

*Translated from French*

**Permanent Mission of Tunisia to the United Nations, New York**

16 June 2008

ABL/08/0615

The Permanent Mission of Tunisia to the United Nations presents its compliments to the Office of Legal Affairs of the Secretariat and, with reference to its note verbale OLA/COD/50 of 31 December 2007, has the honour to transmit herewith the response of the Tunisian authorities on measures taken by Tunisia to implement paragraphs 3 and 4 of General Assembly resolution 62/63 entitled "Criminal accountability of United Nations officials and experts on mission".

The Permanent Mission of Tunisia takes this opportunity to convey to the Secretariat of the United Nations the renewed assurances of its highest consideration.

Office of Legal Affairs  
United Nations Secretariat

*Translated from Arabic*

**Comments on the compatibility with Tunisian criminal law of  
General Assembly resolution 62/63 of 6 December 2007,  
concerning the criminal accountability of United Nations officials  
and experts on mission**

General Assembly resolution 62/63 of 6 December 2007, paragraphs 3 and 4, state as follows:

3. [The General Assembly] *Strongly urges* all States to consider establishing to the extent that they have not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State;

4. Encourages all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their domestic laws and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes.

Tunisian criminal law permits Tunisian citizens to be prosecuted and placed on trial before national courts for crimes committed abroad. The Criminal Code, section 305, states that “a Tunisian citizen may be prosecuted and placed on trial by Tunisian courts for a crime or misdemeanour committed outside the territory of the Republic that is punishable under Tunisian law, unless that crime is not punishable in the country in which it was committed, or the accused can show that he was definitively sentenced abroad and that the sentence has been served or has lapsed or that he has benefited from an amnesty”.

The provisions of that section also apply to “individuals who gained Tunisian nationality only after having committed the alleged crimes”.

On the basis of that provision, the Tunisian judicial system may prosecute Tunisian nationals for crimes which they committed abroad as United Nations officials or as experts on mission. It therefore complies with the requirements of General Assembly resolution 62/63, paragraph 3, in respect of investigation, prosecution and trial. Defendants enjoy the same rights granted to other defendants under Tunisian law, regardless of where the crime was committed.

The presence among the observers from international missions of a military judge from the Office of the Military Prosecutor who can conduct direct, on-site investigations in accordance with the law is intended to ensure a sound prosecution in line with Tunisian criminal law. That requirement complies with the final part of paragraph 4 of the resolution, which encourages all States to consider strengthening

the capacities of their national authorities to investigate and prosecute individuals who are alleged to have committed crimes of a serious nature.

Paragraph 4 of the resolution also encourages all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature. Tunisian legislation and guidelines for criminal procedure comply with that request. The Code of Criminal Procedure, section 331, regulates the action to be taken on letters of request issued by authorities abroad; section 332 regulates notification of a judgment or procedural act by a foreign court; section 333 regulates the transmission of evidence to authorities abroad; sections 334 and 335 regulate the summoning of witnesses and the transfer of a detained person to confront his accusers before a foreign court. By means of those guidelines, Tunisian lawyers are permitted to cooperate with foreign States in order to facilitate investigation and prosecution and, therefore, to exchange information. Such exchange should take place through diplomatic channels, as stated in the aforementioned sections.

Tunisia has also concluded bilateral agreements with other States on judicial cooperation regarding criminal matters.

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