



## PERMANENT MISSION OF GREECE TO THE UNITED NATIONS

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**URGENT**

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The Permanent Mission of Greece to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to his Note LA/COD/50, dated December 31, 2007, regarding General Assembly Resolution 62/63 of December 6, 2007, entitled "Criminal Accountability of United Nations Officials and Experts on Mission", has the honor to communicate the following information in relation of operative paragraphs 3 and 4 of the abovementioned Resolution:

The extraterritorial application of Greek penal laws is governed by articles 6-9 of the Greek Penal Code.

Article 6 establishes active personality as a basis for jurisdiction and stipulates that the Greek penal laws are applicable to any act that is regarded by Greek law as a felony or misdemeanor and was committed in a foreign country by a Greek national, to the extent that such act is punishable under the laws of that country or it was committed in a territory without state organization (para. 1).

According to para.2 of art.6, criminal proceedings are also instituted against a foreigner who, at the time of the commission of the act, was a Greek citizen, as well as against a foreigner who acquired the Greek citizenship after the commission of the act. The aim of this provision is to ensure that offenders do not go unpunished by changing their nationality.

In case, however, of misdemeanors, the application of paras. 1 and 2 of art.6 is subject to the filing of a criminal complaint by the victim or a request by the government of the country where the act was committed (para.3). Petty crimes committed abroad are punishable only in cases expressly provided for by law (para.4),

Article 7 of the Greek Penal Code establishes passive personality as a basis for jurisdiction and provides for the application of Greek penal laws to any act which is regarded by them as a felony or misdemeanor, and was committed abroad by a foreigner, if such act was aimed against a Greek citizen and provided that it is punishable under the laws of the country where it was committed or it was committed in a territory without state organization (para.1). Paras.3 and 4 of art.6 (see above) also apply in this case (para.2).

Article 8 establishes the principle of universal jurisdiction for the following categories of crimes committed abroad, to the extent that it stipulates that Greek penal laws are applicable to nationals and foreigners alike, irrespective of the laws of the country where the act was committed:

- a) high treason, treason against the Greek State and terrorist acts;
- b) crimes concerning military service and the obligation for conscription;
- c) punishable acts perpetrated by persons in their capacity as civil servants of the Greek State;
- d) acts against a Greek civil servant in the exercise of his/her duties or in connection with his/her duties;
- e) perjury in the context of proceedings pending before Greek Authorities;
- f) piracy;
- g) crimes against the currency;
- h) slave-trade, human trafficking, forced prostitution or sexual abuse of minors, child sex tourism, child pornography;
- i) illegal trafficking of narcotic drugs;
- j) illegal circulation and trafficking of obscene publications;
- k) any other crime to which Greek penal laws apply by virtue of express provisions, or international treaties signed and ratified by Greece.

It is to be noted that art.8 applies even if the principle of dual criminality is not satisfied.

For the purpose of extraterritorial application of Greek penal law, stateless persons are generally assimilated to foreigners. Likewise, one can deduce from the provisions of art.6, 7 and 8 of the Greek Penal Code, that Greek penal laws are applicable to acts committed by stateless persons abroad in the following cases:

- a) if the stateless person was a Greek citizen at the time of the commission of the act and subsequently lost the Greek nationality (art.6 para.2);
- b) if the stateless person has, after the commission of the act, acquired the Greek nationality (art.6 para.2);
- c) if the act was aimed against a Greek citizen (art.7 para. 1);
- d) if the offence is one of those provided for in art.8 (see above).

Pursuant to art.9 para.1, the institution of criminal proceedings for acts committed abroad, is precluded in the following cases:

- a) if the accused had been tried abroad and was acquitted or, if convicted, has served his/her sentence in full;
- b) if, according to foreign law, prosecution of the act has been time barred or the inflicted sanction has been time barred or pardoned;
- c) if, according to foreign law, for the act to be prosecuted, it is required that the victim has filed a criminal complaint and such complaint has not been filed or has been revoked.

However, according to art.9 para.2, these provisions do not apply to the offences listed in art.8 (see above).

Moreover, as provided for by art.3 of the Military Penal Code, punishable acts committed by members of the armed forces and do not constitute military crimes are subject to common penal laws. By virtue of

this provision, the rules on extraterritorial application of Greek penal laws described above, apply also to ordinary crimes **committed abroad** by members of the armed forces. Military crimes are punishable irrespective of the place they were committed (art.4 of the Military Penal Code).

Greece has concluded several bilateral treaties on extradition and mutual legal assistance in criminal matters. According to Greek legislation, however, the existence of a treaty is not a precondition for extradition or the granting of legal assistance in criminal matters. In the absence of a treaty, requests for extradition or legal assistance are examined in accordance with relevant provisions of domestic law.

The Permanent Mission of Greece 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.

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