



Permanent Mission
of the Federal Republic of Germany
to the United Nations
New York

Note No. 301/2008

The Permanent Mission of Germany to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour referring to note verbal LA/COD/50 dated 31 December 2007 to transmit as attached document the statement by the German Government on the General Assembly resolution 62/63 of 6 December 2007, entitled "Criminal Accountability of United Nations officials and experts on mission".

The Permanent Mission of Germany to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

New York, 20 June 2008



His Excellency
Mr. Ban Ki-moon
Secretary-General of the United Nations
United Nations
Secretariat Building, Room S-3800
New York, NY 10017

The minimum standard as stipulated by para. 3 of GA Res. 62/63 is already covered by German criminal law. There are various legal norms to be found in the German Criminal Code (StGB), expanding the application of German criminal law to various situations with a bearing upon foreign countries, so that criminal responsibility for German UN staff on mission is ensured.

Already in Sec. 5 StGB, various offences are enumerated to which German criminal law applies, regardless of their commission abroad and independent of the laws of the country where the crime is committed. Those offences covered may be categorized in three main groups. The first category serves the protection of domestic state interests (offences against state security), offences enumerated in the second category also concern the protection of public interest; however in this group, the active personality principle constitutes the decisive indication for expansion of German criminal law. German criminal law is thus, for example, applicable to offences of any kind which are committed abroad, if the perpetrator is a German public officer or a person specifically engaged for public service who commits the offence during an official stay or in relation to the exercise of his duties, independent of the laws of the state where the crime was committed. The third category deals with cases, the main concern of which is the protection of individual interests, e.g. the violation of company and business secrets, offences against sexual self-determination or trade in body parts (Nr. 7, 8, 15). The offences named deal with legally protected interests, which are regarded as especially worthy of protection and are thus subject to German penal power also in cases pertinent to foreign countries.

Sec. 6 StGB Nr. 2 to 8 contain a specification of the principle of universal jurisdiction by extending the application of German criminal law to cases dealing with international legally protected interests, thereby the nationality of the perpetrator and his residence is irrelevant for criminal accountability.

Beyond that, the German international criminal code allows for prosecution of the most serious crimes against international law, as inter alia genocide,

crimes against humanity and war crimes, irrespective of being committed abroad or having a domestic nexus.

The minimum standard stipulated by GA Res. 62/63 is, however, particularly complied with by Sec. 7 StGB which in general expands German criminal law to offences committed by Germans abroad, should the offence be penalized in the country where it is committed, or should the site of the crime not be subject to any penal power. Thereby, the application of German criminal law is not ruled out, should the perpetrator abandon his nationality or otherwise lose it.