

جامعة عنابة

كلية الحقوق

قسم الحقوق

ماستر القانون القضائي

سنة أولى

مقياس الانجليزية

محاضرات عبر شبكة E-learning

إعداد د. غازي فاروق

أستاذ محاضر أ

ghazifarouk1@gmail.com

الفهرس

مقدمة :تتمثل في نموذج عن الاختبار

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مقدمة – نموذج عن الاختبار

السؤال الأول

When a person is charged with a crime, or involved in some other legal dispute, they have the right to a fair trial. This means a fair and public hearing, within a reasonable time, by an independent and impartial court.

The European Court of Human Rights has highlighted thousands of cases of unfair trials - including many which led to the imprisonment of an innocent person.

People have used the European Convention on Human Rights to get a retrial and to make sure that governments develop proper rules to avoid similar miscarriages of justice.

Neđo Ajdarić was 52 when he was given an unfair trial, wrongly convicted of three murders, and sentenced to 40 years in prison. He was released after winning his case in Strasbourg, and changes were introduced to help ensure fair trials in the future.

Klaus and Yuri Kiladze were eleven and nine years old when their father was killed by the Soviet authorities. Their mother was then sent to a gulag, their family apartment was seized and they were taken into abusive State custody. Decades later, a Georgian law was passed establishing a right to compensation for victims of Soviet oppression. Yet the national courts still denied them justice.

Council of Europe

- ما هو موضوع النص ؟ 2 نقاط
- ترجم إلى العربية ما تحته خط، 10 نقاط

السؤال الثاني

اكتب نص من تأليفك حول أي موضوع قانوني باللغة الانجليزية لا تتجاوز 6 أسطر و تقل عن 5 أسطر .
8 نقاط .

أولا نصوص قانونية

Universal Declaration of Human Rights

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

International Covenant on Civil and Political Rights

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or

national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

ثانياً مذكرات الاعتقال



EUROPEAN ARREST WARRANT¹

This warrant has been issued by a competent judicial authority. I request that the person mentioned below be arrested and surrendered for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order.

(b) Decision on which the warrant is based:

1. Arrest warrant or judicial decision having the same effect:

Type:

2. Enforceable judgement:

Reference:

EN

2

(a) Information regarding the identity of the requested person:

Name:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Date of birth:

Place of birth:

Residence and/or known address:

Language(s) which the requested person understands (if known):

Distinctive marks/description of the requested person:

Photo and fingerprints of the requested person, if they are available and can be transmitted, or contact details of the person to be contacted in order to obtain such information or a DNA profile (where this evidence can be supplied but has not been included)

(b) Decision on which the warrant is based:

1. Arrest warrant or judicial decision having the same effect:

Type:

2. Enforceable judgement:

Reference:

EN

2

(c) Indications on the length of the sentence:

1. Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):

2. Length of the custodial sentence or detention order imposed:

Remaining sentence to be served:

(d) Decision rendered in absentia and:

– The person concerned has been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia

or

– The person concerned has not been summoned in person or otherwise informed of the date and place of the hearing which led to the decision rendered in absentia but has the following legal guarantees after surrender (such guarantees can be given in advance) fournies à l'avance):

Specify the legal guarantees

(e) Offences:

This warrant relates to in total: offences.

Description of the circumstances in which the offence(s) was (were) committed, including the time, place and degree of participation in the offence(s) by the requested person

Nature and legal classification of the offence(s) and the applicable statutory provision/code:

I. If applicable, tick one or more of the following offences punishable in the issuing Member State by a custodial sentence or detention order of a maximum of at least 3 years as defined by the laws of the issuing Member State:

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- participation in a criminal organisation;
- terrorism;
- trafficking in human beings;
- sexual exploitation of children and child pornography;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit trafficking in weapons, munitions and explosives;
- corruption;
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of European Communities' financial interests;
- laundering of the proceeds of crime;
- counterfeiting of currency, including the euro;
- computer- related crime;
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- facilitation of unauthorised entry and residence;
- murder, grievous bodily injury;
- illicit trade in human organs and tissue;
- kidnapping, illegal restraint and hostage- taking;
- racism and xenophobia;
- organised or armed robbery;
- illicit trafficking in cultural goods, including antiques and works of art;
- swindling;
- racketeering and extortion;
- counterfeiting and piracy of products;
- forgery of administrative documents and trafficking therein;

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- forgery of means of payment;
- illicit trafficking in hormonal substances and other growth promoters;
- illicit trafficking in nuclear or radioactive materials;
- trafficking in stolen vehicles;
- rape;
- arson;
- crimes within the jurisdiction of the International Criminal Court;
- unlawful seizure of aircraft/ships;
- sabotage.

