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## Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

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### Analytical study on serious crime

#### Report by the Secretariat

#### I. Introduction

1. At its second session, held in Vienna from 8 to 12 March 1999, the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime requested the Secretariat to carry out an analytical study on provisions of national laws concerning serious offences punishable by deprivation of liberty, in relation to article 2 *bis* (b) of the draft Convention (see A/AC.254/11, para. 18). Pursuant to that request, the Secretariat asked States to provide information on the following:

(a) What provisions were contained in their national laws relevant to the draft Convention concerning offences punishable by deprivation of liberty, with an indication of the number of years of imprisonment;

(b) Whether their legislation qualified offences as serious and, if so, what criteria were used for such qualification and which crimes fell into that category.

2. As at 15 October 1999, the Secretariat had received responses from 45 States. The present analytical study is based on the information provided by those States.

#### II. Analysis

##### A. National laws concerning offences punishable by deprivation of liberty

3. In response to the first question, many States listed examples of offences punishable by deprivation of liberty and provided information on the number of years of imprisonment imposed for such offences. Among the offences listed were murder, rape, assault, abduction, theft, robbery, burglary, handling stolen property, extortion, trafficking in

drugs, embezzlement, bribery, fraud, counterfeiting of money, money-laundering, trafficking in human beings, smuggling of firearms, participation in a criminal organization and forming or leading a criminal organization (see the annex to the present report for full details).

4. The number of years of imprisonment (including, where applicable, the maximum and minimum sentence) imposed for the above-stated offences varies among the responding countries. However, as shown in the table that follows, the length of deprivation of liberty falls within a relatively comparable range (for further information, see annex).

<i>Offences</i>	<i>Average punishment (Years)</i>
Murder	5-life imprisonment or capital punishment
Rape	1-life imprisonment
Assault	0.5-14
Abduction	2-14
Theft	1-15
Robbery	2-life imprisonment
Burglary	7-life imprisonment
Handling stolen property	2-15
Extortion	2-15
Trafficking in drugs	5-20
Embezzlement	1-15
Bribery	0.5-10
Fraud	2-10
Counterfeiting of money	3-10
Money-laundering	5-15
Trafficking in human beings	5-15
Smuggling of firearms	1-10
Participation in a criminal organization	3-6
Forming or leading a criminal organization	3-12

5. The laws of many States prescribe minimum and maximum terms of imprisonment for each offence. Some countries qualify the degree of punishment for the same offence and, in determining the degree of punishment to be imposed, take into account various factors, such as the circumstances under which the offence was committed and the consequences of the offence. While certain differences exist among the States responding with respect to the ways the punishment imposed is determined, generally most of the States responding seem to foresee relatively similar terms of imprisonment for the same types of offence.

6. Notwithstanding the general convergence noted above, there are some offences that are treated quite differently in different States, with some countries imposing far stricter punishment than others. One example is the punishment imposed for the offence of bribery. As indicated above, the typical term of imprisonment imposed by most of the responding States ranges from a term of 6 months to 10 years. However, in South Africa, the minimum sentence for bribery is 15 years of imprisonment for first-time offenders, 20 years for

second-time offenders and 25 years for offenders who have committed the offence three or more times.<sup>1</sup> In China, the term of imprisonment for bribery can be up to life imprisonment and even capital punishment can be imposed for this offence.

7. Another variation from the generally similar terms of imprisonment for the same offence concerns counterfeiting of money. Generally, States impose 3-10 years of imprisonment, whereas the maximum term of imprisonment for this offence in Norway is a term of up to 3 years. In Cyprus and Fiji, life imprisonment may be imposed and in China, under certain circumstances, capital punishment may be imposed. Money-laundering is another example. Many of the States responding impose a term of imprisonment between 5 and 15 years, but the maximum term of imprisonment imposed in Belarus<sup>2</sup> and Switzerland is 3 years and Austria, Bulgaria and New Zealand impose a term of up to 5 years. However, in Peru, life imprisonment can be imposed. The punishment imposed for the offence of smuggling of firearms is also substantially different in some responding States. Many States impose a term of imprisonment of up to 10 years for this offence. However, in South Africa, the minimum term of imprisonment is 15 years. Life imprisonment can be imposed for the offence in Cyprus and in China capital punishment may be imposed in “especially serious cases”.

## B. Countries that statutorily classify “serious offence”

8. Among the 45 States responding, 16 have in their legislation a specific statutory classification of certain offences as “serious offences”. Their categorization is based on (a) term of imprisonment; (b) trial procedure utilized; and (c) other criteria:

(a) *Term of imprisonment.* Twelve of the 16 countries define serious offences on the basis of the term of imprisonment imposed. In Switzerland, a serious offence is defined as an offence that carries a minimum term of imprisonment of one year.<sup>3</sup> In the United States of America, an offence punishable by a maximum term of imprisonment of one year or more is characterized as a felony. In Ukraine, an offence with the minimum term of imprisonment of two years is defined as a serious offence. In Austria, Cyprus, Dominica, Fiji, Kuwait and Spain, a serious offence is defined as an offence with a minimum term of imprisonment of three years. In Ghana, a term of imprisonment for a misdemeanour cannot exceed three years.<sup>4</sup> A serious offence is defined as an offence with a minimum term of imprisonment of five years in Bulgaria and New Zealand;

<sup>1</sup> According to the pertinent legislation of South Africa (Schedule 2, Part II, of the Criminal Law Amendment Act), these punishments are imposed: (a) if the offence involves amounts higher than 500,000 rand; (b) if the amounts involved exceed R 100,000 if the offence was committed by a person, group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy; or (c) if it is proved that the offence was committed by a law enforcement officer (i) when the amounts involved are more than R 10,000 or (ii) if the perpetrator acted as a member of a group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy.

