



New York

The Permanent Mission of Sweden to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations and, with reference to its notes no. LA/COD/50/1 and LA/COD/50/2 of 31 December 2015, has the honour to transmit the following information in regards to the Questionnaire on criminal accountability of United Nations officials and experts on mission, pursuant to resolution 70/114, paragraph 23, prepared by the Codification Division of the Office of Legal Affairs of the United Nations.

Please find in Annex I excerpts of relevant national provisions. The provisions referred to below are all placed in Chapter 2 of the Swedish Penal Code.

Question 1

Swedish courts can establish jurisdiction over crimes committed by Swedish nationals while serving as United Nations officials and experts on mission based on territoriality (Sections 1 and 4), nationality (Section 2), protective principle (eg. Section 3.3-4), universality (Section 3.6 and 7) and the flag state principle (Section 3.1).

Question 2

Swedish courts can establish jurisdiction *ratione personae* over crimes committed by Swedish nationals while serving as United Nations officials and experts on mission based on jurisdiction over nationals (Section 2). There is also specific legislation for crimes committed by military and civilian persons employed in the Swedish Armed Forces and persons serving in an international operation (Section 3.2-3). There is also specific legislation for crimes committed in the course of duty outside the Realm by a person belonging to the Swedish Police Peace Support Operations.

Question 3

Swedish courts can establish jurisdiction *ratione materiae* over crimes committed by Swedish nationals while serving as United Nations officials and experts on mission based on international crimes (Penal Code Chapter 2, Section 3.6), crimes accompanied by a minimum imprisonment term of four years (Chapter 2, Section 3.7) and crimes affecting the essential interests of the state, including public security (Chapter 2, Section 3.4).

Question 4

(I) National law places certain prerequisites that must be met before extraterritorial jurisdiction for United Nations

officials or experts on mission can be applied (Sections 5-7 c).

(II)

- Dual criminality is normally required in order to establish extraterritorial jurisdiction unless such jurisdiction can be established based on any of the specific grounds for jurisdiction listed in Section 3 (Sections 2 and 3).
- The *ne bis in idem*-principle can prevent prosecution for the same act if the question of responsibility for an act

into legal force pronounced in a foreign state where the

Question 6

Sweden does not have a military law or military court system. Any crimes committed by United Nations officials or experts on mission, whether they are military or civilian personnel, would therefore be tried under the Swedish Penal Code and Swedish civilian courts.

The Permanent Mission of Sweden to the United Nations avails itself of

Annex I

Chapter 2 of the Swedish Penal Code – On the Applicability of Swedish Law
(extract, unofficial translation)

Section 1

Crimes committed in this Realm shall be adjudged in accordance with

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2. by a member of the Swedish Armed Forces in an area in which a detachment of the Swedish Armed Forces was present,

3. in the course of duty outside the Realm by a person employed

military operation or who belongs to the Swedish Police Peace Support Operations,

4. in the line of duty outside the Realm by a police officer, a customs officer or an officer of the Swedish Coast Guard, who has transnational assignments under an international agreement to which Sweden has adhered,

5. in Denmark, Finland, Iceland or Norway or on a vessel or aircraft in regular commerce between places situated in Sweden or one of the said states, or

6. by a Swedish, Danish, Finnish, Icelandic or Norwegian citizen

Section 6

If a person is sentenced in the Realm for an act for which he has been

subjected to a sanction outside the Realm, the sanction shall be determined with due consideration for what he has undergone outside the Realm. If he should be sentenced to a fine or imprisonment and he has been sentenced to a sanction of deprivation of liberty outside the Realm, what he has undergone therewith shall be taken fully into consideration when determining the sanction.

In cases referred to in the first, paragraph a less severe punishment than that provided for the act may be imposed or a sanction completely waived. (Law 1972:812)

Section 7

In addition to the provisions of this Chapter on the applicability of Swedish law and the jurisdiction of Swedish courts, limitations resulting from generally recognised fundamental principles of public international law or from special provisions in agreements with foreign

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