



PERMANENT MISSION OF GREECE TO THE UNITED NATIONS

866 SECOND AVENUE • NEW YORK, NY 10017-2905

TEL: (212) 888-6900 • FAX: (212) 888-4440

E-MAIL: MISSION@GREECEUN.ORG

No 1184

VERBAL NOTE

The Permanent Mission of Greece to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to his Note LA/COD/50 dated 4 January 2013, concerning General Assembly Resolution 67/88 of 14 December 2012, entitled "Criminal Accountability of United Nations officials and experts on mission", has the honor to communicate to him the following information in relation to operative paragraphs 3, 4, 5, 8, 9, 10 and 15 of the above mentioned Resolution:

The extraterritorial application of Greek penal laws is governed by articles 6-9 of the Greek Penal Code.

Article 6 establishes active personality as a basis for jurisdiction and provides that the Greek penal laws are applicable to any act that is regarded by Greek law as a felony or misdemeanor and was committed in a foreign country by a Greek national, to the extent that such act is punishable under the laws of that country or was committed in a territory without state organization (par. 1).

According to paragraph 2 of Article 6, criminal proceedings are also instituted against a foreigner who, at the time of the commission of the act, was a Greek citizen as well as against a foreigner who acquired the Greek citizenship after the commission of the act. The aim of this provision is to ensure that offenders do not go unpunished by changing their nationality.

In case, however, of misdemeanors, the application of paragraphs 1 and 2 of Article 6, is subject to the filing of a criminal complaint by the victim or a request by the government of the country where the act was committed (par. 3). Petty crimes committed abroad are punishable only in cases expressly provided by law (par. 4)

Article 7 of the Greek Penal Code establishes passive personality as a basis for jurisdiction and provides for the application of Greek penal laws to any act which is regarded by them as a felony or misdemeanor, and was committed abroad by a foreigner, if such act was aimed against a Greek citizen and provided that it is punishable under the laws of the country where it was committed or was committed in a territory without state organization (par. 1). Paragraphs 3 and 4 of Article 6 (see above) also apply in this case (par. 2).

*Office of Legal Affairs
of the United Nations
New York*

Article 8 establishes the principle of universal jurisdiction for the following categories of crimes committed abroad, to the extent that it provides that Greek penal laws are applicable to nationals and foreigners alike irrespective of the laws of the country where the act was committed:

- a) high treason, treason against the Greek State and terrorist acts;
- b) crimes concerning military service and the obligation for conscription;
- c) punishable acts perpetrated by persons in their capacity as civil servants of the Greek state;
- d) acts against a Greek civil servant in the exercise of his/her duties or connected with his/her duties;
- e) perjury in the context of proceedings pending before Greek authorities;
- f) piracy;
- g) crimes against the currency;
- h) slave-trade, trafficking in human beings, forced prostitution or sexual abuse of minors for profit, child sex tourism or child pornography;
- j) illegal trafficking in narcotic drugs;
- i) illegal circulation and trafficking in obscene publications;
- k) any other crime to which Greek penal laws apply by virtue of express provisions or international conventions signed and ratified by Greece.

It is to be noted that Article 8 applies even if the principle of dual criminality is not satisfied.

For the purposes of the extraterritorial application of Greek penal laws, stateless persons are generally assimilated to foreigners. Likewise, it can be deduced from the provision of Articles 6, 7 and 8 of the Greek Penal Code that Greek penal laws are applicable to acts committed by stateless persons abroad in the following cases:

- a) If the stateless person was a Greek citizen at the time of the commission of the act and subsequently lost the Greek nationality (Article 6 par. 2);
- b) If the stateless person has, after the commission of the act, acquired the Greek nationality (Article 6 par. 2) ;
- c) If the act was aimed against a Greek citizen (Article 7 par. 1);
- d) If the offence is one of those provided for in Article 8 (see above).

Pursuant to Article 9 par. 1 the institution of criminal proceedings for acts committed abroad is precluded in the following cases:

- a) if the accused was tried abroad and acquitted or, if convicted, has served his sentence in full;
- b) if, according to foreign law, prosecution of the act has been time barred or the inflicted sanction has been time barred or pardoned;
- c) if, according to foreign law, for the act to be prosecuted it is required that the victim has filed a criminal complaint and such complaint has not been filed or has been revoked .

However, these provisions do not apply to the offences listed in Article 8 (Article 9 par. 2).

Moreover, according to Article 3 of the Military Penal Code, punishable acts committed by members of the armed forces which do not constitute

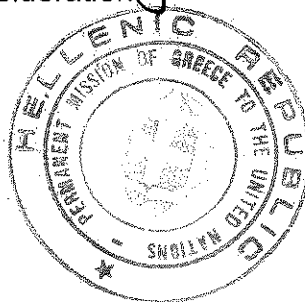
military crimes are subject to common penal laws. By virtue of this provision, the rules on extraterritorial application of Greek penal laws described above apply also to ordinary crimes committed abroad by members of the armed forces. Military crimes are punishable irrespective of the place where they were committed (Article 4 of the Military Penal Code).

It should also be noted that Article 2 of Law 3948/2011(Official Gazette, Vol. A' 71/5.4.2011) on the "Adjustment of domestic law provisions to the provisions of the Statute of the International Criminal Court ratified by Law 3003/2002 (A' 75)" provides that the provisions of this Law are applicable both to nationals and foreigners for all acts enumerated in Articles 7 to 15 (i.e. genocide, crimes against humanity, war crimes, violation of the duty of supervision, omission to report a crime) provided that they have been committed:

- a) in the territory of the Greek State or on board Greek vessels or aircrafts, wherever they are present, unless they are subject to foreign legislation according to international law,
- b) abroad, by Greek nationals or foreigners who acquired the Greek nationality after the commission of the act,
- c) abroad, against the Greek State or Greek nationals.

Finally, Greece is a party to several bilateral treaties on extradition and mutual legal assistance in criminal matters. Greek legislation, however, does not make extradition or the granting of legal assistance in criminal matters conditional on the existence of a treaty. In the absence of a treaty, requests for extradition or legal assistance are examined in accordance with relevant provisions of domestic law.

The Permanent Mission of Greece to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



New York, 28 May 2013