



PERMANENT MISSION OF NORWAY  
TO THE UNITED NATIONS

Mr. Nicholas Michel  
The Legal Counsel  
United Nations  
Room S-3427A  
New York, N.Y. 10017

Your ref:

Our ref:

Date:

1 July 2008

Dear Mr. Michel,

Reference is made to the invitation from the Secretary-General (in document LA/COD/50) to submit information about the implementation of General Assembly Resolution 62/63 of 6 December 2007, entitled "Criminal Accountability of United Nations officials and experts on mission" and in particular with regard to operative paragraph 3 and 4 of that resolution. Reference is also made to paragraph 10 of the said resolution, where the General Assembly requests the Secretary-General to report to the Assembly at its sixty-third session on the implementation of the resolution on the basis of information received from Governments. Please find information about the Norwegian implementation of operative paragraph 3 and 4 below.

### 1. Information about the implementation of OP3

The Norwegian General Civil Penal Code of 1902 establishes jurisdiction over a wide range of crimes committed by Norwegian nationals abroad. Section 12, first paragraph, subsection 3 of the said Act reads:

"Unless it is otherwise specially provided, Norwegian criminal law shall be applicable to acts committed

(...)

3. abroad by any Norwegian national or any person domiciled in Norway when the act

- a) is one of those dealt with in chapters 8, 9, 10, 11, 12, 14, 17, 18, 20, 23, 24, 25, 26 or 33 of this code or sections 135, 141, 142, 144, 145, second paragraph, 145b, 147a, 147b, 162c, 169, 192 to 199, 202, 203, 204a, 222 to 225, 227 to 235, 238, 239, 242 to 245, 291, 292, 294 No. 2, 317, 326 to 328, 330, last paragraph, 338, 342, 367 to 370, or 423 and in any case when it

- b) is a felony or misdemeanour against the Norwegian State or Norwegian state authority,
- c) is also punishable according to the law of the country in which it is committed, or
- d) is committed in relation to the EFTA Court of Justice and is included among those dealt with in section 163, cf. section 167 and section 165, of this code, or sections 205 to 207 of the Courts of Justice Act,
- e) is punishable pursuant to section 5 of Act of 6 May 1994 No. 10 relating to the implementation of the Chemical Weapons Convention,
- f) shall be punishable in accordance with Article 113 of the UN Convention on the Law of the Sea of 10 December 1982 (damage to submarine cables and pipelines),
- g) is punishable pursuant to section 5 of Act of 17 July 1998 No. 54 relating to the implementation of the Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction, or
- h) is punishable pursuant to Act of 15 December 1995 No. 74 relating to a prohibition against female genital mutilation."

The rules of jurisdiction under this provision shall apply to all Norwegian nationals, including Norwegians serving as United Nations officials or experts on mission. Furthermore, the provision applies to diplomats and other persons enjoying criminal immunity abroad.

According to item a, a large number of penal provisions of the General Penal Code shall be applicable to acts committed abroad. Broadly speaking, these penal provisions concern serious crimes, such as terrorist acts, financing of terrorism, sexual offences, and felonies against personal liberty, assault, bodily harm, homicide, torture, vandalism, drug felonies and various types of economic crime.

According to item c of the above section, Norwegian criminal law shall be applicable if the act is punishable pursuant to Norwegian law as well to the law of the country in which the act is committed. It is not required that Norwegian law and foreign law are completely identical. Furthermore, all types of crime fall within the scope of item c.

A new Norwegian Penal Code (the Penal Code of 2005) is currently being drafted. New provisions on jurisdiction have been adopted, but have not yet entered into force. The new rules mainly reaffirm the provisions of the Penal Code of 1902.

Pursuant to section 5 of the Penal Code of 2005, Norwegian criminal legislation shall be applicable to certain acts committed by Norwegian nationals abroad. The provision reads:

"Outside the scope and extent pursuant to Section 4, the criminal legislation applies to acts committed

(a) by a Norwegian national, 2

(...)

when the acts:

1. are also punishable under the law of the country in which they are committed,
2. are regarded as a war crime, genocide or a crime against humanity,
3. are regarded as a breach of the international law of war,
4. are regarded as a child marriage or a forced marriage,
5. are regarded as genital mutilation, 5
6. are directed against the Norwegian State or a Norwegian State authority, or

7. were committed outside the area of sovereignty of any State and are punishable by imprisonment."

Section 6 of the Penal Code of 2005 reads:

"Outside the scope and extent of sections 4 and 5, the criminal legislation also applies to acts that Norway has a right or an obligation to prosecute under agreements with foreign States or under international law generally."

Accordingly, section 6 of the Penal Code of 2005 extends the general rules of jurisdiction set out in section 5.

## **2. Information about the implementation of OP4**

Norway has a number of special arrangements designed to ensure a high level of competence in the various cases.

Insofar as Norwegian experts are military personnel, the Director General of Public Prosecution's decision of 1995 that all crimes committed by Norwegian military personnel abroad who are under Norwegian jurisdiction are to be dealt with by the Chief of Police of Romerike and the Oslo Public Prosecutor's office applies (cf. the Director General of Public Prosecution's circular no. 2/1999).

Personnel in the police and the prosecuting authority who are deployed abroad as experts, including those participating in peacekeeping operations, etc., come under the jurisdiction of the Special Investigating Unit for Police Matters provided that the crime falls within Norwegian jurisdiction and has been committed while on official duty. If the matter is investigated by the authorities of the host country, a Norwegian investigation may be dispensed with (cf. the Director General of Public Prosecution's circular no. 3/3006).

Moreover, the Norwegian police and prosecuting authority give high priority to cases where Norwegian nationals are suspected of having committed serious crimes while on a mission for the UN. There are no economic or other obstacles to close cooperation with the relevant authorities in the country where such crimes are committed with regard to exchange of information and investigation.

Yours sincerely,



Mona Juul  
Ambassador

Deputy Permanent Representative