<sup>2</sup> A new criminal code is in preparation in Belarus.

<sup>3</sup> Under Swiss penal law, there is a distinction between serious and very serious offences. Light imprisonment (3 days-3 years) is applied to serious offences and rigorous imprisonment (1-20 years or life imprisonment) is applied to very serious offences.

<sup>4</sup> Under the Ghanaian Criminal Code, 1960, and the Criminal Procedure Code, 1960 (amended by Act 261, s. 5), crimes are categorized as: (a) first-degree felony, the punishment for which is life imprisonment or any lesser term; (b) second-degree felony, the term of imprisonment for which cannot exceed 10 years; and (c) misdemeanour, the term of imprisonment for which cannot exceed 3 years.

(b) *Trial procedure.* In Ireland, a serious offence is defined not on the basis of the term of imprisonment imposed but on that of the trial procedure applied. Under Irish law, a distinction is made between summary offences and indictable offences, and indictable offences are considered to be serious. Summary offences, which are considered minor, are tried before a judge without a jury, and indictable offences are tried before a judge and a jury. In Kuwait, serious offences (categorized as felonies) are tried in a criminal court, where three judges adjudicate each case, and non-serious offences (categorized as misdemeanours) are tried in a district court, where each case is adjudicated by one judge.<sup>5</sup> In Spain, distinctions are made between serious offences, less serious offences and minor offences, and offences in each category are tried in different courts;

(c) *Other criteria.* In Dominica, in addition to the term of imprisonment, an offence is defined as serious when the value of property derived or obtained therefrom is, or is likely to be, not less than 25,000 East Caribbean dollars.

9. Offences that most States responding categorize as serious in their national laws are, *inter alia*, murder, rape, assault, abduction, theft, robbery, extortion, counterfeiting of money, trafficking in human beings, trafficking in drugs and smuggling of firearms.

10. In some States, the gravity of certain serious offences is statutorily taken into account, resulting in a more severe punishment. Determination of the gravity of the offences is made according to the consequences resulting from such offences or/and the circumstances under which such offences are committed. The following are examples of aggravating factors:

(a) If the offence is committed by two or more persons, or if the person who committed the offence belongs to or leads an organized criminal group (Bulgaria);

(b) If the perpetrator takes advantage of his/her position as a public employee or civil servant (Peru).

### C. Countries whose legislation does not categorize “serious offence”

11. Some responding States indicated that there was no distinction between serious and non-serious offences in their legislation, but did not provide further information. However, most responding States whose laws did not contain a specific classification of serious offences indicated that, in spite of the absence of a statutory distinction, they still recognized the concept of serious offence and distinguished between serious and non-serious offences under their legal systems. Such unofficial distinctions are based on (a) the punishment imposed (i.e. the term of imprisonment); (b) the trial procedures; (c) the investigation procedure; or (d) the circumstances under which the offence was committed. Although specific provisions may not exist to classify offences as serious under national laws, distinctions that are not based on any formal legal qualification as described above seem to function as if the concept of serious offence were officially recognized under applicable laws:

(a) *Term of imprisonment.* According to most responding States that use a term of imprisonment as an unofficial standard to distinguish serious offences from other offences, an offence is considered to be serious if the term of imprisonment imposed exceeds a

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<sup>5</sup> In Kuwait, the use of an investigatory body is also different between serious and non-serious offences. An investigatory body is assigned only to serious offences before the cases are referred to the courts.

certain period of time. Typical time periods for such minimum terms of imprisonment range from one to five years. These terms seem to coincide with those foreseen by responding States that reported having an official provision concerning serious offences under their penal code. While the minimum term of imprisonment as an unofficial standard to distinguish serious offences is generally within the same range as described above, some countries use a significantly different standard of time periods for such minimum terms of imprisonment. For example, the minimum term of imprisonment for a serious offence as an unofficial standard is 15 days in Italy and 3 months in Norway, while in Romania it is 12 years;

(b) *Trial procedure.* In Colombia, the seriousness of an offence is inferred from the following factors: whether conditional release is allowed; whether the offence is tried at a regional court (which deals with the most serious offences); whether the offence is aggravated; whether a custodial sentence is imposed; and the extent to which a penalty is imposed and a conditional sentence is allowed. In Japan, serious offences are tried by a collegiate court of judges, where three judges adjudicate each case. For serious offences, a request for release on bail may not be granted. In addition, a summary public trial will not be available for serious offences, even in the case of a guilty plea entered by the accused. In the United Kingdom of Great Britain and Northern Ireland, there are two types of criminal court, the magistrates' court and the crown court. In magistrates' court, the punishments imposed are imprisonment for up to six months and/or a fine of £5,000, while the crown court can impose higher penalties. Offences that can be tried only in magistrates' court are not considered serious offences;

