

Translated from Russian

Information on implementation by Turkmenistan of General Assembly resolution 65/20, entitled "Criminal accountability of United Nations officials and experts on mission"

In accordance with article 522, paragraph 7, and article 523, paragraphs 1 and 3, of the Criminal Procedure Code of Turkmenistan (18 April 2009 version), heads, members and staff of foreign missions to international organizations who are in the territory of Turkmenistan enjoy the right to personal immunity on the basis of international treaties and universally acknowledged international custom. These persons may not be detained or remanded in custody, except when necessary for the execution of a sentence imposed upon them which has entered into legal force. Cases of detention or custody are reported without delay by a preliminary investigation body, prosecutor or court to the Ministry of Foreign Affairs of Turkmenistan by telephone, telegraph or other rapid communication method.

In other cases, the national legislation of Turkmenistan does not provide guarantees against or immunity from criminal prosecution for officials and experts on United Nations missions unless an international treaty to which Turkmenistan is a party stipulates otherwise. In that connection, if the persons in question commit a crime covered by the Criminal Code of Turkmenistan, the provisions of the Criminal Procedure Code may be applied to them, whether they are Turkmen nationals, foreign nationals or stateless persons.

In accordance with article 8 of the Constitution of Turkmenistan (26 September 2008 version), foreign nationals and stateless persons enjoy the same rights and freedoms and have the same obligations, including in the context of criminal prosecution, as Turkmen nationals, in accordance with the legislation of Turkmenistan and the international treaties to which it is a party.

In accordance with article 7, paragraphs 1 and 2, and articles 8 and 9 of the Criminal Code of Turkmenistan (10 May 2010 version), persons who have committed crimes in the territory of Turkmenistan are liable to prosecution under the criminal law of Turkmenistan.

Turkmen nationals and stateless persons permanently residing in Turkmenistan who have committed a crime under the criminal law of Turkmenistan outside Turkmenistan are liable to prosecution under the criminal law of Turkmenistan if liability for the action committed is covered by the criminal law of the State in whose territory it was committed, and if those persons have not been convicted in a foreign State. Punishment exceeding the maximum punishment provided for by the law in force in the place where the crime was committed may not be imposed.

Foreign nationals and stateless persons who are not permanently residing in Turkmenistan are liable to prosecution under the criminal law of Turkmenistan for a crime committed outside Turkmenistan if the crime was directed against Turkmenistan or its nationals, and also in the cases provided for under the international treaties to which Turkmenistan is a party if they have not been sentenced in a foreign State and have not been prosecuted in the territory of Turkmenistan.

Foreign nationals and stateless persons who have committed a crime outside Turkmenistan and who are in its territory may be extradited to a foreign State for criminal prosecution or to serve a sentence, in accordance with the international treaties and agreements to which Turkmenistan is a party.

Turkmen nationals who have committed a crime in the territory of a foreign State are not subject to extradition to that State.

Under articles 107-109 of the Criminal Procedure Code of Turkmenistan, the law enforcement agencies of Turkmenistan are responsible for ensuring the safety of participants in criminal proceedings.

The pre-trial officer and the investigator, prosecutor, judge, counsel and their close relatives enjoy State protection. Security measures are taken to protect them from attempts on their life or other violence in connection with consideration of a criminal case or evidence in court, an initial inquiry or a preliminary investigation.

In addition, if an initial inquiry body, investigator, prosecutor or judge has sufficient information in connection with a criminal case to fear that the victims, suspects, accused persons, defendants, witnesses, experts, specialists or other participants in the proceedings and their close relatives risk being killed, being subject to the use of force, violence or cruelty, having property destroyed or damaged, or being subject to other acts prohibited by criminal law, the former must take all measures to protect the lives, honour, dignity and property of the latter, ensure their safety, identify the perpetrators and bring such persons to justice.

To ensure the safety of participants in court proceedings and their close relatives, the judge or presiding officer may hold a closed session.

In order to ensure the safety of a witness and his or her close relatives, judges or courts are entitled to issue a ruling or determination to interview a witness, in response to a motion by the witness or the prosecution or on their own initiative, without releasing information identifying the witness and through the use of a pseudonym; in a manner excluding the possibility of the witness being identified; and without visual observation by others during the court proceedings.