II. Full descriptions of offence(s) not covered by section I above:

(f) Other circumstances relevant to the case (optional information):

(NB : *This could cover remarks on extraterritoriality, interruption of periods of time limitation and other consequences of the offence*)

(g) This warrant pertains also to the seizure and handing over of property which may be required as evidence:

This warrant pertains also to the seizure and handing over of property acquired by the requested person as a result of the offence:

Description of the property (and location) (if known):

EN

5

(h) The offence(s) on the basis of which this warrant has been issued is(are) punishable by/has(have) led to a custodial life sentence or lifetime detention order:

- the legal system of the issuing Member State allows for a review of the penalty or measure imposed – on request or at least after 20 years – aiming at a non-execution of such penalty or measure,

and/or

- the legal system of the issuing Member State allows for the application of measures of clemency to which the person is entitled under the law or practice of the issuing Member State, aiming at non-execution of such penalty or measure.

(i) The judicial authority which issued the warrant:

Official name:

Name of its representative 1:

Post held (title/grade):

File reference:

Address:

Tel. No.: (country code) (area/city code) (...):

Fax No. (country code) (area/city code) ():

E-mail:

Contact details of the person to contact to make necessary practical arrangements for the surrender:

Where a central authority has been made responsible for the transmission and administrative reception of European arrest warrants:

Name of the central authority:

Personne à contacter, le cas échéant (titre/grade et nom):

Address:

Tel. No.: (country code) (area/city code) (...)

Tel. No.: (country code) (area/city code) (...)

E-mail:

Signature of the issuing judicial authority and/or its representative:

[Redacted signature]

Name:

[Redacted name]

Post held (title/grade):

[Redacted post held]

Date:

[Redacted date]

Official stamp (if available)

ثالثًا أوامر و أحكام قضائية دولية

نموذج عن محكمة العدل الدولية أمر في قضية إيران ضد الولايات المتحدة الأمريكية

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INTERNATIONAL COURT OF JUSTICE

YEAR 2018

3 October 2018

3 October 2018

**ALLEGED VIOLATIONS OF THE 1955 TREATY OF AMITY, ECONOMIC RELATIONS, AND CONSULAR RIGHTS
(ISLAMIC REPUBLIC OF IRAN v. UNITED STATES OF AMERICA)**

REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES

ORDER

Present: *President YUSUF; Vice-President XUE; Judges TOMKA, ABRAHAM, BENNOUNA, CANÇADO TRINDADE, GAJA, BHANDARI, ROBINSON, CRAWFORD, GEVORGIAN, SALAM, IWASAWA, Judges ad hoc BROWER, MOMTAZ, Registrar COUVREUR.*

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102. For these reasons,
THE COURT,
Indicates the following provisional measures:

(1) Unanimously,
The United States of America, in accordance with its obligations under the 1955 Treaty of Amity, Economic Relations, and Consular Rights, shall remove, by means of its choosing, any impediments arising from the measures announced on 8 May 2018 to the free exportation to the territory of the Islamic Republic of Iran of

