



Ref.: 24.11.001.007.012

The Permanent Representative of the Republic of Cyprus to the United Nations presents his compliments to the Secretary-General of the United Nations and further to the latter's Note of 8 January 2010 with reference LA/COD/50 has the honour to hereby submit the following in respect of the implementation of provisions of General Assembly resolution 64/110 of 16 December 2009 entitled "Criminal accountability of United Nations officials and experts on mission":

Operative paragraph 3 of resolution 64/110, 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.

Section 5 of the Cyprus Criminal Code, Cap.154, as amended, is of primary relevance and importance on the issue of extraterritorial application of Cyprus' criminal legislation. Pursuant to paragraph (d) of sub-section (1) of Section 5, the Criminal Code and any other Law which prescribes a criminal offence, shall apply to all offences which have been committed in any foreign country by a citizen of the Republic if the offence is punishable in the Republic with imprisonment which exceeds two years and the act or the omission which constitutes the offence is also a criminal act under the law of the country in which it was committed. Furthermore, paragraph (e) of sub-section (1) of Section 5 provides that the Criminal Code and any other law which prescribes an offence, shall apply to all offences which have been committed in any foreign country by any person, if the offence:

- (i) is treason or an offence against the security of the Republic or the Constitutional Order, or (ii) piracy, or
- (iii) is connected to the currency of the Republic, or
- (iv) concerns illegal trade in dangerous drugs, or
- (v) is one of the offences which, pursuant to any International Treaty of Agreement binding on the Republic, the Law of the Republic is applicable, or

(vi) has, as one of its elements, an act or omission against immovable property situated in the Republic, including conspiracy or attempt, or incitement, or attempt to incite another to commit an offence which has, as one of its elements, an act or omission against immovable property situated in the Republic.

As regards the exercise of jurisdiction of the Cyprus Courts over offences committed abroad, section 6 of the Criminal Code provides that an offence committed in a foreign country in respect of which the Criminal Code, or any other Law of the Republic pursuant to section 5 applies, shall be tried by such competent Court, as the Supreme Court may determine, subject to the provisions of the Constitution.

It should be noted that, in addition to the provisions of the Criminal Code set out above, a number of other Laws include specific provisions for extraterritorial application. By way of example, reference is made to the following Laws:

1. The United Nations Convention Against Transnational Organized Crime and Protocols (Ratification) Law of 2003, Law No.11(III)/2003. Section 10 of the Law provides that, without prejudice to the provisions of Section 5 and despite the provisions of Section 6 of the Criminal Code, the Courts of the Republic shall have jurisdiction to try offences committed contrary to Articles 5,6,8 and 23 of the Convention in the circumstances referred to in paragraphs (1) and (2) of Article 15 of the Convention. Sections 4-6 of the Law criminalize under domestic law the acts set out in Articles 5 (participation in an organized criminal group), 6 (laundering of proceeds of crime) and 8(1)(a) and (b) (Corruption) of the Convention. Furthermore, sections 7-9 of the Law criminalize the acts referred to in Article 5 of the Protocol to Prevent Suppress and Punish Trafficking in Person, Especially Women and Children, Article 6 of the Protocol Against the Smuggling of Migrants by Land, Sea and Air and Article 5(1) of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.
2. The Optional Protocol to the United Nations Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography (Ratification) Law of 2006, Law No.6(III)(2006. Section 6 of the Ratification Law provides that, without prejudice to the provisions of section 5 of the Criminal Code, the Courts of the Republic shall also have jurisdiction to try offences committed contrary to the provision of Article 3, paragraph (1) of the Protocol under the circumstances referred to in paragraph (2) of Article 4 of the Protocol.
3. The Prevention and Suppression of Money Laundering Activities Law of 2007, Law No.188(I)/2007. Under Section 4 of the Law, a person may be prosecuted for a laundering offence in Cyprus, irrespective of whether the predicate offence is subject to the jurisdiction of the Cyprus Courts.
4. The Suppression of Trafficking and Exploitation of Human Beings and Protection of Victims Law, Law No. 87(I)/2007. Section 4 governs the Law's field of application. The Law applies, inter alia, for the prevention, investigation and prosecution of offences

of an international nature. Furthermore, section 26 provides for the extraterritorial jurisdiction of the Courts.

