	a	a	r			a			a		s			r	s	s	s				s
Cook Islands		d		a		a			a				a				r	a						

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Costa Rica		a	r	r	r	r	r	a	a	a	a	r	r	a	a	r	r	r	r	r	r	s		s
Côte d'Ivoire	a	d	a	a	a	a	r	a	r	a		a			a	r	a	s						
Croatia	d	d	d	d	d	d	d	d	d	d	d	d	a	a	a	a	r	r	r	r	a	r		s
Cuba	r	r	a	a	a	a	a	a	a	a	a	r	a	a		a	r	r			a			s
Cyprus	a	a	a	a	a	r	r	a	r	a	a	r	a	a	a	r	r	r	r	r	r	r	s	s
Czech Republic	d	d	d	d	d	d	d	d	d	d	d	d	a		r	r	r	s	s	s		r	r	
Democratic People's Republic of Korea		a	a	a	a	a		a	a	a					a		s							
Democratic Republic of the Congo		d	r	a	a	a	a	a	a	s	a	a		s		a	r	a	a	a	a			
Denmark	r	r	r	r	r	r	r	r	r	a	r	r	r		r	r	r	r	r	r	s	r		s
Djibouti		d	a	a	a	a	a	a	a	a	a	a	a			a	r	a	a	a		s		

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Dominica		d	a	a	a	a	a	a	a	a	a		a			a	a							
Dominican Republic		a	a	r	a	r	a	a	a	r	s	s	a			a	r	r	r	r	s	a		
Ecuador	a	r	a	r	a	a	r	r	r	a	r	r	a		a		r	r	r	r	s	s		s
Egypt	a	r	r	a	r	r	r	a	r	r		a	r			r	r	r	r	a		s		
El Salvador		r	r	r	a	a		a	r	r	a	a	a			a	a	r	r	r	r	r		
Equatorial Guinea		a		r		a		a	a	a	a	a	a			a	a	r	r	s				
Eritrea		a	a		a		a																	
Estonia	a	a		a	a	a		a	a	a	a	a	a		a	r	r	r	r	r	r	s		
Ethiopia		r	a	r	a	r	a	a	a	a		a				a		r						
Fiji	d	d	d	r	a	r	a	a		a	a		a		r	a	a					a		
Finland	a	r	r	r	r	a	r	r	r	r	A	r	r		r	A	A	r	A	A	s	s	s	s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
France	r	r	a	r	r	a	r	a	a	a	AA	r	AA		r	r	r	r	r	r		s	a	r
Gabon	a	d	a	r	a	r	s	a	a	r	a	r				a	r	a				r		s
Gambia		d	a	r	a	a			a			s	a					r	r	r				
Georgia	a	a		a	a	a		a	a	a	a	a	a	a		a	r	r	r	r				
Germany	r	a	r	r	r	r	r	r	r	r	r	r	a	s	r	r	r	r	r	r	s	r	r	s
Ghana	a	a	r	r	r	a	s	a	r	a	a	r	a			a	r					s		s
Greece	r	r	a	r	r	r	r	a	r	r	r	r	r		a	r	r	s	s	s	s	s		s
Grenada		d		a	a	a		a	a	a	a		a			a	a	a	a	a	a			s
Guatemala		r	r	r	a	r	r	r	r	r	r	a			a	a	r	r	a	a	a	s	a	s
Guinea		a	a	a	a	a		a	a	a	a	r	a	a	a	a	r	a	a	a		s		
Guinea-Bissau		a	a	a	a	a	a	a	a	a	a	s	a			a	r	r	r	s		a		