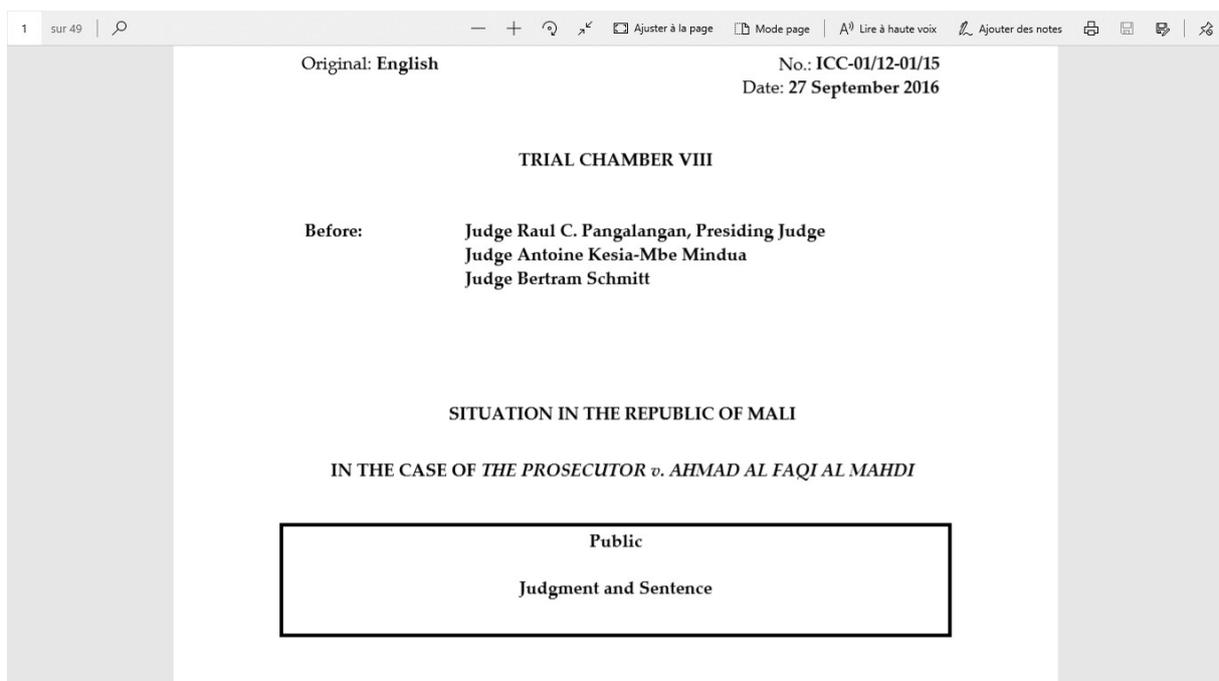
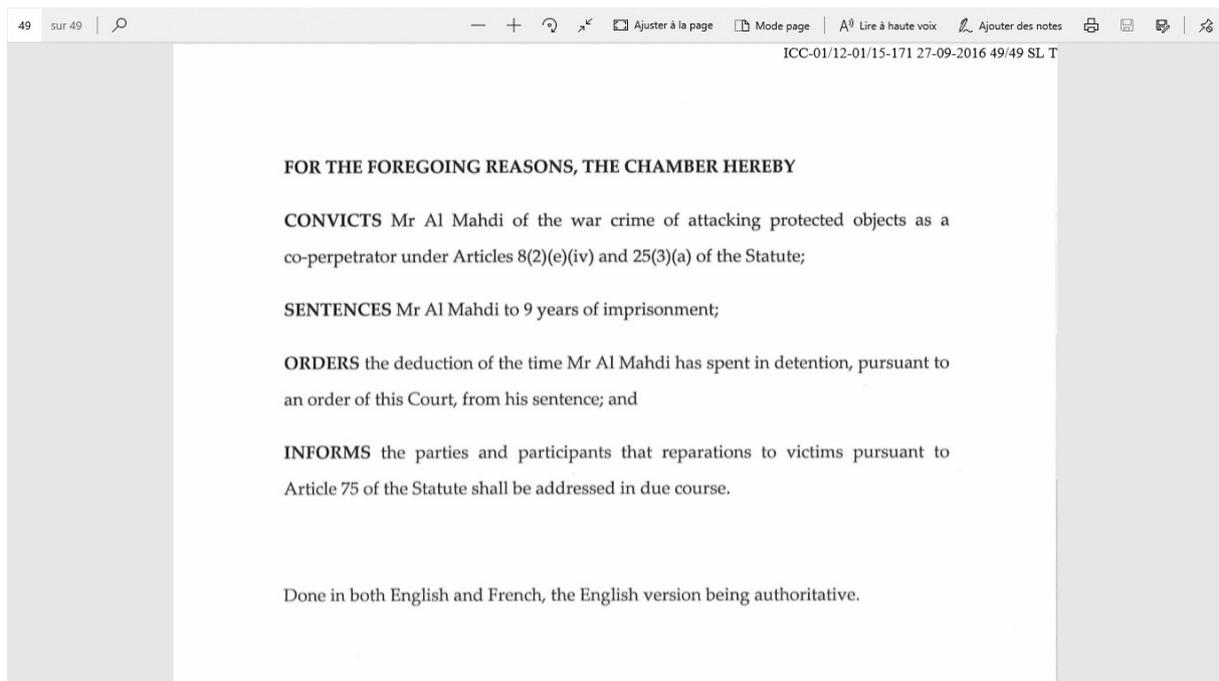
(i) medicines and medical devices;
(ii) foodstuffs and agricultural commodities; and
(iii) spare parts, equipment and associated services (including warranty, maintenance, repair services and inspections) necessary for the safety of civil aviation;

(2) Unanimously,
The United States of America shall ensure that licences and necessary authorizations are granted and that payments and other transfers of funds are not subject to any restriction in so far as they relate to the goods and services referred to in point (1);

(3) Unanimously,
Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this third day of October, two thousand and eighteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Islamic Republic of Iran and the Government of the United States of America, respectively.