As far as witness protection is concerned, Cyprus has passed the Protection of Witness Law (No. 95(I)/2001), which provides for special measures for the protection of witnesses, informants of justice and victims of crimes and has created a Witness Protection Program, which lies under the direct control and supervision of the Attorney General. This Law could be also applied regarding offences committed by United Nations officials or experts in mission, provided that all the relevant prerequisites are fulfilled.

Lastly, attached to this Note Verbale, is a list of bilateral Agreements that the Republic of Cyprus has concluded on Legal/Judicial Cooperation in Civil and Criminal matters, a list of bilateral Agreements on Extradition (and Agreements which include provisions for Extradition), and finally a list of relevant Multilateral Conventions that the Republic of Cyprus has signed and ratified.

It clearly transpires from the above information that the legislative framework of the Republic of Cyprus satisfactorily addresses the issue of jurisdiction over crimes of a serious nature committed by citizens of the Republic, while serving abroad on a UN mission, without, of course, prejudice to any privileges and immunities such persons may enjoy under International Law binding on the Republic of Cyprus.

The Permanent Representative of the Republic of Cyprus to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration. *[Signature]*

New York, 21 July 2010

To the Secretary-General  
of the United Nations  
United Nations Headquarters  
New York

For the attention of the  
Office of Legal Affairs  
Codification Division

Facsimile: 1212 963 1963

Attachments: 3 pages



<u>List of Countries with which Cyprus has concluded Bilateral Agreements on Legal / Judicial Cooperation in Civil and Criminal Matters</u>		
<b>Country</b>	<b>Title</b>	<b>Rat. Law No.</b>
Former Czechoslovakia (Czech Republic, Slovak Republic)	Agreement on legal assistance in civil and criminal matters	68 of 1982
Hungary	Agreement on legal assistance in civil and criminal matters	7 of 1983
Bulgaria	Agreement on legal assistance in matters of civil and criminal law	18 of 1984
Greece	Agreement on legal assistance in civil, family, commercial and criminal matters	55 of 1984
Syria	Agreement on legal assistance in civil and criminal matters	160 of 1986 13 of 1997
Former Soviet Union (Russian Federation, Ukraine, Belarus, Georgia)	Agreement on legal assistance in civil and criminal matters	172 of 1986
Former Yugoslavia (Serbia, Slovenia)	Agreement on legal assistance in civil and criminal matters	179 of 1986
Egypt	Agreement on judicial and legal assistance in civil and criminal matters	32 of 1992 14 of 1996
China	Agreement on judicial assistance in civil, commercial and criminal matters	19 of 1995
U.S.A	Treaty on mutual assistance in criminal matters – a new Agreement between EU – USA on mutual legal assistance is applied as from 01.02.2010 in relation to the bilateral Treaty between U.S.A and Cyprus	20 of 2002  7 of 2008
Poland	Agreement on legal cooperation in civil and criminal matters	10 of 1997
Libya (The Great Socialist People's Libyan Arab Jamahiriya)	Agreement on Legal Assistance in Civil, Commercial and Criminal Matters	32 of 2005

<u>List of Countries with which Cyprus has concluded Bilateral Agreements on Extradition and Agreements which include provisions for Extradition</u>		
Country	Title	Rat. Law No.
Bulgaria	Agreement on legal assistance in civil and criminal matters (Provisions for Extradition-Articles 33-47)	18 of 1984
Czechoslovak Socialist Republic	Agreement on legal assistance in civil and criminal matters (Provisions for Extradition-Articles 31-45)	68 of 1982
Hungary	Agreement on legal assistance in civil and criminal matters (Provisions for Extradition-Articles 30-45)	7 of 1983
U.S.S.R	Agreement on legal assistance in civil and criminal matters	172 of 1986
Egypt	Agreement on the extradition of offenders	13 of 1996
U.S.A	Treaty on the extradition of offenders	9 of 1997
Libya (The Great Socialist People's Libyan Arab Jamahiriya	Agreement on the Extradition of offenders	25 of 2002

List of related Multilateral Conventions that Cyprus has Ratified

MUTUAL ASSISTANCE

1. European Convention on Mutual Assistance in Criminal Matters, 1959 and Additional Protocol, 1978
  - Ratification Law No. 2 (III)/2000
2. Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, 2000 and Additional Protocol 2001
  - Ratification Law No. 25 (III)/2004
3. European Convention on Cybercrime , ETS 185
  - Ratification Law No. 22 (III)/2004
4. United Nations Convention against Transnational Organized Crime, and its Protocol
  - Ratification Law No. 11 (III) /2003