



PERMANENT MISSION OF THE REPUBLIC OF
B U L G A R I A
TO THE UNITED NATIONS

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The Permanent Mission of the Republic of Bulgaria to the United Nations presents its compliments to the United Nations Office of Legal Affairs and in response to its **Note LA/COD/50** dated 1st March 2011 relating to the implementation of GA Resolution 65/20 of 6 December 2010 entitled "*Criminal Accountability of UN Officials and Experts on missions*" has the honour to submit the information attached herewith.

The Permanent Mission of the Republic of Bulgaria to the United Nations avails itself of this opportunity to renew to the United Nations Office of Legal Affairs the assurances of its highest consideration.

New York, 8 July 2011



UNITED NATIONS
OFFICE OF LEGAL AFFAIRS
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INFORMATION
CONCERNING THE IMPLEMENTATION BY THE REPUBLIC OF BULGARIA OF
GENERAL ASSEMBLY RESOLUTION 65/20 OF 6 DECEMBER 2010

The rules regulating the criminal jurisdiction and the international cooperation in criminal cases, established by the legislation of the Republic of Bulgaria, correspond to the highest degree to the requirements set up in operative paragraphs of GA Resolution 65/20 of 6 December 2010.

With regard to OP3 the Bulgarian Penal Code is applied to Bulgarian citizen including for crimes committed abroad (Art. 4, para 1 of the Penal Code), regardless of whether the perpetrated acts represent a crime according to the legislation of the State within whose territory the offence has been committed. Crimes committed abroad by Bulgarian citizens in their capacity of national officials ('civil servants' crimes) or foreign officials, including UN officials and experts on missions also fall within the scope of the criminal jurisdiction of the Bulgarian State (according to Art. 301, para 5 and Art. 304, para 3 of the Penal Code foreign officials are held responsible for passive and active bribery).

Regarding OP 4 and OP5 (a) and (d), the international cooperation in the field of criminal prosecution is carried out in accordance with the national legislation and the international treaties to which Bulgaria is a party, the latter having precedence over the norms of the national law, which contradict them. The Republic of Bulgaria is a party to numerous conventions of the United Nations, the Council of Europe, the Organization for Economic Cooperation and Development and the European Union in the field of legal assistance in criminal matters. Moreover, the legal assistance with more than 30 UN member states is carried out on the basis of bilateral treaties for mutual legal assistance and extradition.

Chapter thirty-six of the Penal Procedural Code "International cooperation in criminal matters" contains detailed regulation of the transfer of convicted persons, the recognition and enforcement of sentences issued by a foreign court, international legal assistance in criminal matters and the transfer of criminal proceedings. International legal assistance in criminal cases dealt with in another State is provided in accordance with an international treaty or the principle of reciprocity. Assistance could be provided also to an international court whose jurisdiction is recognized by the Republic of Bulgaria. Art. 471-477 of the Penal Procedure Code regulate the different forms of legal assistance, including during the investigation phase, the collecting of evidence and presentation of information. Other forms of legal assistance could be provided for in international treaties or based on reciprocity.

The conditions and the rules on extraditions are defined in the Law on extradition and the European Arrest Warrant. The Extradition Law is applied on the basis of an international treaty or reciprocity. Extradition could be granted on the basis of a request submitted by another State or international court. Extradition is granted only when the act committed is a crime under the Bulgarian law and the law of the requesting State and the crime is punishable with imprisonment for a period of more than one year. Bulgarian citizens cannot be extradited unless otherwise

provided by in an international treaty to which Bulgaria is a party. The special branches within the Ministry of Justice and the Supreme Prosecutor's Office of Cassation are entrusted with guaranteeing the timely of legal assistance and extradition under the conditions of international treaties or on the basis of reciprocity.

With regard to OP5 (b), the provisions of the Bulgarian Penal Procedural Code (Chapter XVII "Investigation") allow for information received from the Organization of the United Nations to serve as a basis for commencement of pretrial proceedings against Bulgarian citizens serving as officials or experts on missions for crimes committed by them abroad.

Regarding the implementation of OP5 (c) the respective legal and institutional framework has been set up for the protection of witnesses, victims and their relatives. Witness protection is regulated in Art. 123 of the Penal Procedural Code and the Law on the Protection of Persons in Criminal Proceedings which establishes the conditions for providing special protection to persons endangered as a result of pending criminal proceedings and persons directly connected to them, where the measures provided in the Penal Procedural Code are insufficient to guarantee their protection. The objective of the Law is to assist in the fight against the most serious crimes by ensuring the safety of the persons, whose testimony is of vital importance for the criminal proceedings. A special Program has been set up in accordance with the Law, providing for the following measures: personal physical protection; protection of property; temporary relocation; change of domicile, employment or place of study; change of identity. A Protection Council to the Minister of Justice has been set up to oversee the implementation of the Program while the measures for protection are applied by the Bureau on Protection which is a specialized department within the Chief Directorate "Protection" of the Ministry of Justice. The Bureau may request the relocation of a person in another State or grant assistance for the temporary residence in the Republic of Bulgaria of a foreign citizen under protection and personal guards upon request of another State in accordance with an international treaty or on the basis of reciprocity.

The described legal and institutional framework guarantees the effective cooperation with the UN Member States and with the Organization itself for the purposes of the criminal accountability of UN officials and experts on missions – Bulgarian citizens for crimes committed by them abroad.