



**PERMANENT MISSION OF THE CZECH REPUBLIC
TO THE UNITED NATIONS**

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No. 87/2015

The Permanent Mission of the Czech Republic presents its compliments to the Office of Legal Affairs of the United Nations and, with reference to its note No. LA/COD/50 dated January 21, 2015, and pursuant to the General Assembly resolution 69/114 of 10 December 2014 entitled „**Criminal accountability of United Nations officials and experts on missions**“, has the honor to transmit information concerning the implementation of the above-mentioned resolution. The updated document supplements information provided by the Czech Republic in previous years.

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

New York, May 29, 2015



Office of Legal Affairs
United Nations
New York

Implementation of the General Assembly resolution 69/114 of 10 December 2014 by the Czech Republic

The Czech Republic provides hereinafter updated information concerning criminal accountability of United Nations officials and experts on mission and supplements its information transmitted in previous years.

Ad 3:

In 2009 a new Act No. 40/2009 Sb., Criminal Code, was adopted and entered into force on 1 January 2010. It has taken over the provision of active personality jurisdiction from the preceding Criminal Code (Act No. 140/1961 Sb.). The Section 6 of the Criminal Code reads as follows:

The punishability of an act committed abroad by a national of the Czech Republic or by a stateless person holding permanent residence status in the Czech Republic shall likewise be determined on the basis of the law of the Czech Republic.

The jurisdiction of Czech courts is further stipulated in the Act No. 141/1961 Sb., Criminal Procedure Code. Its Section 18(2) reads as follows:

If the place where the act was committed cannot be determined or if the act was committed abroad, the proceedings shall be conducted by the court having jurisdiction over the district where the accused habitually resides, works or is temporarily present; if it is not possible to determine these places or they are outside the territory of the Czech Republic the proceedings shall be conducted by the court having jurisdiction over the district where the act emerged.

Ad 4:

The Czech Republic is a party to many multilateral conventions and bilateral agreements concerning assistance in criminal matters, which falls within the scope of police or judicial cooperation. Some of these agreements also contain provisions on spontaneous information. Spontaneous information is information that is forwarded by competent authorities of one State without prior request to the competent authorities of another State. Such information is obtained within the framework of the first State's own investigation and is forwarded to another State when it considers that the disclosure of such information might assist the receiving State in initiating or carrying out investigations or proceedings.

Ad 5 (a):

The international cooperation is covered by the Act No. 104/2013 Sb., on international judicial cooperation in criminal matters, which has entered into force on 1 January 2014. This part of international cooperation was previously included in the Criminal Procedure Code and the new Act contains most of its provisions. Nevertheless, the Act is more detailed and sets forth for instance that in case of absence of a relevant treaty the Ministry of Justice of the Czech Republic may accept or provide a guarantee of reciprocity for the international cooperation only after reaching the agreement with the Ministry of Foreign Affairs.

Ad 5 (c):

The protection of victims is now set forth in the Act No. 45/2013 Sb., on victims of crime. Its Section 14 regulates the protection of victims. It reads as follows:

A police officer in cases prescribed by other legal act when the safety of the victim is endangered will act or take other measures for ensuring the safety of the victim.

Part 1 of the Act on victims of crimes envisages specialized assistance to victims of the crime. Section 4 of the Act reads as follows:

Subjects registered in the register of providers for assistance to victims of crime provide specialized assistance to victims within the registered scope and under the conditions prescribed by this or other legal acts which shall mean psychological consultancy, social consultancy, legal aid, providing legal information or restorative programs before the initiation of, during or after the termination of the criminal proceedings. The specialized assistance is provided until it is required by its objective.

Ad 5 (d):

Providing information is governed by Section 6 of Act No. 104/2013 Sb., on international judicial cooperation in criminal matters, which refers to Sections 8a – 8d of Criminal Procedure Code describing conditions under which information could be provided to host States.