نموذج عن المحكمة الجنائية الدولية



رابعاً مفاهيم عامة حول التحكيم الدولي التجاري

Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute. In choosing arbitration, the parties opt for a private dispute resolution procedure instead of going to court.

Its principal characteristics are:

Arbitration can only take place if both parties have agreed to it. In the case of future disputes arising under a contract, the parties insert an arbitration clause in the relevant contract. An existing dispute can be referred to arbitration by means of a submission agreement between the parties. In contrast to mediation, a party cannot unilaterally withdraw from arbitration.

Under the WIPO Arbitration Rules, the parties can select a sole arbitrator together. If they choose to have a three-member arbitral tribunal, each party appoints one of the arbitrators; those two persons then agree on the presiding arbitrator. Alternatively, the Center can suggest potential arbitrators with relevant expertise or directly appoint members of the arbitral tribunal. The Center maintains an extensive roster of arbitrators ranging from seasoned dispute-resolution generalists to highly specialized practitioners and experts covering the entire legal and technical spectrum of intellectual property.

In addition to their selection of neutrals of appropriate nationality, parties are able to choose such important elements as the applicable law, language and venue of the arbitration. This allows them to ensure that no party enjoys a home court advantage.

The WIPO Rules specifically protect the confidentiality of the existence of the arbitration, any disclosures made during that procedure, and the award. In certain circumstances, the WIPO Rules allow a party to restrict access to trade secrets or other confidential information that is submitted to the arbitral tribunal or to a confidentiality advisor to the tribunal.

Source : WIPO

خامسا ترجمة للمصطلحات القانونية الواردة في النصوص

Arbitrary arrest	اعتقال تعسفي
Detention	احتجاز
Exile	منفى
Penal offence	اتهام جنائي
Public trial	محاكمة علنية
National law	القانون الوطني
International law	قانون دولي
Committed	مرتكبة
Procedure established by law	الإجراء الذي حدده القانون
Shall be brought promptly before a judge	يجب تقديمه فوراً أمام القاضي
Judicial power	السلطة القضائية
Reasonable time	وقت معقول
General rule	قاعدة عامة
Custody	حبس
Guarantees	ضمانات
Execution of the judgement	تنفيذ الحكم
Lawfulness	قانونية
Victim	ضحية
Unlawful	غير قانوني
Compensation	تعويض
All persons shall be equal before the courts and tribunals	جميع الأشخاص متساوون أمام المحاكم والهيئات القضائية
A suit at law	دعوى مدنية
Fair and public hearing	جلسة عادلة وعلنية
A competent, independent and impartial tribunal	محكمة مختصة ومستقلة ونزيهة
Public order	نظام عام
National security	الأمن القومي
Democratic society	مجتمع ديمقراطي
Special circumstances	ظروف خاصة
Publicity	العلنية
Prejudice	تسبب ضرر
Interests of justice	مصالح العدالة
judgement	حكم
Rendered	صادر
In a criminal case	في قضية جنائية
Or in a suit at law	أو في دعوى مدنية
shall be made public	يجب أن يكون علني
Juvenile persons	الأحداث
Matrimonial disputes	التزاعات الزوجية

Guardianship of children	الوصاية على الأطفال
Innocent	البريء
Guilty	مذنب
According to law	وفقاً للقانون
The nature and cause of the charge against him	طبيعة وسبب التهمة الموجهة إليه
Defence	دفاع
Counsel	مستشار قانوني - محام
To be tried without undue delay	أن يحاكم دون تأخير لا مبرر له
To be tried in his presence	أن يحاكم في حضوره
Witnesses	شهود
Interpreter	مترجم
Testify	يشهد
Reviewed	راجع
European Arrest Warrant	مذكرة توقيف أوروبية
Information regarding the identity of the requested person:	المعلومات المتعلقة بهوية الشخص المطلوب:
Name:	اسم:
Maiden name, where applicable:	اسم البكر ، عند الاقتضاء:
Aliases, where applicable:	الأسماء المستعارة الشهيرة ، عند الاقتضاء:
Sex:	الجنس:
Nationality:	الجنسية:
Date of birth:	تاريخ الولادة:
Place of birth:	مكان الولادة:
Residence and/or known address:	الإقامة و / أو العنوان المعروف:
Language(s) which the requested person understands	اللغة (اللغات) التي يفهمها الشخص المطلوب
Distinctive marks/description of the requested person:	العلامات المميزة / وصف الشخص المطلوب:
Photo and fingerprints of the requested person	صورة وبصمات الأصابع للشخص المطلوب
Decision on which the warrant is based:	القرار الذي تستند إليه مذكرة التوقيف:
Arrest warrant or judicial decision having the same effect:	مذكرة توقيف أو قرار قضائي له نفس أثر:
Type:	نوع:
Enforceable judgement:	الحكم القابل للتنفيذ:
Reference	مرجع
Indications on the length of the sentence:	مؤشرات على مدة العقوبة
Maximum length of the custodial sentence or detention order which may be imposed for the offence(s):	المدة القصوى للعقوبة أو أمر الحبس المفروض على الجريمة
Length of the custodial sentence or detention order imposed:	مدة عقوبة الحبس أو أمر الحبس المفروض
Nature and legal classification of the offence	الطبيعة والتصنيف القانوني للجريمة
This warrant pertains also to the seizure and handing over of property which may be required as evidence	يتعلق هذا الأمر أيضاً بحجز على الممتلكات وتسليمها والتي قد تكون مطلوبة كدليل
The judicial authority which issued the warrant:	السلطة التي اصدرت المذكرة
Official name:	الاسم الرسمي
Name of its representative	اسم ممثلها

