



PERMANENT MISSION OF THE CZECH REPUBLIC  
TO THE UNITED NATIONS

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"The Permanent Mission of the Czech Republic to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Secretary-General's note No. LA/COD/50 of 31 December 2007 concerning the request to provide with information on the implementation of the United Nations General Assembly resolution 62/63 of 6 December 2007 entitled "Criminal Accountability of United Nations officials and experts on mission", in particular its operative paragraphs 3 and 4, in the Czech Republic, has the honour to submit the requested information in the Annex to this note.

The Permanent Mission of the Czech Republic to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 1 July 2008

His Excellency  
Mr. Ban K i - M o o n  
Secretary-General  
United Nations  
New York



Copy to the attention of:

Codification Division  
Office of Legal Affairs  
United Nations  
New York

**Information on the implementation of the United Nations General Assembly resolution  
62/63 of 6 December 2007, entitled "Criminal Accountability of United Nations officials  
and experts on mission", in the Czech Republic**

**Operative paragraph 3.:**

The required rules have been part of Czech legislation since the adoption of the current Criminal Code (Act No. 140/1960) and the Code of Criminal Procedure (Act No. 141/1961).

*Section 18 of the Criminal Code* provides that "the punishability of an act committed abroad by a national of the Czech Republic or by a stateless person holding permanent residence status in the Czech Republic shall likewise be determined on the basis of the law of the Czech Republic".

- This is an application of the active personality principle, according to which the precepts and prohibitions of substantive criminal law are so fundamental that nationals and permanent residents must observe them unconditionally;
- In case the Czech authorities take over criminal investigation from another State, they determine the punishability of the act under Czech law (EXCEPTION: If the act consists in a breach of traffic regulations, the traffic regulations of the State where the act was committed will be applied);
- For this purpose, it is irrelevant whether the act is punishable under the law of the State where it was committed. This aspect is only taken into account in assessing the dangerousness and illegality of the act.

*Section 18, paragraph 2 of the Code of Criminal Procedure* provides i.a. that "if the place where the act was committed cannot be determined or if the act was committed abroad, the

proceedings shall be conducted by the court having jurisdiction over the district where the accused permanently resides, works or is temporarily present".

- This is an application of the forum loci rule, according to which the jurisdiction of Czech courts depends on three aspects of equal importance: (permanent residence, place of work, temporary presence).

#### **Operative paragraph 4.:**

The Czech Republic is a party to many multilateral and bilateral treaties concerning legal assistance in criminal matters.

International legal cooperation is regulated by Chapter XXV of the Code of Criminal Procedure (Act No. 141/1961). Section 376 of the Code provides that in the absence of an international treaty on cooperation in criminal matters, the essential condition for entering into such cooperation is reciprocity; in particular, the requesting State must guarantee that it will accept a similar request from the Czech Republic. On behalf of the Czech Republic, such guarantees are provided by the Ministry of Justice (criminal proceedings) or by the Supreme Public Prosecutor's Office (pre-trial proceedings). In the absence of an international treaty, there can be no direct contacts between judicial authorities.

Czech legislation might cause some difficulties as regards cooperation with the UN Office for Internal Oversight Services ("OIOS"). Since the United Nations and its organs and agencies have legal personality, Czech law enforcement authorities would be competent to accept requests, ask for information and use the evidence provided by the OIOS, but would not be competent to provide to the OIOS any information about ongoing investigations or court proceedings. The OIOS would merely be entitled to receive a copy of the judgment and

reasoning, through the competent authorities of the Czech Republic. In investigating crimes, Czech authorities would communicate primarily with the judicial and investigating authorities of the State where the crime was committed - this is possible even in the absence of a treaty, subject to guarantees of reciprocity.

In addition, Czech rules of criminal procedure would not permit the UN Disciplinary Code or similar internal rules and regulations of the Organization to be applied in determining whether the act is punishable. The sole point of reference would be the current substantive law of the Czech Republic and the provisions of promulgated international treaties binding on the Czech Republic.

The Czech Republic is not considering the recruitment of additional staff for its law enforcement authorities to assist in investigating and prosecuting the crimes. The Czech Republic fully respects the standards of due process and promotes their acceptance worldwide.