

Questionnaire on Criminal accountability of United Nations officials and experts on mission - POLAND

The text of all legal provisions referred to in the following questionnaire is quoted at its end.

Question 1.

Polish nationals are subject to Polish criminal law by virtue of holding the Polish citizenship. There is no specific legislation in place relating to UN officials or experts on mission in this respect (with the exception of privileges and immunities as detailed in question 5).

Article 109 of the Criminal Code (CC) expressly states that criminal law is applied to a Polish national who commits an offence abroad.

Question 2.

Polish criminal law is applied to all nationals in a general fashion.

Question 3.

Polish criminal law is applied to all offences committed by Polish nationals abroad in a general fashion.

Polish criminal law also applies to foreigners and stateless persons who commit an offence abroad, subject to the requirement of double criminality (Art. 110 and 111 CC):

- offences directed against the interests of the republic of Poland, against a Polish national, or legal person,
- terrorist offences,
- offences carrying the penalty exceeding 2 years of imprisonment if the offender is within the territory of Poland and is not to be extradited.

However, Polish criminal law is applied to offences committed abroad, irrespective of double criminality, in the following cases (art. 112 and 113 CC):

- offences against the internal or external security of the Republic of Poland,
- offences against Polish offices or public officials,

is an obstacle to prosecution only if the previous judgment was issued by a Polish court or an international criminal court, unless a binding international agreement indicates otherwise or the proceedings or the enforcement of the judgment were transferred to Poland (Art. 114 § 1 and 3 CC).

Question 5.

The rules on immunity follow from a direct application of the 1946 Convention on Immunities and Privileges of the UN. The persons indicated in the Convention enjoy diplomatic immunity which is further specified by the provisions of the Criminal Procedure Code (CPC). If the persons in question are Polish nationals, their immunity only applies to acts made during, and in connection with, the discharge of their official duties (Art. 584 CPC).

Question 6.

As a rule, officials or experts on a mission are subject to unless they are army servicemen deployed abroad or have committed an offence in connection with their official duties, in which case military courts will be applicable (Article 647 § 1 CPC).
plied to military personnel if the offence is not connected with their official duties.

Legal provisions

Criminal Code

Article 109. Polish criminal law shall be applied to Polish citizens who have committed an offence abroad.

Article 110. § 1. Polish criminal law shall be applied to aliens who have committed abroad an offence against the interests of the I07Chac of Pand,he Polish cite a Polish

Article 112

(5) other persons granted diplomatic immunity pursuant to statutes, treaties, or universally acknowledged international custom.

Article 584. Articles 578 through 583 shall not be applicable to persons listed therein,