(c) *Investigation procedure.* In Italy, the interception of telephone conversations and other types of telecommunications is allowed under criminal procedure in connection with the investigation of serious offences. In addition, an investigative body may apply precautionary coercive measures (such as prohibition from leaving the national territory and obligation to appear before the investigating police) or pre-trial detention in the case of serious offences. Moreover, arrests are mandatory for serious offences, while they are discretionary for others. For certain serious offences, the preliminary investigation of a suspect in custody may be extended for up to 18 months;

(d) *Other criteria.* In Costa Rica, while there is no provision concerning serious offences, such offences as drug trafficking, aggravated robbery, counterfeiting of currency and trafficking in slaves, women and children are considered to be serious. In Finland, certain offences, such as sexual assault, manslaughter, murder, kidnapping, aggravated robbery, offences related to nuclear devices, hijacking, aggravated counterfeiting, aggravated war crimes and high treason are considered to be serious. In Greece, an offence is considered serious if it is committed by one or more perpetrators acting professionally and whose activities are of a habitual nature or especially dangerous. In addition, an offence committed by an organized criminal group may be characterized as a serious offence.

12. Even without official recognition of serious offences under national laws, some countries have a distinction between aggravated offences and non-aggravated offences (e.g. Romania)<sup>6</sup> or between "petty", "basic" or "aggravated" offences (e.g. Finland).<sup>7</sup> In both

<sup>6</sup> In Romania, there are certain situations that aggravate an offence, for example, where the offence is committed by three or more persons.

<sup>7</sup> In Finland, there are sentencing guidelines that prescribe not only aggravating factors but also mitigating factors.

cases, such aggravated offences are considered serious. In China and Sweden, a classification exists within the same category of offence and the penalties imposed are determined based on that classification. In Croatia, offences are classified as “serious crimes” and “very serious crimes” and the punishment imposed for aggravated offences is more severe than that for other offences.

#### **D. Others**

13. Some countries did not provide information with regard to serious offences, but indicated certain situations where an offence was aggravated and more severe punishments would be applied.

14. For example, in Monaco, if the offence is committed by a member of a criminal organization, the punishment can be increased as much as tenfold.

15. In Belarus, aggravating circumstances include cases where the same acts are committed repeatedly; where the acts are committed on the basis of prior agreement by a group of persons; or where they are committed by a public official by virtue of his official position.

### **III. Concluding remarks**

16. Of the 45 States responding, only 16 have a specific provision concerning serious offences in their penal legislation. However, most of the other States responding indicated that, although they did not have such a specific provision, they still recognized the concept of “serious offence” under their legal systems. That concept seems to be substantially identical to the one underlying the specific provisions of the penal legislation of the responding States that do distinguish serious from other offences. While there are various standards to distinguish serious offences from other offences, many responding countries use the term of imprisonment as the standard for that distinction. The typical minimum term of imprisonment for serious offences ranges from one to five years, with the average being three years.

17. Further, many responding States consider the offences committed by organized criminal groups to be serious, in particular those offences which are prescribed in the draft Convention and the draft Protocols.

18. The concept of “serious offence” thus appears to be well established in both the legislation and practice of States and to be used widely to distinguish between types of criminal conduct that are either identical or substantially similar.

## Annex

### A. Terms of imprisonment prescribed for the offences of murder, rape, assault, abduction, theft, robbery, burglary, handling stolen property and extortion, by country

Country	Statutory distinction made between serious and other offences		Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
	Serious offences	Serious offences									
Austria	X	Maximum imprisonment of more than 3 years	Up to 20 years or life		Up to 5 or 10 years	Up to 10 years	Up to 5 or 10 years	Up to 5, 10, 15, 20 years or life (depending on seriousness)		Up to 5 years	Up to 5 years
Belarus <sup>a</sup>	N/A	N/A				4-8 years or 7-10 years <sup>b</sup>					Up to 2 years (corrective labour) or a fine or public reprimand or imposition of community service

<sup>a</sup> Belarus is currently drafting a new criminal code. The information in this annex refers to the provisions of the Criminal Code presently in force.

<sup>b</sup> If the same offence is committed (a) repeatedly; (b) on the basis of a prior agreement by a group of persons; (c) in respect of a minor; (d) in respect of two or more persons; (e) with the use of force, endangering the life or physical integrity of the victim; (f) with the use of force; or (g) by an organized group.

Country	Statutory distinction made between serious and other offences	Serious offences	Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
Bulgaria <sup>e</sup>	X	Imprisonment of more than 5 years				3-10 years (committed by two or more persons)	1-10 years (committed by two or more persons)	5-15 years (committed by two or more persons)			2-8 years (committed by two or more persons)
Canada	-	Maximum imprisonment of 2 years to life imprisonment <sup>d</sup>									
China	-	No distinction <sup>e</sup>	Minimum 10 years or life or capital punishment; or 3-10 years (minor)	3-10 years; or minimum 10 years or capital punishment (depending on severity)	Up to 3 years; or 3-10 years; or minimum 10 years or capital punishment (depending on severity)	10 years to life imprisonment; or capital punishment (if a victim dies)	Up to 3 years and a fine; or 3-10 years and a fine; or minimum 10 years or capital punishment	3-10 years or fine; or minimum 10 years to life or capital punishment and a fine or confiscation of property			

<sup>c</sup> Under the Bulgarian Penal Code, more severe punishment is imposed if an offence is committed by two or more persons or if the perpetrator belongs to or leads a criminal organization.