In order to ensure the safety of the defendant or members of the defence team, the presiding officer may prohibit the production of video and sound recordings or other means of recording the interrogations, and may also have the persons in question removed from the courtroom.

Witness testimony given to a court in the absence of any of the participants in the proceedings, or without visual observation by them, is released by the presiding officer in court in the presence of all participants without any information identifying the witness.

The criminal prosecution authorities are responsible for enforcing a judge's ruling or a court determination to ensure the safety of participants in court proceedings and their close relatives.

Articles 542-557 of the Criminal Procedure Code of Turkmenistan cover procedures for international cooperation.

In the course of providing legal assistance to investigative bodies and courts of foreign States with which Turkmenistan has concluded international agreements for legal assistance, or on the basis of reciprocal arrangements, court proceedings may take place as provided for in the Criminal Code of Turkmenistan and the international treaties to which Turkmenistan is a party.

At the request of a State making an application, the procedural rules of a foreign State may be applied. A representative of an authorized body of the relevant State may also be present, if this is provided for under an international treaty to which Turkmenistan is a party.

Applications are rejected if fulfilling them is contrary to the legislation of Turkmenistan or could harm the sovereignty, national independence, policy and principles of permanent neutrality or security of Turkmenistan.

Witnesses, victims, civil plaintiffs, civil defendants and their representatives and experts who are foreign nationals may, with their consent, be called by the authorized official with responsibility for a criminal case to appear in investigations or judicial proceedings in the territory of Turkmenistan.

Investigations and judicial proceedings attended by witnesses, victims and other participants in the proceedings are conducted on condition that they may not be subject to coercive measures,

financial penalties or criminal prosecution for refusing to testify or for giving testimony or drawing conclusions that they know to be false. They may not be held criminally or administratively liable, remanded in custody or punished in Turkmenistan for acts committed before crossing the State border. Nor may such persons be punished, held liable or remanded in custody for testimony given as a witness or conclusions given as an expert in a criminal case.

If the person called to appear is held criminally liable and convicted of committing another crime in the territory of the State from which legal assistance is requested, that person may be handed over temporarily, irrespective of nationality.

If a foreign national commits a crime in the territory of Turkmenistan but has since left that territory, the investigative body refers the criminal case to the competent authorities of the foreign State for criminal prosecution of the person in question.

If a Turkmen national commits a crime in a foreign State but returns to Turkmenistan before criminal charges have been brought, a criminal case may be brought against that person by the preliminary investigative bodies of Turkmenistan on the basis of evidence and documents related to the crime submitted by the relevant institution of the foreign State.

In the cases and under the conditions prescribed in the legislation of Turkmenistan and the international treaties to which it is a party, the Office of the Public Prosecutor of Turkmenistan may request the competent body of a foreign State to extradite a national of Turkmenistan or a non-national of the requested State who has committed a crime, if that person is the subject of a decision for criminal prosecution as a defendant or of a guilty verdict.

Without the consent of the extraditing State, persons may not be held criminally liable, punished or handed over to a third State for any crime other than that for which they were extradited.

Extradition may be refused if: the person requested for extradition by a foreign State is a Turkmen national; the act providing grounds for the extradition request is not considered an offence under the laws of Turkmenistan; the person has already been convicted of the same offence and the sentence is legally in force, or the proceedings in the case have been halted; or if criminal proceedings cannot be brought or a sentence cannot be carried out under the legislation of Turkmenistan because of a statute of limitation or for any other lawful reason.

Extradition may also be refused if the offence for which extradition is being requested was committed in Turkmenistan territory or outside it but was directed against the interests of Turkmenistan.

On the extradition of a person to a body of a foreign State, items may be handed over that were instruments of an offence, constitute evidence of an offence or were obtained by criminal means.

These items may be temporarily withheld if they are necessary for proceedings in another criminal case.

In order to safeguard the lawful rights of third persons, items are handed over only if the relevant body of the foreign State guarantees that they will be returned on completion of proceedings in the case.

The law enforcement agencies of Turkmenistan have no evidence of crimes having been committed by United Nations officials and experts on mission over the period 2006-2011.