Official stamp	الختم الرسمي
Participation in a criminal organisation;	المشاركة في منظمة إجرامية ؛
Terrorism;	الإرهاب؛
Trafficking in human beings;	الاتجار بالبشر ؛
Sexual exploitation of children and pornography;	الاستغلال الجنسي للأطفال والمواد الإباحية ؛
Illicit trafficking in narcotic drugs and psychotropic substances;	الاتجار غير المشروع بالمخدرات والمؤثرات العقلية ؛
Illicit trafficking in weapons, munitions and explosives;	الاتجار غير المشروع بالأسلحة والذخائر والمتفجرات ؛
Corruption;	الفساد؛
Fraud, including that affecting the financial interests of the European communities within the meaning of the convention of 26 July 1995 on the protection of European communities' financial interests;	الاحتيال ، بما في ذلك التأثير على المصالح المالية للمجتمعات الأوروبية بالمعنى المقصود في اتفاقية 26 يوليو 1995 بشأن حماية المصالح المالية للمجتمعات الأوروبية ؛
Laundering of the proceeds of crime;	غسل عائدات الجريمة ؛
Counterfeiting of currency, including the euro;	تزيوير العملة ، بما في ذلك اليورو ؛
Computer- related crime;	الجرائم المتعلقة بالحاسوب ؛
environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;	الجريمة البيئية ، بما في ذلك الاتجار غير المشروع بالأنواع الحيوانية المهددة بالانقراض والأنواع والأصناف النباتية المهددة بالانقراض ؛
Facilitation of unauthorised entry and residence;	تسهيل الدخول والإقامة غير المصرح بهما ؛
Murder, grievous bodily injury;	القتل ، إصابة جسدية خطيرة.
Illicit trade in human organs and tissue;	الاتجار غير المشروع بالأعضاء والأنسجة البشرية ؛
Kidnapping, illegal restraint and hostage- taking;	الاختطاف وضبط النفس بصورة غير مشروعة واحتجاز الرهائن ؛
Racism and xenophobia;	العنصرية وكره الأجانب؛
Organised or armed robbery;	السرققة المنظمة أو المسلحة ؛
Illicit trafficking in cultural goods, including antiques and works of art;	الاتجار غير المشروع بالسلع الثقافية ، بما في ذلك التحف والأعمال الفنية ؛
Swindling;	النصب.
Racketeering and extortion;	الابتزاز
Counterfeiting and piracy of products;	التزيوير والقرصنة للمنتجات ؛
forgery of administrative documents and trafficking therein	تزيوير الوثائق الإدارية والاتجار بها
Illicit trafficking in hormonal substances and other growth promoters;	الاتجار غير المشروع بالمواد الهرمونية ومروجي النمو الآخرين ؛
Illicit trafficking in nuclear or radioactive materials; trafficking in stolen vehicles;	الاتجار غير المشروع بالمواد النووية أو المشعة ؛ الاتجار بالمركبات المسروقة ؛
Rape;	اغتصاب؛
Arson;	حريق متعمد؛
Crimes within the jurisdiction of the international criminal court;	الجرائم التي تدخل في اختصاص المحكمة الجنائية الدولية ؛
Unlawful seizure of aircraft/ships;	الاستيلاء غير المشروع على الطائرات / السفن

بالتوفيق د. غازي فاروق