



Questionnaire on Criminal accountability of United Nations officials and experts on mission, pursuant to resolution 70/114, paragraph 23

By operative paragraph 23 of General Assembly resolution 70/114 of 14 December 2015, entitled  
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nationals, whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature.

In order to facilitate the collation of information of this compilation, the Codification Division of the Office of Legal Affairs of the United Nations has prepared a questionnaire for consideration by Member States in submitting information in response to circular notes LA/COD/50/1 and LA/COD/50/2 dated 3 December 2015, on the same item (attached).

In order to ensure completeness in the preparation of the compilation, the Codification Division of the Office of Legal Affairs of the United Nations would appreciate receiving excerpts of relevant national provisions and short references or citations of such national provisions.

1. Please indicate the available forms of jurisdiction and list the relevant national provision(s)



2. To what extent do national provisions establish jurisdiction *ratione personae* over crimes committed extraterritorially by nationals while serving as United Nations officials and experts on mission (please indicate all that apply and cite relevant national provisions):

(a) General application to all persons

See under 1 above or confer the excerpts of the relevant provisions in the Norwegian Penal Code below.

(b) Jurisdiction over nationals

See under 1(b) above or confer the excerpts of the relevant provisions in the Norwegian Penal Code below.

(c) Jurisdiction over stateless persons

The general rules concerning jurisdiction also apply to stateless persons. See under 1 above or confer the excerpts of the relevant provisions in the Norwegian Penal Code below.

(d) Jurisdiction over foreign nationals (list specific exceptions)

See under 1 above or confer the excerpts of the relevant provisions in the Norwegian Penal Code below.

(e) Specific legislation for particular categories of persons

(i) Military United Nations officials and experts on mission

(ii) Police United Nations officials and experts on mission

(iii) Civilian United Nations officials and experts on mission

(iv) Public officials acting in foreign jurisdictions

(v) Other (if any)

There is no such specific legislation for persons (1) E

3. To which extent do national provisions establish jurisdiction *ratione materiae* over crimes? 11.04 DC E

(e) Application limited to crimes accompanied with minimum imprisonment term (eg. 3/5 years)

No. (See under 1 above or confer the excerpts of the Norwegian Penal Code below.)

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No. (See under 1 above or confer the excerpts of the Norwegian Penal Code below.)

(c) Presence of the offender in territory of forum state, with/without specific limitations to its application

Presence of the offender in the territory is a prerequisite for exercising universal jurisdiction (confer the Penal Code section 5 third paragraph). Presence of the offender in the territory is not a prerequisite for exercising jurisdiction based on territoriality (confer the Penal Code section 4), nationality or residence in Norway (confer the Penal Code section 5 first paragraph) or passive personality.



- (a) on installations on the Norwegian continental shelf for exploration for or exploitation or storage of undersea natural resources and on pipelines and other fixed transport connected to such installations even when they lie outside the Norwegian continental shelf,
- (b) in the area of jurisdiction established in pursuance of the Act of 17 December 1979 relating to the Economic Zone of Norway, such acts as impair interests that are protected under Norwegian jurisdiction, and
- (c) on a Norwegian vessel, including aircraft, and a drilling platform or similar movable installation. If the vessel or the installation is on or over the territory of another state criminal legislation applies only to an act committed by a person on board the vessel or installation.

#### Section 5. Applicability of the criminal legislation to acts committed abroad

(1) Outside the scope and extent pursuant to Section 4, the criminal legislation applies to acts committed

- (a) by a Norwegian national,
- (b) by a person resident in Norway, or
- (c) on behalf of an enterprise registered in Norway,

when the acts:

1. are also punishable under the law of the country in which they are committed,
2. are regarded as a war crime, genocide or a crime against humanity,
3. are regarded as a breach of the international law of war,
4. are regarded as a crime against humanity.



(4) In the case of acts mentioned in the first paragraph, item 2, the second and third paragraphs apply only if the act is regarded as genocide, a crime against humanity or a war crime under international law.

(5) The criminal legislation also applies to acts committed abroad by persons other than those who fall within the scope of the first to fourth paragraphs, if the maximum penalty for the act is imprisonment for a term of six years or more and is directed against a person who is a Norwegian national or is resident in Norway.

(6) In a prosecution under this section, the penalty may not exceed the highest statutory penalty for a corresponding act in the country in which it was committed.

(7) A prosecution under this section will only be instituted when required in the public interest.

#### Section 6. Special grounds for prosecution under international law

Outside the scope and extent of sections 4 and 5, the criminal legislation also applies to acts that Norway has a right or an obligation to prosecute under agreements with foreign States or under international law generally.

Section 5, seventh paragraph, applies correspondingly.

#### Section 7. Acts deemed to have been committed in several places

Unless the prosecution in the adjudicating country was instituted on the application of the Norwegian authorities, cases mentioned in the first paragraph (c) may be prosecuted in Norway when

- (a) the act was wholly or partly committed in Norway if the act was only partly committed in Norway, the exception does not, however, apply if the act was partly committed on the territory of the party to the convention where the judgment was pronounced,
- (b) the act is punishable in Norway as a war crime, genocide, an offence against the autonomy and security of the State, an offence against the national constitution or political system, or as hijacking, an act of sabotage against infrastructure, an aggravated drug offence, unlawful dealings with plutonium and uranium, or aggravated arson or other particularly dangerous act of destruction, or
- (c) the act was committed by a Norwegian official and was a breach of his official duties