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Guyana		d	a	a	r	a		a	a	a	a	r	a		a	a	a	a	a	a	a	s		
Haiti		a	r	a		r	r	a	a	r	s				s			s	s	s				s
Holy See	a	r	r		r		r		r			a												
Honduras		a	a	a	a	a	a	a	r	r	a	a	a	a	s	a	r	r	a	a	a			r
Hungary	r	r	r	r	r	r	a	r	r	a	r	r	r		a	r	r	r	r	r		r		
Iceland		a	a	a	a	a	a	r	r	a	a	r	a		a	r	r	s	s	s	s	s		s
India	s	r	r	r	a	r	a	a		a	a	s	a			r	r	s	s	s	s	r		s
Indonesia	a	a	r	r	a	a	r				r	r				a	r	s	s	s				
Iran, Islamic Republic of		r	r	r	r	a	r	a		a								s						
Iraq	a	a	r	r	a	a	a	a		s								a						
Ireland	a	r	a	a	a	a	a	a	r	a	r	r	a		a	r	r	s	s	s		s		s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Israel	a	r	a	r	a	r	r	a		s	r	r				r	r	r	r			s		
Italy	r	r	r	r	a	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	r	s		s
Jamaica		d	a	r	a	r	a	a	a	r	a		a		a	a	r	r	r	r	r	s		
Japan	s	a	r	r	r	a	r	a	a	r	a	a	a		A	A	A	s	s	s	s	A		s
Jordan		a	r	r	a	r	r	a	r	a		a	a				r	s				s		
Kazakhstan		d	a	a	a	a	a	a	d	a	a	a	a			a	a	r	a	a	a	r		
Kenya	a	a	a	a	a	a	a	a	a	a	a	a	a		a	a	r	a	a	a	a	r	r	s
Kiribati		d						a		a			a			a	a	a	a	a		r		
Kuwait	a	a	a	r	a	a	a	a	a	a	a	a	a		a	a		r	a	a	a	s		
Kyrgyzstan		d	a	a	a	a		a	d	a		a				a	a	r	r	r		r		
Lao People's Democratic		a	a	r	a	r		a	r	a					a	a	a	a	a	a	a			s

r = ratification a = accession d = succession A = acceptance AA = approval p = party s = signature d-s = succession to signature	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances	
Republic																									
Latvia	a	a	a	a	a	a	a	a	a	a	a	a	a			a	r	r	r	r	a	r			
Lebanon	a	r	r	a	r	a	r	a	a	a	a	a	a		a			r	r	r	r	r	s	s	
Lesotho		d	d	a	a	a	a		a	r		a			a	a	r	r	r	r	a	s			
Liberia	a	a	r	a	s	a	s	a	a	r		a	r	a	a	a	a	a	a	a	a	s	s		
Libyan Arab Jamahiriya		a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	r	r	r	r	r	s			
Liechtenstein		r	r	r	a	a	r	a	r	a	r	r	a		r	a	r	r	r	r		s	r	s	
Lithuania	a	a	a	a	a	a		a	a	a	a	a	a		a	r	a	r	r	r	r	r		s	
Luxembourg	r	r	r	r	a	r	r	a	r	r	r	r			r	r	r	r	s	s	s	r	s	s	
Madagascar		d	r	a	a	a	r	a	r	a	a	r	a			r	r	r	r	r	r	s		s	
Malawi	a	a	a	a	a	a	a	a	a	a		a				a	a	r	a	a	a				

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Malaysia	a	a	a	r	a	a	a	a		a						a	a	r				s		
Maldives		a		a	a	a		a	a			a		r		a	a							s
Mali	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	a	r	r	r	r	r		s	s
Malta		d		a	a	a		a	a	a	a	a	a		s	a	r	r	r	r		s		s
Marshall Islands		a	a	a	a	a		a		a	a		a			a	a							
Mauritania		d		a	a	a		a	a	a	a	a	a	a		a	a	a	a	a	a	a		
Mauritius	d	d	d	a	a	a	a	a	a	r		a	a			a	r	r	a	a	a	s		
Mexico	a	r	r	r	a	r	a	a	a	a	a	r	a			a	r	r	r	r	r	r		r
Micronesia, Federated States of		a	a		a	a		a	a	a			a			a	r	a						
Moldova, Republic of		a	a	a	a	a	a	a	a	a	a	a	a	a		a	r	r	r	r	a	r		s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Monaco	r	r	a	a	r	a	r	a	a	a	a	a	a		a	r	r	r	r	r	s	s	a	s
Mongolia		a	a	r	a	r	a	r	r	a	r	a	a		a	a	r	a	a	a	a	r		s
Montenegro		a	d	d	d	d	d	d	a	d	d	d	d	d-s	d	d	d	d	d	d	d	d-s		s
Morocco	a	a	a	a	a	a	r	a		a	r	r	r	s		a	r	r				s		s
Mozambique		a	a	a	a	a		a	a	a	a	a	a			a	r	r	r	r	a	s		s
Myanmar		a	r	a	a	a	a	a		a			a			a	r	a	a	a				
Namibia		d		a	a	a			a		a	a	a				s	r	r	r				
Nauru		a		a		a		a	a	a	a	s	a		a	a	r	s	s	s	s			
Nepal		a		a	a	a		a		a		a			a	s		s						
Netherlands	r	r	r	r	a	r	a	a	r	r	A	r	A		A	A	A	r	A	A	a	s	A	s
New Zealand		r	r	r	r	r	r	a	r	r	a	r	r	a	r	a	r	r	r	r		s	s	