<sup>d</sup> There is also a distinction in trial procedure between serious (“indictable<sup>3</sup>”) offences and non-serious (“summary<sup>3</sup>”) offences.

<sup>e</sup> Under Chinese criminal law, if the maximum imprisonment is not more than 3 years, a perpetrator may be exempted from investigation for criminal responsibility.

<i>Country</i>	<i>Statutory distinction made between serious and other offences</i>	<i>Serious offences</i>	<i>Murder</i>	<i>Rape</i>	<i>Assault (bodily harm)</i>	<i>Abduction</i>	<i>Theft</i>	<i>Robbery</i>	<i>Burglary</i>	<i>Handling stolen property</i>	<i>Extortion (intimidation, blackmail)</i>
Colombia	-	No distinction <sup>f</sup>	25-40 years or 40-60 years (aggravated)	8-20 years		6-25 years	1-6 years or 2-8 years (aggravated)				
Costa Rica	-	No distinction									
Croatia	-	Maximum imprisonment t of more than 5 years <sup>g</sup>									
Cyprus	X	Imprisonment t of 3 years or more	Up to life imprisonment	Up to life imprisonment	Up to 7 years	Up to 7 years	Up to 14 years	Up to 7 years			
Denmark	-	No distinction									
Dominica	X	Minimum imprisonment t of 3 years or capital punishment								5 years and fine	
Ecuador	N/A	N/A									

<sup>f</sup> In Colombia, there is no official distinction between serious and non-serious offences. However, the seriousness of offences is inferred from the following factors: (a) whether conditional release or house arrest is allowed; (b) whether the offence is tried in a regional court (most serious offences are tried in regional courts); (c) whether the offence is aggravated; (d) whether a custodial sentence is imposed; and (e) the extent to which a penalty is imposed and a conditional sentence is allowed.

<sup>g</sup> With regard to very serious offences, the term of imprisonment is 20-40 years.

<i>Country</i>	<i>Statutory distinction made between serious and other offences</i>	<i>Serious offences</i>	<i>Murder</i>	<i>Rape</i>	<i>Assault (bodily harm)</i>	<i>Abduction</i>	<i>Theft</i>	<i>Robbery</i>	<i>Burglary</i>	<i>Handling stolen property</i>	<i>Extortion (intimidation, blackmail)</i>
Fiji	X	Imprisonment of 3 years or more, or capital punishment	Capital punishment	Life imprisonment, with or without corporal punishment	5 years with or without corporal punishment	7 years with or without corporal punishment	5 years	Life imprisonment, with or without corporal punishment	Life imprisonment, with or without corporal punishment	14 years (receiving stolen property)	2 years (mis-demeanour) or 10 years (felony)
Finland	-	N/A <sup>h</sup>	Life imprisonment	1-6 years; 2-10 years (aggravated)	Up to 2 years (or a fine); 6 months-10 years (aggravated)	2-10 years	Up to 1½ years (or a fine); 4 months-4 years (aggravated)	4 months-6 years; 2-10 years (aggravated)			Up to 2 years (or a fine); 4 months-4 years (aggravated)
Gabon	-	N/A	Life or capital punishment								
Germany	X	N/A									
Ghana	X	N/A <sup>i</sup>	Life or any lesser term of imprisonment	5-25 years	Up to 3 years	Up to 10 years	Up to 10 years	Life or any lesser term of imprisonment			Up to 10 years

<sup>h</sup> Finland attempts to distinguish between petty, basic and aggravated forms of offences in order to standardize the penal scales. The punishment for petty offences is non-custodial sanctions; for ordinary offences, non-custodial sanctions with the possibility of custodial sanctions of up to 2-3 years are imposed; and for aggravated offences, custodial offences with the possibility of non-custodial sanctions are imposed. However, these distinctions are not rigidly enforced. Minimum imprisonment in Finland is 14 days and the maximum is 12 years, and when sentences are combined, up to 15 years' imprisonment can be imposed. In addition, under the Criminal Code, there are some aggravating situations in which more severe sentences are imposed. One such situation is the commission of an offence as a member of a group organized to commit serious offences.

<sup>i</sup> Under the Ghanaian Criminal Code, 1960, and the Criminal Procedure Code, 1960 (amended by Act 261, s. 5), crimes are categorized as: (a) first-degree felony, the punishment for which is life imprisonment or any lesser term; (b) second-degree felony, the term of imprisonment for which cannot exceed 10 years; and (c) misdemeanour, the term of imprisonment for which cannot exceed 3 years.

<i>Country</i>	<i>Country offences</i>	<i>Serious offences</i>	<i>Murder</i>	<i>Rape</i>	<i>Assault (bodily harm)</i>	<i>Abduction</i>	<i>Theft</i>	<i>Robbery</i>	<i>Burglary</i>	<i>Handling stolen property</i>	<i>Extortion (intimidation, blackmail)</i>
Greece	-	N/A <sup>i</sup>									
Indonesia	N/A	N/A									
Ireland	X	N/A <sup>k</sup>									
Italy	-	Imprisonment of 15 days-24 years or life imprisonment <sup>l</sup>									
Japan	-	Minimum imprisonment of 1 year <sup>m</sup> to life imprisonment; or capital punishment									
Korea	-	No distinction									

<sup>j</sup> According to Greek legal theory, a serious offence is characterized as an offence committed by one or more perpetrators acting professionally or whose activities are of a habitual nature or especially dangerous. An offence committed by an organized criminal group may also be characterized as a serious offence.

