



PERMANENT MISSION OF THE REPUBLIC OF GUYANA TO THE UNITED NATIONS

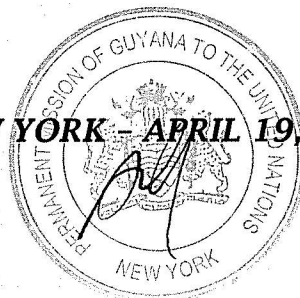
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**59/2011**

The Permanent Mission of the Republic of Guyana to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to forward herewith information as requested by the Secretary-General in relation to General Assembly resolution 65/20 of 6 December 2010, entitled: "Criminal accountability of the United Nations officials and experts on mission."

The Permanent Mission of the Republic of Guyana to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.

**NEW YORK - APRIL 19, 2011**



**Government of Guyana's Response to the Request for Information in respect of United Nations General Assembly Resolution 65/20 "Criminal accountability of United Nations officials and experts on mission", April 15, 2011**

**3. 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.**

**Response:**

Generally, Guyana's criminal law is limited to conduct or acts occurring within Guyana's territorial jurisdiction unless the contrary is expressly provided for. Such an exception is provided for in section 35 of the Sexual Offences Act 2010, Act No.7 of 2010, which became law on 25<sup>th</sup> May 2010 by virtue of the Sexual Offences Act 2010 (Commencement) Order 2010. Section 35 (1) provides as follows:

- Any conduct or act done by a resident or citizen of Guyana in a country or territory outside Guyana shall be deemed to be a sexual offence under the law of Guyana if the conduct or act-
- (a) constituted an offence under the law in force in that country or territory; and
  - (b) would constitute a sexual offence under this Act had it been committed in Guyana.

This section is applicable irrespective of how the conduct or act is described as an offence in the law of the country or territory outside of Guyana.

***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, the 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.***

**Response:**

Cooperation and exchange of information falls under the ambit of the Mutual Assistance in Criminal Matters Act 2009, Act No. 38 of 2009, which became law on the 9<sup>th</sup> June 2010. While the investigation and prosecution of crimes of a serious nature are covered by numerous pieces of legislation including the Criminal Law (Offences) Act, cap 8:01. Due process requirements for any person charged or tried for a criminal offence in the courts of Guyana are specially protected by Article 144 of the revised 1980 Constitution of the Co-operative Republic of Guyana which deals with "provisions to secure protection of the law."

However, the prosecution of United Nations official and experts would be subject to the 1946 Convention on the Privileges and Immunities of the United Nations; the substantive articles of which became incorporated into the laws of Guyana by virtue of the Privileges and Immunities,

(Diplomatic, Consular and International Organizations) Act, cap 18:01.

**5. Also encourages all States:**

**(a) To afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their domestic law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them.**

**Response:**

Provision of legal assistance in criminal matters in Guyana is regulated by the Mutual Assistance in Criminal Matters Act 2009. This Act establishes the Minister of Home Affairs as the Central Authority for receiving and transmitting requests for assistance in the following areas, viz, obtaining evidence; locating or identifying persons; locating or identifying things; obtaining thing by search and seizure; arranging attendance of person; transferring prisoner; serving documents; tracing property; registering/enforcing a forfeiture, pecuniary penalty or restraining order; obtaining a restraining order.

The Act is applicable to requests received from the Central Authority of a Commonwealth country (designated as such under Article 47 (3) of the 1980 and the revised 2003 Constitution of the Co-operative Republic of Guyana); of a country that is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988; or of any country that has a bilateral or multilateral treaty with Guyana in respect of mutual assistance in criminal matters e.g. the Inter-American Convention on Mutual Assistance in Criminal Matters.

Additionally the Evidence (Proceedings in Foreign Tribunals) Act 1991, Act No. 32 of 1991 allows the High Court to assist in obtaining evidence requested for the purposes of proceedings in foreign tribunals.

Matters relating to extradition are governed by the Fugitive Offenders Act 1988, Act No. 15 of 1988 and the amendment of 2009 which allows extradition requests from Commonwealth countries, treaty territories and non-Commonwealth countries which are also non-treaty territories (this is allowed in special cases). An extraditable offence is described as such, according to section 5 (1), " ... where the act or omission constituting the offence, however described, constitutes an offence, and is punishable with death or imprisonment for life or for a term of not less than two years ... " under both the laws of Guyana and the country making the extradition request.

Additionally a person is liable to be extradited from Guyana, in accordance with section 7, if that person is found in Guyana and is accused of an extraditable offence or is alleged to be unlawfully at large after conviction of an extraditable in the requesting country.

**5. Also encourages all States:**

**(b) In accordance with their domestic law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations.**

**Response:**

There is no law that regulates the receipt of information and material from the United Nations but rather regulates evidence received from the Central Authorities of countries covered under the Mutual Assistance in Criminal Act 2009 as mentioned above.

**5. Also encourages all States:**

***(c) In accordance with their domestic law, to provide effective protection for victims of, witnesses to, and others who provide information in relation to, crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access by victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process.***

**Response:**

Generally, witness protection is available for eligible persons who may be witnesses or potential witnesses to a crime of a serious nature, if it is determined that such persons may become victims of an offence involving a crime of violence. Such witness protection is specifically provided in section 14 of the Combating of Trafficking in Persons Act 2005, Act No.2 of 2005. The programme may include relocation, new identity documents establishing identity, new residence, employment work permits and protection of confidentiality of identity and location.

**5. Also encourages all States:**

***(d) In accordance with their domestic law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.***

**Response:**

Any requests for assistance to conduct effective investigations are regulated by the Mutual Assistance in Criminal Matters Act 2009 which, if accepted, must be expedited in accordance with the before-mentioned Act.

***15. Takes note with appreciation of the information provided by Governments in response to its resolutions 62/63, 63/119 and 64/110, and urges Governments to continue taking the measures necessary for the implementation of those resolutions, including their provisions addressing the establishment of 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, as well as cooperation among States.***

**Response:**

It should be noted that United Nations General Assembly Resolutions 62/63, 63/119 and 64/110 deal with the same subject matter of Resolution 65/20 i.e. Criminal Accountability of United Nations officials and experts on missions. Accordingly, these resolutions request the same information that is provided above.