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Nicaragua		r	r	a	a	r	r	r	r	a	a	r	a			a	r	r	a	a	a	s		
Niger	a	d	a	r	a	r	r	a	r	a	r	a	a			a	a	r	r			a		s
Nigeria		d	r	a	a	a			a		a	r	r	s			r	r	r	r	r			
Niue		a																						
Norway	r	r	r	r	a	a	r	r	r	r	r	r	r		r	r	r	r	r	r	r	s	AA	s
Oman		a	a	a	a	a		a	a	a	a		a					a	a	a	a			
Pakistan		r	r	r	a	a	r	a		a	a	s	a		s	a		s						
Palau		a		a	a	a		a	a	a	a		a			a	a					s		
Panama	s	a	r	r	a	r	r	a	r	r	r	r	a		r	r	r	r	r	r	r	r		s
Papua New Guinea		d	d	d	a	d	a	a		a						a	a							
Paraguay		r	r	r	r	r	r	r	a	a	r	r	a		a	a	r	r	r	a	a	s		s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Peru	a	r	r	a	a	a	r	a	r	a	a	r	a	a		a	r	r	r	r	a			
Philippines	a	r	r	r	a	r	r	a		r	r	a	r		r	r	r	r	r	r		s		
Poland	r	r	r	r	r	r	a	r	r	a	r	r	r	s	r	r	r	r	r	r	r	s	s	
Portugal	r	r	r	r	a	r	a	a	r	r	r	r	a		r	r	r	r	r	r	s	s		s
Qatar		a		a	a	a		a	a		a	a	a	a		a	a	a				s		
Republic of Korea		a	r	a	a	a	r	a	r	a	r	a	a		a	r	r	s	s	s	s	s	s	
Romania	r	r	a	r	a	r	a	r	r	a	r	a	a	s	r	r	r	r	r	r	a	r	s	s
Russian Federation		r	r	r	r	r	a	r	r	a	r	r	r		r	r	r	r	r	r		r		
Rwanda		d		r	r	r		r	a	a	a	a				a	r	r	r	r	a	s		
Saint Kitts and Nevis		d	a		a	a	a	a	a	a	a		a			a	r	r	a	a	a			
Saint Lucia		d	d	a	a	a			a				a					s						

r = ratification a = accession d = succession A = acceptance AA = approval p = party s = signature d-s = succession to signature	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Saint Vincent and the Grenadines		a	d	a	a	a	d	a	a	a		a	a			a	r	s	s	s				
Samoa		d		a		a			a				a		r		r							s
San Marino	a	a	a		a		a		r			r				a	r	s	s	s				
São Tomé and Príncipe		a	a	a	a	a		a	a	a		s	a			a	a	a	a	a	a	s		
Saudi Arabia		a	a	a	a	a		a	a	a	a	a	a	a		a	r	r	r	r	a	r		
Senegal	a	d	a	r	a	r	r	a	r	r	a	r	a	a	r	a	a	r	r	r	r	s	s	r
Serbia		d	d	d	d	d	d	d	d	d	d	d	a	d-s	a	a	r	r	r	r	a	r		s
Seychelles		a	a	a	a	a	a	a	a	a	a	a	r	a		a	r	r	r	r	s	s		
Sierra Leone		d		r	a	a		a	a	a		r			s	a	r	s	s	s	s	s	s	s
Singapore	d	a	a	r	a	r	a	a					a		a	a	r	r				s		