<sup>k</sup> Under Irish law, a distinction is made between summary offences, which are tried before a judge without a jury, and indictable offences, which are tried before a judge and a jury. Indictable offences are considered to be serious.

<sup>l</sup> The distinction between serious offences and misdemeanours affects both the types of collateral punishment and the statute of limitations. In addition, a distinction is made in Italy between offences for which arrest of the offender is mandatory or those where arrest is discretionary. For certain serious offences, preliminary investigations can be extended up to 18 months.

<sup>m</sup> The maximum imprisonment for serious offences is 5 years to life imprisonment.

<i>Country</i>	<i>Statutory distinction made between serious and other offences</i>	<i>Serious offences</i>	<i>Murder</i>	<i>Rape</i>	<i>Assault (bodily harm)</i>	<i>Abduction</i>	<i>Theft</i>	<i>Robbery</i>	<i>Burglary</i>	<i>Handling stolen property</i>	<i>Extortion (intimidation, blackmail)</i>
Kuwait	X	Imprisonment of more than 3 years or capital punishment									
Mauritius	N/A	N/A									
Micronesia (Federated States of)	N/A	N/A									
Monaco	N/A	N/A									
Morocco	- <sup>n</sup>	5-30 years or life imprisonment or capital punishment or enforced residence or deprivation of civic rights <sup>o</sup>					2-5 years				
Netherlands	-	Maximum imprisonment of more than 4 years									14 years

<sup>n</sup> Moroccan legislation does not classify offences as serious or non-serious, but consolidates them into four types: “felonies”, “disciplinary misdemeanours”, “seized misdemeanours” and “contraventions”.

<sup>o</sup> These are the punishments for offences categorized as “felonies”.

Country	Statutory distinction made between serious and other offences	Serious offences	Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
New Zealand	X	Imprisonment of 5 years or more	Life imprisonment	20 years (sexual violation)	14 years (wound), 10 years (injury), 14 years (aggravated)	14 years	7 years				Up to 5 years or 7.5 <sup>o</sup> years
Norway	-	Imprisonment of more than 3 months	6-21 years (homicide)	1-10 years or 21 years	Up to 3, 6 or 8 years or up to 21 years <sup>8</sup>		Up to 3 years or 6 years (aggravated)	Up to 5, 12 or 21 years		Up to 3 years or 6 years (aggravated)	
Pakistan	-	Imprisonment of more than 3 years									
Peru	X	N/A					4-8 years or 8-15 years <sup>8</sup>	15-25 years or life imprisonment <sup>8</sup>			

<sup>p</sup> If the accused has previously been sentenced for a similar offence.

<sup>9</sup> The General Civil Penal Code of Norway has two provisions concerning bodily injury, “inflicting injury” and “inflicting serious bodily injury”. Under inflicting injury, the term of imprisonment is either up to 3, 6 or 8 years, depending on the results. Under inflicting serious bodily injury, minimum imprisonment is 2-21 years.

<sup>r</sup> If the accused is a chief, head or leader of an organization formed to commit an offence.

<sup>s</sup> If the accused is a member of a criminal organization or if a victim dies or suffers physical or psychological harm.

Country	Statutory distinction made between serious and other offences	Serious offences	Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
Philippines	-	N/A <sup>1</sup>	20 years and 1 day-40 years; or capital punishment	20 years and 1 day-40 years; or capital punishment	4 months and 1 day-6 months; or 6 months and 1 day-12 years	20 years and 1 day-40 years; or capital punishment (kidnapping); 12 years and 1 day-20 years (abduction)	1-30 days; or 10 years and 1 day-12 years (depending on the amount)	6 months and 1 day-6 years; 20 years and 1 day-40 years; or capital punishment (depending on the severity)			
Romania	-	Imprisonment of more than 12 years <sup>u</sup>	15-25 years (felony, murder)	3-10 years	3-10 years		3-15 years	3-18 years			
Slovenia	-	No distinction									

<sup>1</sup> Under the Revised Penal Code of the Philippines, serious offences are determined by the penalties imposed. Penalties are categorized as “capital punishment” (death), “afflictive penalties” (imprisonment of more than 6 years and 1 day to life), “corrective penalties” (imprisonment of more than 1 month to 2 years) and “light penalties” (imprisonment of 1-30 days).

<sup>u</sup> There are aggravated offences and non-aggravated offences; aggravated offences are considered to be serious. Under article 75 of the Penal Code of Romania, there are certain situations that constitute aggravating circumstances, such as, *inter alia*, perpetration of an offence by three or more persons; perpetration of an offence with violence or through means and methods that present a public threat; and perpetration of an offence with malice. A different standard is applied to aggravated circumstances. For example, the term of imprisonment for “violation of the regime established for explosive materials”, is 3-10 years, but if the offence is committed by three or more persons, imprisonment is increased to 5-15 years and if perpetration of the offence with violence or through means and methods that present a public threat, imprisonment is 5-20 years. The figures in this annex are the sentences for non-aggravated offences.

