



YKE/10026-99

## VERBAAL KUNST

The Permanent Mission of Finland to the United Nations, New York, submits the following information concerning the accountability of United Nations officials and employees on mission, pursuant to United Nations General Assembly Resolution 70/174, dated 18 December 2015.

Finland would like to inform the Secretary-General that the Finnish authorities are aware of any allegations concerning United Nations officials or employees on mission suspected of having committed crimes under international law. Appropriate measures would be taken to investigate and prosecute these crimes in accordance with the Finnish law.

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The training of military observers in the Preli-Pengda includes lessons on legal and gender issues. The legal training of military observers includes lessons on international law, human rights, and the Geneva Conventions. The training also covers the Geneva Conventions (including Chapter 11, War Crimes Against Humanity) and Chapter 12, Intervention in such offences.

In response to the Questionnaire on the Accountability of United Nations Officials and Employees on Mission pursuant to Resolution 70/174, dated 18 December 2015, Finland is pleased to submit the following information:

### Jurisdictional bases (question 1)

Chapter 1 of the Criminal Code of Finland (39/1889) defines the scope of application of the Finnish criminal law. Within that scope, Finland deals with the principle of territoriality. Section 1 is supplemented by section 2 on an offence committed in a Finnish vessel. Chapter 1, section 6, concerning an offence committed by a Finn, regulates the jurisdiction of Finland over Finnish citizens.

Section 6 is supplemented by Section 4 of the Decree on the Application of Chapter 1 of the Criminal Code, which states that Finnish law applies to an offence committed in the passive personality principle. The provision applies to an international offence if the offender is a Finnish citizen or a resident in Finland at the time of the offence. The Decree on the Application of Chapter 1 of the Criminal Code does not contain any separate provisions on the effects doctrine.

Chapter 1, section 11(1) of the Criminal Code on the requirement of dual criminality stipulates that if the offence has been committed in the territory of a foreign State, a sentence shall be imposed in Finland only if the offence is also by law a crime in that foreign State. In this event, the law of the State which is more severe shall be applied. Chapter 1, section 11(2), stipulates that even if the offence is not a crime in the foreign State, Finnish law applies to it if the offence is one of those referred to in section 11(2), which include for instance rape and sexual offences.

Chapter 1, section 12 of the Criminal Code requires cases where a prosecution is brought by the Prosecutor General's Office for prosecuting in Finland an offence committed abroad.

### Jurisdiction ratione personae (due to)

Under Finnish criminal law, jurisdiction over offences committed abroad may be based on the protective principle (Chapter 1, section 10 of the Criminal Code), on the passive personality principle (Chapter 1, section 6 of the Criminal Code), on the active personality principle (Chapter 1, section 7 of the Criminal Code), on Chapter 1, section 7 of the Criminal Code on an international offence and Chapter 1, section 10 of the Criminal Code on other offences committed outside Finland.

Chapter 1, section 6 of the Criminal Code states that Finnish law applies to an offence committed in the passive personality principle. Section 6 is supplemented by Chapter 1, section 4 of the Decree on the Application of Chapter 1 of the Criminal Code, which states that Finnish law applies to an offence committed in the passive personality principle.

Chapter 1 of the Criminal Code does not contain any express provisions on the jurisdictional basis for offences committed by stateless persons as a jurisdictional basis. Therefore, an offence committed by a stateless person is prosecuted in Finland only if it is a crime in Finland and some precondition for the jurisdictional basis under Chapter 1 of the Criminal Code is met.

Chapter 1 of the Criminal Code does not contain any specific provisions on the jurisdictional basis for offences committed by foreign nationals. Thus, the general jurisdictional basis for offences committed by foreign nationals is provided in Chapter 1, section 5 of the Code concerning an offence directed at a Finnish citizen or a resident in Finland is committed by a Finnish citizen or a resident in Finland. The Code's passive personality principle provides that the following are deemed equivalent to a Finnish citizen: (1) a person who was permanently resident in Finland at the time of the offence, (2) a person who was apprehended in Finland and who at the beginning of the proceedings is a citizen of Denmark, Iceland, Norway or Sweden or at that time is permanently resident in one of those countries.