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances	
Slovakia	d	d	d	d	d	d	d	d	d	d	d	d	a		r	r	r	r	r	r	r	r	r	r	s
Slovenia	d	d		d	d	d		d	d	d	d	a	a		a	r	r	r	r	r	r	s	s	s	s
Solomon Islands	d	d	d			d			a																
Somalia		a	a		a							a					s								
South Africa	a	a	a	r	a	r	r	a	a	a	r	r	a			r	r	r	r	r	r	r	r		
Spain	r	r	r	r	a	r	r	a	r	a	r	r	r		r	r	r	r	r	r	a	r	r	r	s
Sri Lanka	a	r	a	a	a	a	a	a		a		a	a		a	r	r	r	s	s		r			
Sudan		a	a	a	a	a	a	a	a	a	a	s	a			r	r	r							
Suriname		d	d	d	a	d	a		a	r				r				a	a	a					
Swaziland		a		a	a	a		a	a	a	a	a	a			a	a	s	s	s		s		s	s
Sweden	a	r	r	r	r	a	r	r	r	r	r	r	r		r	r	r	r	r	r	s	s	r	s	s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Switzerland	r	r	r	r	a	r	a	a	r	r	r	r	r		a	a	r	r	r	r		r	r	
Syrian Arab Republic	r	r	a	a	a	a	a	a	a			a	a	a			a	s	s	s		s		
Tajikistan		d		a	a	a		a	d	a	a	a	a			a	r	r	a	a		s		
Thailand	a	a	r	r	a	a	a	a		a		a				a	r	s	s	s		s		
The former Yugoslav Republic of Macedonia	d	d	a	d	a	d	a	d	d	d	d	d	a		a	r	r	r	r	r	a	r		s
Timor-Leste		a							a			a										s		
Togo	a	d	a	a	r	a	r	a	r	r	a	r	a	a	r	r	r	r	s	s		s		
Tonga		d	d	a	a	a	a	a	a	a	a		a			a	a							
Trinidad and Tobago		a	a	r	r	r	a	a	a	a	a		a			a		r	r	r	a			
Tunisia		a	r	a	a	a	r	r	r	a	a	r	a		r	a	r	r	r	r	r		r	s

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Turkey	a	r	a	r	r	r	r	a		a	r	r	r		a	r	r	r	r	r	r	s		
Turkmenistan		d	a	a	a	a		a	d	a	a	a	a	a	a	r	a	a	a	a	a	a		
Tuvalu		d											a											
Uganda	a	a	a	a	a	a	a	a	a	r	a	a	a			r	r	r	s	s	a			s
Ukraine		r	r	r	r	r	a	r	r	a	a	r	r	r	r	a	r	r	r	r		r	s	
United Arab Emirates		a		a	a	a		a	a	a	a		a			a	a	r				a		
United Kingdom of Great Britain and Northern Ireland	r	r	r	r	r	r	r	r	r	r	r	r	r		r	r	r	r	r	r	s	s		
United Republic of Tanzania		d		a	a	a			a	a	a		a			a	a	r	r	r	a			s
United States of America	s	r	a	r	r	r	r	r		r	r	r	r		s	r	r	r	r	r		s		

	1929 Counterfeiting	1949 Geneva	1961 Narcotics	1970 Hague	1971 Psychotropic	1971 Montreal	1972 Narcotics	1973 Diplomats	1977 Protocol I	1979 Hostages	1979 Nuclear	1984 Torture	1988 Maritime	1989 Mercenaries	1994 Peace-keepers	1997 Terrorist bombings	1999 Financing Terrorism	2000 Organized Crime	2000 Trafficking (Protocol)	2000 Smuggling (Protocol)	2001 Firearms (Protocol)	2005 Nuclear Terrorism	2005 Personnel Safety (Protocol)	2006 Enforced Disappearances
Uruguay		r	a	a	a	a	a	a	a	a	a	r	a	r	r	r	r	r	r	r		s	s	s
Uzbekistan		a		a	a	a		a	a	a	a	a	a	a	a	r	r	r	r	s		a		
Vanuatu		a		a		a			a				a				a	a						s
Venezuela, Bolivarian Republic of		r	r	r	r	r	r	a	a	a		r				r	r	r	r	r				s
Viet Nam		a		a	a	a		a	r				a				a	s						
Yemen		a		a	a	r		a	r	a	a	a	a			a		s						
Zambia		a	a	a	a	a	a		a			a						a	a	a	a			
Zimbabwe	d	a	d	a	a	a			a									r						

B. RATIFICATION AND SIGNATURES OF SELECTED TREATIES OF THE ORGANIZATION OF AMERICAN STATES WITH UNIVERSAL JURISDICTION AND *AUT DEDERE AUT JUDICARE* OBLIGATIONS

r = ratification a = accession s = signature	1971 International Terrorism	1985 Torture	1994 Minors	1994 Forced Disappearance	1996 Corruption	1997 Firearms	2002 Terrorism
Antigua and Barbuda					r	r	r
Argentina		r	a	r	r	r	r
The Bahamas					r	r	s
Barbados					s	r	s
Belize			r		r	r	s
Bolivia	r	r	r	r	r	r	s
Brazil	r	r	r	s	r	r	r
Canada					r	s	r
Chile	s	r		s	r	r	r
Colombia	r	r	a	r	r	r	r
Costa Rica	r	r	r	r	r	r	r
Dominica					a	a	a
Dominican Republic	r	r			r	s	r
Ecuador	r	r	r	r	r	r	r
El Salvador	r	r	a		r	r	r
Grenada	r				r	r	r
Guatemala	r	r		r	r	r	r
Guyana					r	r	r
Haiti		s			r	r	s

