

Permanent Mission of El Salvador to the United Nations
46 Park Avenue, New York NY 10016
www.facebook.com/PermanentMissionofElSalvadortotheUnitedNations

DNU-0104

The Permanent Mission of the Republic of El Salvador to the United Nations presents its compliments to the Codification Division of the Office of Legal Affairs and writes with reference to General Assembly resolution 68/105, entitled "Criminal accountability of United Nations officials and experts on mission", in which States were requested to provide information on the implementation of that resolution, in particular with respect to paragraphs 3, 5, 8 and 9 thereof.

In that regard, the Permanent Mission of El Salvador to the United Nations has the honour to submit to the Codification Division of the Office of Legal Affairs the report of the Republic of El Salvador on the issue in question.

The Permanent Mission of El Salvador to the United Nations takes this opportunity to convey to the Codification Division of the Office of Legal Affairs the renewed assurances of its highest consideration.

New York, 29 May 2014

Codification Division
Office of Legal Affairs
United Nations Secretariat
New York

**"Criminal accountability of United Nations officials and experts on mission"
Report of the Republic of El Salvador pursuant to United Nations General Assembly
resolution 68/105**

The Republic of El Salvador submits this report pursuant to General Assembly resolution 68/105, entitled "Criminal accountability of United Nations officials and experts on mission", in which States were requested to provide information on the implementation of that resolution, in particular with respect to paragraphs 3, 5, 8 and 9 thereof.

With regard to this important topic, El Salvador, as indicated at previous sessions, has comprehensive criminal legislation relating to both substance and procedure, which allows the competent authorities to use the State's *ius puniendi* in accordance with the requirements of due process.

To that end, three basic principles for the application of criminal law have been defined, allowing the prosecution of crimes committed by individuals within Salvadorian territory, or outside of it when certain requirements are met. The Salvadorian Penal Code lays down the principles of territoriality, personality and universality, which are defined as follows:

Principle of territoriality

Art. 8.- Salvadorian criminal law shall apply to punishable acts committed wholly or in part in the territory of the Republic, or in places subject to its jurisdiction.

Principle of personality or nationality

Art. 9.- Salvadorian criminal law shall also apply:

- (1) To crimes that were committed abroad by an individual in the service of the State, when the individual has not been indicted in the place the crime was committed, owing to the privileges attached to his or her position;
- (2) To crimes that were committed by a Salvadorian abroad or in a place not subject to the particular jurisdiction of a State; and,
- (3) To crimes committed abroad by Salvadorians, when extradition is requested and denied on account of their nationality, or by foreigners, [when such crimes] infringed upon the legal rights of Salvadorians.

Principle of universality

Art. 10.- Salvadorian criminal law shall also apply to crimes committed by any person in a place not subject to Salvadorian jurisdiction, provided that they affect rights that are internationally protected by specific agreements or norms of international law or seriously violate universally recognized human rights.

The last two principles are particularly relevant since they would allow the prosecution of any Salvadorian national committing a wrongful act while on mission. Furthermore, in order to

strengthen these general provisions, El Salvador has adopted specific measures to ensure that the perpetrator of a crime is brought to justice.

In that regard, the Salvadorian armed forces have taken the step of signing a memorandum of understanding with the host country, before a mission begins operations, in order to ensure that any official or expert who commits an act constituting a crime will be extradited for prosecution in the Republic of El Salvador.

Although to date there have been no cases of Salvadorian nationals committing crimes while on mission, this type of action shows the State's willingness to contribute to building a domestic and international legal system that guarantees accountability in this respect and aims to prevent impunity for crimes of a serious nature.