

The SHERLOC Newsletter is pleased to share with you our recent efforts to facilitate the dissemination of information regarding the implementation of the [UN Convention against Transnational Organized Crime and its three Protocols](#).

What's Inside

Page 1 Spotlight

Page 2 Spotlight cont.

Page 3 Meet a Contributor

Page 5 Upcoming Events

Spotlight – Terrorism and Organized Crime



UN Photo/ Amanda Voisard

On 12 December 2016, the Security Council adopted [resolution 2322](#) aiming to strengthen international judicial cooperation, including by investigators, prosecutors and judges, in the fight against terrorism. It expressed concern that terrorists benefit and continue to profit from transnational organized crime, including from the [trafficking of arms, persons, drugs and artifacts](#), as well as from the [illicit trade of natural resources and wildlife](#).

Cont. Page 2





The Security Council recognized the indispensable role of international cooperation in crime prevention and criminal justice and stressed the development and maintenance of fair and effective criminal justice systems as a fundamental basis of any strategy to counter terrorism and transnational organized crime.

[The Legislative Guide for the Implementation of the United Nations Convention Against Transnational Organized Crime](#) notes that the definition of “organized criminal group” only includes groups that through their activities seek to obtain, directly or indirectly, a “financial or other material benefit”. This would not, in principle, include groups such as some terrorist or insurgent groups, provided that their goals were purely non-material. However, the Convention may still apply to crimes committed by those groups in the event that they commit crimes covered by the Convention in order to raise financial or other material benefits. In this context, UN General Assembly Resolution 55/25 adopting the *Convention against Transnational Organized Crime* as well as the Security Council Resolution 2195 of 2014, also call upon States to recognize the link between transnational organized criminal activities and acts of terrorism.

The [SHERLOC portal](#) continues to be a comprehensive source for [legislation](#) and [case law](#) pertaining to all the afore mentioned crimes, as well as [cross cutting issues](#) such as the transfer of criminal proceedings, mutual legal assistance, extradition and informal cooperation. SHERLOC is also home to the [Directory of Competent National Authorities](#) which contains contact information of national authorities authorized to receive, respond to and process requests of assistance for matters related to extradition, mutual legal assistance and more.



Meet a Contributor!

Matthew Taylor is our featured contributor this issue. Matthew is a lawyer and team leader with the Department of Justice Canada's Criminal Law Policy Section, which is the Department's centre of expertise for criminal law and policy. During his career, Matthew has worked on a wide range of matters, including in the areas of organized crime, human trafficking and migrant smuggling. He is a frequent contributor to SHERLOC and has also supported a number of other UNODC technical assistance initiatives.

"SHERLOC provides the perfect vehicle to share Canadian experiences in the fight against transnational organized crime and to stay current on the efforts of other countries," says Matthew. He further notes, "As someone who is called upon to provide advice to the Government of Canada on legal measures to respond to organized crime, having a resource to draw from like SHERLOC is invaluable."

We asked Matthew to comment on Canada's definition of "Criminal organization."

[Section 467.1 of Canada's Criminal Code](#) defines a criminal organization to mean

"a group, however organized, that is composed of three or more persons in or outside Canada; and, has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group."

Canada's definition of "criminal organization" was amended in 2002, in part, to support its implementation of the *Convention against Transnational Organized Crime*. The definition provides the foundation for Canada's robust criminal law tools available to combat organized crime and has been the subject of considerable judicial analysis.

For example, in a 2007 decision, [R v Terezakis](#),¹ from the Court of Appeal in the province of British Columbia, the Court was asked to interpret the definition of "criminal organization" and, in particular, the requirement that there be "a group, however organized, that is composed of three or more persons" and that

¹ *R v Terezakis*, [2007] BCJ No. 1592. <http://www.courts.gov.bc.ca/jdb-txt/ca/07/03/2007bcc0384.htm>.



the group “has as one of its main purposes or main activities the facilitation or commission of one or more serious offences.” The Court held,

"however organized" in my view is intended to identify the group connected to the criminal purpose or activity. It does not include persons who are not functionally connected to that criminal purpose or activity, irrespective of their links to organizations with legitimate purposes and activities that include persons in the criminal group. Consequently I do not think that the trial judge's examples of a martial arts teacher who gives lessons to gang members and the customer of a marijuana café could be included in the group that constitutes a criminal organization. They may be aware of a criminal purpose or activity by the group but they are not part of it.

Later, the Supreme Court of Canada, in its decision *R v Venneri*,¹ emphasized the flexible nature of the definition:

Working collectively rather than alone carries with it advantages to criminals who form or join organized groups of like-minded felons. Organized criminal entities thrive and expand their reach by developing specializations and dividing labour accordingly; fostering trust and loyalty within the organization; sharing customers; financial resources; and insider knowledge; and, in some circumstances, developing a reputation for violence. A group that operates with even a minimal degree of organization over a period of time is bound to capitalize on these advantages and acquire a level of sophistication and expertise that poses an enhanced threat to the surrounding community.

SHERLOC is always looking for contributors who support us in collecting and summarizing legislation, case law and bibliographic data. Contact us at sherloc@unodc.org

¹ *R v Venneri*, [2012] 2 SCR 211, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/9993/index.do>.



Upcoming Events



24 – 26 April – Open – ended Intergovernmental Meeting to Explore All Options Regarding an Appropriate and Effective Review Mechanism for UNTOC and the Protocols thereto

8 – 10 May – Working Group on Firearms, 5th Session

6 – 9 June – EGM for the Elaboration of a Tool on New Forms and Dimensions of Emerging Crimes

4 – 6 September - Working Group on Trafficking in Persons

6 – 8 September - Working Group on the Smuggling of Migrants

9 – 11 October - Working Group of Government Experts on Technical Assistance, 10th Session

11 – 13 October – Working Group on International Cooperation, 8th Session

For further information, please
contact:

sherloc@unodc.org

Conference Support Section
Organized Crime and Illicit
Trafficking Branch/Division for
Treaty Affairs