Sections 8a – 8d of Criminal Procedure Code read as follows:

Section 8a

(1) When providing information about their activities, the authorities involved in criminal proceedings are mindful not to endanger clarification of matters significant for criminal proceedings, not to disclose information on parties concerned in criminal proceedings not directly related to criminal activities and not to breach the principle that until a person prosecuted in criminal proceedings is found guilty by a final condemning judgement, he may not be regarded as guilty (Section (2)). In pre-trial proceedings the authorities involved in criminal proceedings must not disclose information eligible for identification of a person, against whom is conducted criminal proceeding, an aggrieved person, parties concerned and a witness; such information may be disclosed in a necessary extend only for the purposes of search for persons or in order to reach the purpose of criminal proceedings.

(2) When providing information according to sub-section (1), the authorities involved in criminal proceedings are particularly mindful about protection of personal data and privacy of minors under 18 years of age.

(3) The authorities involved in criminal proceedings inform the public about their activities by providing information according to sub-section (1) to news media; they will refuse to provide information in order to protect interests referred to in sub-sections (1) and (2). Should a public prosecutor reserve the right to provide information on a specific criminal matter in pre-trial proceedings, police authorities may provide such information only with his previous consent.

Section 8b

(1) Persons who were provided with information on persons referred to in Section 8a (1) for the purposes of criminal proceedings or for exercising rights or for fulfilling duties imposed

by a special legal Act, will not forward such information to any third parties, unless it is necessary for the stated purposes. These persons must be instructed thereof.

(2) Nobody will, in connection to a criminal offence committed against an aggrieved person, in any way disclose information that enable identification of the aggrieved person who is under the age of 18, or against whom was committed an offence of trafficking in human beings or propagation of pornography, or an offence against life and health, freedom and human dignity or an offence against family and juveniles.

(3) Disclosing of photographs, audiovisual records or other information about the course of trial hearing or a public session, which would enable identification of the aggrieved person referred to in sub-section(2), will be prohibited.

(4) Final judgement will not be published in news media with stating name or names and address of the aggrieved person referred to in sub-section (2). The presiding judge may, with regard to character of the aggrieved person and the nature of the committed offence, decide on further restrictions related to publishing the final condemning judgement for the purpose of adequate protection of interests of such an aggrieved person.

(5) Prohibition of disclosing information referred to in sub-sections (2) to (4) will not apply

(a) if this law allows disclosing such information,

(b) if their disclosure is necessary for the purposes of searching for persons or in order to reach the purpose of criminal proceedings, or

(c) if the aggrieved person gives a previous written consent with disclosure of these information; if the aggrieved person is a minor under 18 years of age, or is declared legally incompetent or has his legal competence restricted, the consent must be given also by his legal guardian.

Section 8c

If this Code or a special legal Act does not provide otherwise, nobody will, without a consent of the person concerned, disclose information on ordering or performing interception of telecommunication transmission according to Section 88 or information acquired thereby, data on the telecommunication transmission ascertained on the basis of an order according to Section 88a, or information acquired by surveillance of persons and items according to Section 158d (2) and (3), if they can facilitate identification of such a person and if they have not been used in trial proceedings.

Section 8d

(1) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may be disclosed to the necessary extent for the purposes of searching for missing persons, to reach the purpose of criminal proceedings or if it is allowed by this Act. The stated information may also be disclosed, if it is justified by the public interest, and if public interest takes outweighs the right to privacy of the person concerned; however, it is necessary to exercise due care for protection of the interests of a person under 18 years of age.

(2) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may also be disclosed if the person concerned by the prohibition of disclosure grants his explicit consent with the disclosure of such information. If such a person died or was pronounced dead, the consent may be granted by the spouse, partner or a child of the deceased person, and in their absence by his parents; in the case of a person under 18 years of age or an

incapacitated person or a person with a restricted legal capacity, by their legal guardian. The consent with the disclosure of information may not be granted by a person who has committed a criminal offence against the person who died or was pronounced dead.

(3) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may also be disclosed if the person concerned by the prohibition of disclosure died or was pronounced dead and there is no person entitled to grant the consent to the disclosure of information according to sub-section (2).