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PERMANENT MISSION OF THE REPUBLIC OF ESTONIA
TO THE UNITED NATIONS

No: 1484

The permanent Mission of the Republic of Estonia to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the Secretary-General's letter LA/COD/50 of 31 December 2007 concerning paragraphs 3 and 4 of the General Assembly's resolution 62/63 of 6 December 2007 entitled "Criminal Accountability of United Nations officials and experts on mission", Estonia would like to inform the Secretary-General of the following:

Jurisdiction of the Republic of Estonia with regard to crimes of serious nature under paragraph 3 of resolution

Estonian Penal Code recognizes the right to exercise jurisdiction where a crime is committed outside Estonian territory:

§ 7. Applicability of penal law by reason of person concerned

(1) The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act and if:

- 1) the act is committed against a citizen of Estonia or a legal person registered in Estonia;
- 2) the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act, or if the offender is an alien who has been detained in Estonia and is not extradited.

(2) The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and the offender is a member of the Defence Forces performing his or her duties.

Estonian Penal Code also regulates universal jurisdiction in § 8:

§ 8. Applicability of penal law to acts against internationally protected legal rights

Regardless of the law of the place of commission of an act, the penal law of Estonia shall apply to an act committed outside the territory of Estonia if the punishability of the act arises from an international agreement binding on Estonia.

According to the commentaries of Penal Code such crimes are war crimes, genocide, torture and other cruel, inhuman or degrading treatment or punishment, terrorism, drug offences, corruption, illegal immigration, human trafficking, money laundering etc. The punishability of the acts arises from the international agreements binding on Estonia.

Implementation of paragraph 4 of resolution:

Regulation of cooperation in criminal procedure contains in the Code of Criminal Procedure (§ 433-508) that entered into force on 1 July 2004 guarantees compliance with the requirements of paragraph 4. International co-operation in criminal procedure comprises:

- extradition of persons to foreign states;
- mutual assistance between states in criminal matters;
- execution of the judgments of foreign courts;
- taking over and transfer of criminal proceedings commenced;
- co-operation with the International Criminal Court;
- surrender procedure.

In comparison with the previous Code of Criminal Procedure which was valid until 30 June 2004 the provisions on international cooperation have been elaborated in much more detail. The principle of direct applicability of international treaties is also applicable here.

If the Estonian Penal Code is applied to criminal offences which are committed outside the territory of the Republic of Estonia, the Public Prosecutor's Office, which initiates criminal proceedings or verifies the legality and justification of commencement of the criminal proceedings, shall be immediately informed thereof.

The requirements for using the evidence collected abroad in criminal proceedings in Estonia are provided for in § 65 of Code of Criminal Procedure. The relevant Article stipulates that evidence collected in a foreign state pursuant to the legislation of such state may be used in a criminal proceeding conducted in Estonia unless the procedural acts performed in order to obtain the evidence are in conflict with the principles of Estonian criminal procedure.

The Republic of Estonia refuses to engage in international co-operation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

The texts of Penal Code and Code of Criminal Procedure are available at websites

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30068K7&keel=en&pg=1&ptyyp=RT&tyyp=X&query=karistusseadustik> and

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X60027K5&keel=en&pg=1&ptyyp=RT&tyyp=X&query=Kriminaalmenetluse+seadustik> in English.

The permanent Mission of the Republic of Estonia 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, 14 August 2008

Secretary-General
United Nations
NEW YORK