Country	Statutory distinction made between serious and other offences	Serious offences	Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
South Africa	-	No distinction	Minimum 15 years (F), <sup>v</sup> 20 years (S), 25 years (T) or life imprisonment	Minimum 10 years (F), 15 years (S) or 25 years (T) or life imprisonment			Minimum 15 years (F), 20 years (S) or 25 years (T) <sup>w</sup>	Minimum 15 years (F), 20 years (S) or 25 years (T)			Minimum 15 years (F), 20 years (S) or 25 years (S) or 25 years (T) <sup>w</sup>
Spain	X	Imprisonment of more than 3 years	Up to 15 years (homicide)			Up to 10 years		Up to 5 years			
Sweden	-	No distinction					1-6 years or 4-10 years <sup>x</sup>				
Switzerland	X	1-20 years (R) or life imprisonment <sup>t</sup>	Minimum 5 years (R)	Up to 10 years (R) or 6 months-5 years (L)	Up to 5 years (R) or light imprisonment	Up to 5 years (R) or light imprisonment	Up to 10 years (R) or minimum 6 months (L)	Up to 5 years (R) or light imprisonment	Up to 5 years (R) or light imprisonment	Up to 5 years (R) or light imprisonment	Up to 5 years (R) or light imprisonment

<sup>v</sup> In South Africa, under Schedule 2, Part II, of the Criminal Law Amendment Act, the punishment imposed is different if an accused is a first-time, second-time or third-time or subsequent offender. In this table, (F) stands for a first-time offender, (S) stands for a second-time offender and (T) stands for a third-time or subsequent offender.

<sup>w</sup> According to the pertinent legislation of South Africa (Schedule 2, Part II, of the Criminal Law Amendment Act), these punishments are imposed: (a) if the offence involved amounts to more than 500,000 rand; (b) if the amounts involved exceed R 100,000 if the offence is committed by a person, group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy; or (c) if it is proved that the offence was committed by any law enforcement officer; (i) when the amounts involved are more than R 10,000; or (ii) if the perpetrator acted as a member of a group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy.

<sup>x</sup> Under the Swedish Penal Code, certain offences have different grades, for example, robbery and gross robbery, petty theft, and gross theft, and each grade has its own range of penalty.

<sup>y</sup> Under Swiss Penal Law, there are two forms of custodial penalty to punish “serious” and “very serious” offences, namely, light imprisonment and rigorous imprisonment. However, only rigorous imprisonment is imposed for a serious offence. In this table, (L) stands for light imprisonment and (R) stands for rigorous imprisonment.

Country	Statutory distinction made between serious and other offences	Serious offences	Murder	Rape	Assault (bodily harm)	Abduction	Theft	Robbery	Burglary	Handling stolen property	Extortion (intimidation, blackmail)
Turkey	-	No distinction <sup>z</sup>									
Ukraine	X	Minimum 2-10 years and maximum 15 years; or up to 15 years or capital punishment (particularly serious offences)									Up to 14 years
United Kingdom	-	No distinction <sup>aa</sup>	Mandatory life sentence	Up to life imprisonment	Up to life imprisonment	Up to 7 years (child abduction) or 14 years (female)	Up to 1 year	Up to life imprisonment	Up to 10 years (other than dwelling), 14 years (dwelling) or life imprisonment (aggravated)	Up to 14 years	

<sup>z</sup> Under the Turkish Penal Code, there is a distinction between penalties for felonies and those for misdemeanours. The penalties for felonies are capital punishment, severe or rigorous imprisonment, light imprisonment, a fine and barring from public office; for misdemeanours the penalties are light imprisonment, a fine (minor) and barring from carrying on a business activity. The difference between severe imprisonment and light imprisonment is not available.

<sup>aa</sup> In the United Kingdom, criminal offences can be tried either in magistrates' court or crown court. The maximum penalty awarded in magistrates' court is 6 months' imprisonment or a fine not exceeding £5,000. The crown court can impose higher sentences. Some offences can be tried only in one court and some can be tried in both. Offences that can only be tried in magistrates' court are not likely to be considered serious.

<i>Country</i>	<i>Statutory distinction made between serious offenses and other offenses</i>	<i>Serious offenses</i>	<i>Murder</i>	<i>Rape</i>	<i>Assault (bodily harm)</i>	<i>Abduction</i>	<i>Theft</i>	<i>Robbery</i>	<i>Burglary</i>	<i>Handling stolen property</i>	<i>Extortion (intimidation, blackmail)</i>
United States of America	X <sup>bb</sup>	Maximum imprisonment of more than 1 year (felony)									
Venezuela	X	N/A <sup>cc</sup>	20-26 years (contract killing)							15-25 years	

<sup>bb</sup> In the United States, the seriousness of an offense may be evaluated by whether the crime is characterized as a felony or a misdemeanor.

<sup>cc</sup> Under the draft organic law of Venezuela, four types of offence are qualified as serious: contract killing, money-laundering, terrorism and trafficking in persons.