Chapter 1, section 4 of the Criminal Code contains provisions on an offence in public office and a military offence. According to section 4(1), Finnish law applies to an offence referred to in Chapter 40 of the Code that has been committed outside of Finland by a person referred to in Chapter 41, paragraphs 1, 2, 3 and 4. According to section 4(2), Finnish law also applies to an offence referred to in Chapter 45 (b) if it has been committed outside of Finland by a person subject to the provisions of that chapter.

The provisions of Chapter 1, section 7 of the Criminal Code, on the basis of international treaties, may contain special conditions on the perpetrator. According to Chapter 1, section 7, international treaties may also apply to the perpetrator. Generally, foreign treaties may restrict the scope of application of the criminal law of Finland.

### Jurisdiction *ratione materiae* (questions 3)

As described above, the Criminal Code determines the scope of application of the Code in relation to international obligations. International law is binding on Finland and generally recognised rules of international law may restrict the scope of application of the Code when compared with the scope otherwise founded on the provisions of Chapter 1 (Chapter 1, section 17). For some provisions of the Code, a person who is not punishable with imprisonment for more than six months (Chapter 1, section 15, passive) or a person who is not punishable with a fine (Chapter 1, section 8), Chapter 1, section 3 contains provisions on offences which are punishable on the basis of...

In some provisions of the Code, international law is also a basis for jurisdiction. This is the case firstly in Chapter 1, section 4 of the Criminal Code, where international law is deemed to be a basis for jurisdiction. According to Chapter 1, section 4(2), Finnish law also applies to an offence referred to in Chapter 45 (b) if it has been committed outside of Finland by a person subject to the provisions of that chapter. In Chapter 1, section 4, the jurisdictional basis relates to specific types of offences. Chapter 1, section 11(2) of the Code sets the exception to the requirement of dual criminality by category of offence. Chapter 1, section 13(2) regulates the effect of a foreign judgment by category of offences.

### Preconditions for extraterritorial jurisdiction (questions 4, 5)

The requirement of territoriality in the Criminal Code does not make jurisdictional upon the extraditability of the perpetrator. But one of the preconditions for jurisdiction is laid down in Chapter 1, section 8 is that the extradition of the perpetrator has been requested but the request was not granted. In such a situation, notwithstanding requests, the perpetrator resides in the State receiving and deciding on the request for extradition in Finland. According to Chapter 1, section 6(3)(2) of the Criminal Code, a person who was born in Finland, Iceland, Norway or Sweden or at that time is permanently resident in one of these countries is deemed equivalent to a Finnish citizen.

The requirement of territoriality is laid down in Chapter 1, section 11 of the Criminal Code. The basis in identifying jurisdiction is laid down in Chapter 1, section 13 on the effect of a foreign judgment. The requirement of dual criminality is laid down in Chapter 1, section 15 on the effect of a foreign judgment. The requirement of dual criminality is laid down in Chapter 1, section 15 on the effect of a foreign judgment.

Legal basis for the application of the provisions of the Criminal Code to military personnel of experts on military operations (1999/2000)

Depending on the nature of the military operations, the provisions of the Criminal Code may be applied to military personnel of experts on military operations of the United Nations officials.

#### Applicability of the provisions on military personnel (clause 6)

Chapter 45 of the Criminal Code contains provisions on military offences. Chapter 45, section 27 (1)(1) stipulates that for the purpose of the Criminal Code, soldiers, sailors, and other personnel of the armed forces, the latter when on duty, and other personnel, as separately provided by law, to military personnel of the frontier guard service, as well as to personnel undergoing crisis management training, engaged in crisis management exercises in forming crisis management services, referred to in the Military Crisis Management Act (211/2006). Chapter 4, section 4 of the Criminal Code contains a provision on military offences.

Section 4 of the Criminal Code stipulates that the provisions of Chapter 45 of the Criminal Code apply to military personnel of the court with jurisdiction.

The Secretary-General of the United Nations has renewed to the Secretary-General of the United Nations the assurance of his highest consideration.

17 June 2016



H.E. Ban Ki-moon  
Secretary-General of the United Nations  
UNITED NATIONS, N.Y. 10017