



PERMANENT MISSION OF FINLAND
TO THE UNITED NATIONS

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The Permanent Representative of Finland to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the note LA/COD/50 of 31 December 2008, has the honour to submit of the following information pursuant to paragraphs 3, 4 and 5 of the United Nations General Assembly resolution 63/119 of 11 December 2008, entitled "Criminal Accountability of United Nations officials and experts on mission".

Criminal Accountability of United Nations officials and experts on mission

Reply of Finland to the request by the Secretary-General of the United Nations, dated 31 December 2008

Establishment of jurisdiction

Paragraph 3 of the resolution strongly urges Member States to consider, in particular in respect of crimes of a serious nature, the establishment of jurisdiction to cover cases in which crimes are committed by their nationals while serving in duties in question.

Chapter 1 of the Penal Code of Finland (Statute Book of Finland No. 39/1889) provides for the scope of application of Finnish criminal law. According to Section 6:1 of the Chapter, Finnish law applies to an offence committed outside of Finland by a Finnish citizen. Section 11 of the Chapter provides for the requirement of dual criminality. As a starting point, in order to fall under Finnish jurisdiction, an offence committed by a Finnish national in the territory of a foreign State is required to be punishable also under the law of the place of commission. Chapter 1, Section 11:2 of the Penal Code, however, provides for offences to which the principle of dual criminality does not apply. These include offences such as sexual offences and offences in office. Further, Chapter 1, Section 7 of the Code prescribes international offences, which regardless of the law of the place of commission fall under Finnish jurisdiction (so called international crimes). These include offences such as trafficking in human beings and terrorism.

In accordance with the Act on Military Crisis Management (Statute Book of Finland No. 211/2006) persons serving in crisis management are subject to the provisions of Chapter 45 of the Penal Code, which provides for the military offences. The provisions of the Military Court Procedure Act (Statute Book of Finland 326/1983) and the provisions of the Military Discipline Act (Statute Book of Finland 331/1983) will apply to such persons as well.

According to the Act on the Participation of Civilian Personnel in Crisis Management (Statute Book of Finland No. 1287/2004), civil personnel serving in crisis management operations abroad is subject to the provisions of Chapter 1 of the Penal Code. It should also be noted that in general such experts have immunity against the mission's local legislation based upon an agreement concluded by the international organization in question.

Exchange of information and conduct of criminal investigations

As regards prosecution of offences committed abroad, charges may be brought in Finland for crimes falling under Finnish jurisdiction. In accordance with Chapter 1 Section 12 of the Penal Code, in general cases shall not be tried in Finland without a prosecution order by the Prosecutor-General.

The extradition of offenders and legal assistance

Paragraph 5 a of the resolution concerns the extradition of offenders and legal assistance. Subparagraph d is related to the same subject area.

Finnish legislation and international obligations binding on Finland enable large-scale international cooperation in matters concerning extradition and legal assistance. Finland has acceded to the European Convention on Extradition (Finnish Treaty Series No 32/1971). More detailed provisions on the extradition of offenders are laid down in the Nordic Extradition Act (Statute Book of Finland No.270/1960), the Extradition Act (Statute Book of Finland No. 456/1970) and the Act on Extradition on the Basis of an Offence between Finland and other Member States of the European Union (Statute Book of Finland 1286/2003). The Council Framework Decision on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) also includes provisions on the extradition of offenders.

The Act on International Legal Assistance in Criminal Matters (Statute Book of Finland No. 4/1994) covers matters of international legal assistance in general. According to Section 2:1 of the Act, international assistance includes, among other things, service of judicial documents relating to a criminal matter, hearing of witnesses and experts, the use of coercive measures in order to obtain evidence or to secure the enforcement of a confiscation order, institution of criminal proceedings, communication of extracts from and information relating to judicial records required in a criminal matter.

Finland is also a Party to the European Convention on Mutual Assistance in Criminal Matters (Finnish Treaty Series No. 30/1981). The Act on the Implementation of the Regulations in the Field of the Legislation of the European Convention on Mutual Assistance in Criminal Matters and on the Application of the Convention (Statute Book of Finland No. 148/2004) and the Act on the Implementation in Europe of Decisions Concerning the Freezing or Assets and Evidence (Statute Book of Finland No. 540/2005) are related to the implementation of the obligations set by the European Union. Furthermore Finland welcomes all international efforts to create a common multilateral code of conduct for cases of competing competencies in this area.

The protection of victims of and witnesses to crimes of a serious nature

Paragraph 5 c of the resolution concerns the protection of victims of and witnesses to crimes of a serious nature. The paragraph encourages Member States to provide effective protection.

The Finnish legislation contains numerous provisions on the protection of a person involved in a criminal process. Chapter 15 Section 9 of the Penal Code provides for the criminalization of threatening a person to be heard in the administration of justice. The criminal process also includes several procedural provisions in order to ensure that the person to be heard can safely provide his or her testimony. For example Chapter 17 Section 34:1:1 of the Code of Judicial Procedure provides for a witness or a party the possibility to be heard in a main hearing without the presence of the parties to the procedure or other persons. This provision can be applied by the decision of the court when it is deemed appropriate or the practice is necessary for the protection of the health or life of the person to be heard. A witness or a party to the proceedings can also be heard in a main hearing by video conferencing. Also, in accordance with the Act on the

Openness of Government Activities (Statute Book of Finland 621/1999), a party does not have a right to access the contact information of a witness or another party to the matter, if access would compromise the safety, interest or right of the witness or the other party.

The objective of the Act on the Restraining Order (Statute Book of Finland No. 898/1998) is to improve the legal protection of persons under possible threat. Section 14 of the Police Act (Statute Book of Finland 493/1995) provides for the removal of a person who intrudes domestic premises. According to Section 20:1 of the Police Act, police officers have the right to remove a person if it can be concluded that he or she would be likely to commit an offence against life, health, liberty, domestic premises or property.

According to the Act on Data on the Population (Statute Book of Finland No. 507/1993), Local Register Offices may, for a fixed period of time, order that a person's home municipality or address is only available to authorities. Anyone making a request for such an order is required to present justifications for suspecting that his own health or safety or those of his or her family would be threatened. The Act on Security Checks in Courts (Statute Book of Finland No. 1121/1999) contains provisions on the safety of persons who visit courts to attend to matters concerning them. According to Section 9:1:5 of the Act on the Publicity of Proceedings in General Courts of Law (Statute Book of Finland No. 370/2007), trial documents are confidential in respect of the contact information they contain.

There is no specific programme for assisting victims as referred to in the paragraph 5 c of the resolution. However support is provided to victims in a number of ways. The measures related to the protection and confidentiality referred to above are part of the assistance. According to Section 1 of the Legal Aid Act (Statute Book of Finland No. 257/2002), legal aid shall be given at the expense of the state to a person who needs expert assistance in a legal matter and who lacks the means to pay for the expenses of the proceedings. A supporting person can also be ordered for a party.

Furthermore, it should be mentioned in the context of assistance to victims that according to the provisions of the Tort Liability Act (Statute Book of Finland 412/1974), an injured party to a criminal matter may, in the context of the criminal proceedings, claim that the offender pay him compensation for the damage caused by the crime. The victim of a crime may also apply for compensation referred to in the Tort Liability Act (Statute Book of Finland No. 1204/2005) from State funds within the conditions and limits prescribed in the Act, which ensures in practice the realization of his right to compensation.

The Permanent Representative of Finland avails himself this opportunity to renew the Secretary-General of the United Nations the assurance of his highest consideration.

New York, 20 August 2009

His Excellency
Secretary-General of the
United Nations

New York