**B. Terms of imprisonment prescribed for the offences of trafficking in drugs, embezzlement, bribery, fraud, counterfeiting of money, money-laundering, trafficking in human beings, smuggling of firearms, participation in a criminal organization and forming or leading a criminal organization, by country**

Country					Forming or					
	Trafficking in drugs	Embezzlement	Bribery (corruption)	Fraud	Counterfeiting of money	Money-laundering	Trafficking in human beings	Smuggling of firearms	Participation in a criminal organization	leading a criminal organization
Austria	Up to 5, 10, 15 or 20 years	Up to 5 or 10 years		Up to 10 years	Up to 10 years	Up to 5 years	Up to 5 or 10 years		Up to 5 years	N/A
Belarus	Up to 10 years with or without confiscation of property or 6-15 years with confiscation of property <sup>dd</sup>				2-7 years with confiscation of property or 5-7 years with confiscation of property <sup>ff</sup>	Up to 3 years with or without confiscation of property or 3-6 years with or without confiscation of property <sup>gg</sup>		Up to 7 years	3-5 years with or without confiscation of property	8-12 years with confiscation of property or 10-15 years with confiscation of property <sup>hh</sup>

<sup>dd</sup> The heavier sentences will be applied in some circumstances, such as if the offence is committed repeatedly or on the basis of prior agreement by a group of persons or by a public official by virtue of his or her official position.

<sup>ee</sup> Applies if the offence is committed by an organized group or by a particularly dangerous recidivist.

<sup>ff</sup> Applies if the offence is committed repeatedly or by a group of persons.

<sup>gg</sup> Applies if the same acts are committed by an organized group, the term of imprisonment is 3-6 years with or without confiscation of property.

<sup>hh</sup> Applies if the offence is committed by a particularly dangerous recidivist or by a person with a previous conviction for a serious offence or by a public official by virtue of his or her official position.

Country	Trafficking in drugs	Embezzlemen <sup>1</sup>	Bribery (corruption)	Fraud	Counterfeiting of money	Money-laundering	Trafficking in human beings	Smuggling of firearms	Forming or leading a	
									Participation in a criminal organization	criminal organization
Bulgaria	5-15 years (if committed by two or more persons)					1-5 years and a fine or 1-8 years and a fine (if committed by an organization) or 3-12 years and a fine (aggravated)	1-6 years and a fine or 1-10 years and a fine (under some conditions)		Up to 3 years	1-5 years
Canada										
China	15 years or life or capital punishment and confiscation of property	1-15 years or life or capital punishment (depending on the amount or situation)	1-15 years or life or capital punishment (depending on the amount and situation)	Up to 5 years or 5-10 years; or minimum 10 years or life and/or confiscation of property	3-10 years and a fine; or more than 10 years to life or capital punishment <sup>ii</sup>	Up to 5 years and a fine; or 5-10 years (serious)	10 years to life and a fine or confiscation of property; or capital punishment	More than 7 years and a fine; or life or capital punishment (especially serious cases)	Up to 3 years	3-10 years
Colombia	6-20 years		1-5 years		1-6 years	6-15 years	2-6 years	1-4 years		
Costa Rica	5-15 years or 8-20 years (aggravated)		2 months-4 years		3-15 years	5-15 years or 8-20 years (aggravated)	10-15 years	3-8 years		
Croatia										
Cyprus	Life imprisonment		3 years		Life imprisonment	14 years	2 years <sup>ii</sup>	Life imprisonment	Life imprisonment	Life imprisonment

<sup>ii</sup> Capital punishment is imposed (a) if the accused is a leader of a gang engaged in counterfeiting currency; (b) if the amount of counterfeiting money is huge; and (c) if especially serious circumstances are involved.

<sup>iii</sup> A new bill that will increase the sentence to life imprisonment has been prepared.

Country	Forming or leading a criminal organization				Participation in a criminal organization	Smuggling of firearms	Trafficking in human beings	Money-laundering	Counterfeiting of money	Fraud	Bribery (corruption)	Embezzlement	Trafficking in drugs
	1	2	3	4									
Denmark													
Dominica								20 years and a fine		25 years and a fine			
Ecuador								8-12 years (and a fine)		6 months-3 years		4-8 years	
								9-12 years (men, women and children) <sup>kk</sup>					
Fiji									Life imprisonment				
Finland								Up to 1½ years (receiving offence); 4 months-4 years (aggravated); 4 years (professional )		Up to 2 years (or a fine); 4 months-4 years (aggravated); up to 2 years (bribery in business)		Up to 1½ years (or a fine); 4 months-4 years (aggravated)	Up to 2 years (or a fine); 4 months-4 years (aggravated)
								2-10 years (kidnapping); up to 2 years (trafficking in migrants)					
								Up to 2 years (aggravated); up to 1 year (trafficking in ammunition)					
Gabon													
Germany													
Ghana													

<sup>kk</sup> With regard to trafficking in illegal migrants, there is no provision under the Criminal Code of Ecuador, but under the Migration Act, 3-6 three years of imprisonment and a fine are imposed.

<sup>ll</sup> Under the Law on the Manufacture, Import and Export, Marketing and Possession of Arms, Explosives and Accessories.

<sup>mmm</sup> Depends on the purpose of the association.

