
Translated from Russian

Implementation by the Republic of Belarus of General Assembly resolution 63/119 of 11 December 2008, entitled "Criminal accountability of United Nations officials and experts on mission"

In accordance with article 3, part 3, of the Criminal Code of the Republic of Belarus, persons who have committed offences are equal before the law and are subject to criminal prosecution irrespective of their gender, race, nationality, language group, origin, property and official status, place of residence, relationship to religion, beliefs, membership in social groups, or other circumstances.

When United Nations officials and experts on mission who are nationals of the Republic of Belarus commit offences outside its territory, they are subject to criminal prosecution in accordance with the Criminal Code, the Code of Criminal Procedure and the international agreements concluded by the Republic.

Accordingly, pursuant to article 6, part 1, of the Criminal Code, nationals of the Republic of Belarus or stateless persons permanently residing in the Republic who have committed offences outside the Republic of Belarus are liable to prosecution under the Criminal Code if they commit acts that are offences in the State where they were committed and if they have not been prosecuted in that State. When such persons are sentenced, the penalty is fixed within the limits of the sanction stipulated in the relevant article of the Criminal Code but must not exceed the upper limit of the sanction provided for by the law of the State in whose territory the offence was committed.

The Criminal Code is applied independently of the criminal law of the place in which the act was committed where the following offences are concerned:

- (1) Genocide (article 127);
- (2) Crimes against the security of humankind (article 128);
- (3) Production, stockpiling or distribution of prohibited instruments of war (article 129);
- (4) Ecocide (article 131);
- (5) Use of a weapon of mass destruction (article 134);
- (6) Violation of the laws and customs of war (article 135);
- (7) Criminal violations of the norms of international humanitarian law in time of armed conflict (article 136);
- (8) Inaction or issuance of a criminal order in time of armed conflict (article 137);
- (9) Human trafficking (article 181);
- (10) Other offences committed outside the Republic of Belarus which are prosecutable on the basis of a binding international treaty of Belarus.

Furthermore, persons are liable to prosecution under the Criminal Code if they have not been convicted in a foreign State and are brought to justice in the territory of the Republic of Belarus.

In accordance with article 10 of the Constitution of the Republic of Belarus, a national of Belarus may not be extradited to a foreign State except as provided for by the international agreements to which the Republic of Belarus is a party. A similar provision is contained in article 7 of the Criminal Code.

In cases where the extradition of a national of the Republic of Belarus is denied, the competent judicial agency of the Republic of Belarus, in accordance with its legislation and in light of the application and the materials submitted by the competent judicial agency of the foreign State, shall decide whether or not to institute criminal proceedings against the person whose extradition has been denied.

In addition, several international agreements concluded by the Republic of Belarus provide for the detention of its own nationals prior to the receipt of instructions concerning the institution of criminal prosecutions against them. For example, the following was established by article 93 of the Convention on Judicial Assistance and Legal Relations in Civil, Family and Criminal Cases of 7 October 2002:

"1. Each Contracting Party, at the request of another Contracting Party, may detain its own nationals prior to the receipt of instructions concerning the institution of criminal proceedings against them for the commission of serious or particularly serious crimes. Such a request shall include a reference to the detention order and an indication that the instructions for the institution of criminal proceedings are to be provided in due course.

The request for detention and the detention order prior to the receipt of instructions concerning the institution of criminal proceedings may be sent using technical means of communication and by simultaneously sending original copies by post or courier.

2. The requested Contracting Party of which the detained person is a national shall immediately notify (by fax, telephone, telegraph, etc.) the requesting Contracting Party in which the criminal case is being heard of such detention and, in accordance with article 91 of this Convention, shall consider sending relevant materials for the criminal prosecution of this person.

3. In criminal proceedings against such a person, the legislation of the requested Contracting Party shall be applied.

4. A person detained under paragraph 1 of this article shall be released if the instructions for the institution of criminal proceedings and all attached documentation provided for by article 92 of this Convention are not received by the requested Contracting Party within 40 days of this person's detention.

The requesting Contracting Party shall decide whether to prosecute this person on the basis of its domestic legislation."

In the absence of contractual relationships, the execution of a request from a foreign State agency containing a provision on the criminal prosecution of a person shall be governed by section 15 of the Code of Criminal Procedure of the Republic of Belarus (international legal assistance in criminal matters on the basis of the principle of reciprocity).