Honduras	r	S	a	r	r	r	r
Jamaica	S				r	S	S
Mexico	r	r	S	r	r	r	r
Nicaragua	r	S	a	S	r	r	r
Panama	r	r	r	r	r	r	r
Paraguay	r	r	r	r	r	r	r
Peru	r	r	a	r	r	r	r
Saint Kitts and Nevis					r	r	S
Saint Lucia					a	r	S
Saint Vincent and the Grenadines					a	S	S
Suriname		r			a	r	S
Trinidad and Tobago	S				r	r	r
United States of America	r				r	S	r
Uruguay	r	r	r	r	r	r	r
Venezuela	r	r	S	r	r	r	r

C. RATIFICATION AND SIGNATURES OF SELECTED TREATIES OF THE COUNCIL OF EUROPE WITH UNIVERSAL JURISDICTION AND *AUT DEDERE AUT JUDICARE* OBLIGATIONS

r = ratification s = signature	1977 Terrorism (Suppression)	1998 Environment	2005 Terrorism (Prevention)	r = ratification s = signature	1977 Terrorism (Suppression)	1998 Environment	2005 Terrorism (Prevention)
	Albania	r			r	Iceland	r
Andorra	s		r	Ireland	r		s
Armenia	r		s	Italy	r	s	s
Austria	r	s	s	Latvia	r		s
Azerbaijan	r		s	Liechtenstein	r		
Belgium	r	s	s	Lithuania	r		s
Bosnia and Herzegovina	r		r	Luxembourg	r	s	s
Bulgaria	r		r	Malta	r		s
Croatia	r		r	Moldova, Republic of	r		r
Cyprus	r		s	Monaco	r		
Czech Republic	r			Montenegro	r		r
Denmark	r	s	r	Netherlands	r		s
Estonia	r	r	s	Norway	r		s
Finland	r	s	r	Poland	r		r
France	r	s	r	Portugal	r		s
Georgia	r		s	Romania	r	s	r
Germany	r	s	s	Russian Federation	r		r
Greece	r	s	s	San Marino	r		s
Hungary	r		s	Serbia	r		s

Slovakia	r		r
Slovenia	r		s
Spain	r		s
Sweden	r	s	s
Switzerland	r		
The former Yugoslav Republic of Macedonia	r		s
Turkey	r		s
Ukraine	r	s	r
United Kingdom	r		s

D. RATIFICATION AND SIGNATURES OF SELECTED TREATIES OF THE AFRICAN UNION WITH UNIVERSAL JURISDICTION AND *AUT DEDERE AUT JUDICARE* OBLIGATIONS

r = ratification a = accession s = signature	1977 Mercenarism	1999 Terrorism	2003 Corruption		1977 Mercenarism	1999 Terrorism	2003 Corruption
Algeria	a	a	r	Eritrea		r	
Angola	s	a	s	Ethiopia	r	a	a
Benin	r	a	a	Gabon	a	a	s
Botswana		s		Gambia	s	s	s
Burkina Faso	r	a	r	Ghana	r	r	a
Burundi		a	r	Guinea	a	a	s
Cameroon	a	s	s	Guinea-Bissau	s	s	s
Cape Verde		r		Kenya	s	r	a
Central African Republic		s		Libyan Arab Jamahiriya	a	r	r
Chad	s	s	s	Lesotho	r	r	r
Comoros	a	r	r	Liberia	r	s	a
Congo, Republic of the	a	a	r	Madagascar	a	a	r
Côte d'Ivoire	s	s	s	Malawi		a	a
Democratic Republic of the Congo	r	s	s	Mali	r	r	r
Djibouti	s	a	s	Mauritania		a	s
Egypt	r	r		Mauritius		a	s
Equatorial Guinea	a	a	s	Mozambique		a	a
Namibia		s	r				

Niger	r	a	r
Nigeria	a	a	a
Rwanda	r	r	r
São Tomé and Príncipe			
Sahrawi Arab Democratic Republic		r	
Senegal	r	r	a
Seychelles	r	a	a
Sierra Leone	s	s	r
Somalia	s	s	s
South Africa		r	r
Sudan	r	a	s
Swaziland	s	s	s
Togo	a	a	s
Tunisia	r	r	
Uganda	s	a	r
United Republic of Tanzania	r	a	r
Zambia	r	s	a
Zimbabwe	a		a