Country	Trafficking in drugs	Embezzlemen	Bribery (corruption)	Fraud	Counterfeiting of money	Money-laundering	Trafficking in human beings	Smuggling of firearms	Forming or leading a	
									Participation in a criminal organization	criminal organization
Greece	10-20 years and a fine or life imprisonment and a fine					Up to 10 years	Minimum 1 year and a fine or 2 years and a fine (aggravated)	Minimum 1 year and a fine		
Indonesia										
Ireland										
Italy						4-12 years and a fine			1-5 years <sup>nm</sup>	3-7 years <sup>no</sup>
Japan										
Korea										
Kuwait										
Mauritius	Up to 20 years and a fine									
Micronesia (Federated States of)	Up to 10 years <sup>np</sup>					Up to 10 years and a fine <sup>no</sup>		Up to 5 years and fine		
Monaco						10-20 years and a fine				

<sup>nm</sup> If the association is a Mafia-type, the term of imprisonment is 3-6 years and if it is an armed type, 4-10 years of imprisonment are imposed.

<sup>no</sup> If the association is a Mafia-type, the term of imprisonment is 4-9 years and if it is an armed type, 5-15 years of imprisonment are imposed.

<sup>np</sup> This provision is contained in the Drugs of Abuse Act, 1999, which will be presented to the next session of the legislature.

<sup>99</sup> This provision is contained in the Money-Laundering and Proceeds of Crime Act, 1999, which will be presented to the next session of the legislature.

Country	Forming or leading a									
	<i>Trafficking in drugs</i>	<i>Embezzlemen</i>	<i>Bribery (corruption)</i>	<i>Fraud</i>	<i>Counterfeiting of money</i>	<i>Money-laundering</i>	<i>Trafficking in human beings</i>	<i>Smuggling of firearms</i>	<i>Participation in a criminal organization</i>	<i>criminal organization</i>
Morocco	2-5 years	2 years or less (corruption)	4 years or more (corruption)	4 years or more	10 years	5 years	4 years or more	4 years or more		
Netherlands	4 years or more		4 years or more (corruption)	4 years or more			4 years or more	4 years or more		
New Zealand	8 years to life imprisonment		3 years (corruption and bribery of an official)				10 years	5 years	1 year	
Norway	Up to 2, 10, 15 or 21 years	Up to 6 years	Up to 6 months	Up to 6 years	Up to 3 years	Up to 3 years or 6 years (aggravated)	5-21 years			
Pakistan										
Peru	8-15 years <sup>π</sup>		3-6 years (major), 2-4 years (minor)		3-10 years	Up to life imprisonment	5-10 years or 8-12 years (aggravated)	6-15 years		
Philippines	20 years and 1 day- 40 years and a fine; capital punishment	2 years, 4 months and 1 day-4 years and 2 months; 20 years and 1 day-40 years	6 years and 1 day-8 years; 8 years and 1 day-10 years and a fine	2 years, 4 months and 1 day-4 years and 2 months; 6 years and 1 day-8 years (depending on the situation)	6 months and 1 day- 2 years and 4 months and a fine; 8 years and 1 day-10 years (depending on the situation)	Up to life imprisonment	5-10 years or 8-12 years (aggravated)	6-15 years	1 month and 1 day-6 months and 1 day-6 years (if armed)	4 years, 2 months and 1 day-6 years; 8 years and 1 day-10 years

<sup>π</sup> If an offence is committed by three or more persons or by a member of an organization engaged in drug trafficking, the minimum term of imprisonment is 25 years.

Country	Trafficking in drugs	Embezzlemen	Bribery (corruption)	Fraud	Counterfeiting of money	Money-laundering	Trafficking in human beings	Smuggling of firearms	Forming or leading a	
									Participation in a criminal organization	criminal organization
Romania	3-15 years	6 months-5 years	3-12 years					6 months-5 years; 3-10 years (for explosives)		
Slovenia										
South Africa	Minimum		Minimum	Minimum				Minimum		
	15 years (F), 20 years (S) or 25 years (T) <sup>ss</sup>		15 years (F), 20 years (S) or 25 years (T) <sup>tt</sup> (corruption)	15 years (F), 20 years (S) or 25 years (T) <sup>tt</sup>				15 years (F), 20 years (S) or 25 years (T)		
Spain	Up to 4½, 6, 9 or 13½ years			Up to 6 years	Up to 12 years			Up to 4 years; up to 10 years (weapons of war or chemical weapons)		
	(depending on the drugs involved)									
Sweden										

<sup>ss</sup> In terms of drug trafficking, Schedule 2, Part II, of the Criminal Amendment Act is applied: (a) if the value of the dependence-producing substance in question is more than 50,000 rand; (b) if the value of the dependence-producing substance in question is more than R 10,000 and that the offence was committed by a person, group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy; or (c) if the offence was committed by any law enforcement officer.

<sup>tt</sup> According to the pertinent legislation of South Africa (Schedule 2, Part II, of the Criminal Law Amendment Act), these punishments are imposed: (a) if the offence involves amounts higher than R 500,000; (b) the amounts involved exceed R 100,000 if the offence was committed by a person, group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy; or (c) if it is proved that the offence was committed by a law enforcement officer; (i) when the amounts involved are more than R 10,000 or (ii) if the perpetrator acted as a member of a group of persons, syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy.

