



**PERMANENT MISSION  
OF GREECE  
TO THE UNITED NATIONS**

*HM*

**No.: 100.7/ 1396**

**VERBAL NOTE**

The Permanent Mission of Greece to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations and, with reference to the latter's Note LA/COD/50/1/13.12.17 and General Assembly's Resolution 72/112 of 7 December 2017, has the honor to enclose information pursuant to that Resolution, in particular with respect to the relevant provisions of Greece's criminal legislation.

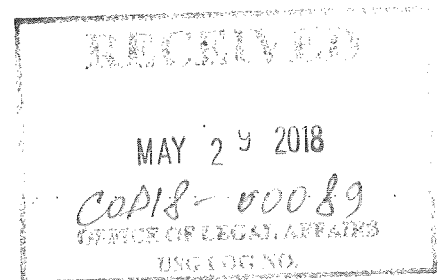
The Permanent Mission of Greece to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.



New York, May 29th, 2018

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Office of Legal Affairs  
United Nations  
New York



## **Criminal accountability of United Nations officials and experts on mission**

### **Information provided by Greece**

With regard to the implementation in Greece of Resolution 72/112 of 7 December 2017 entitled "Criminal accountability of United Nations officials and experts on mission", and specifically paragraphs 10, 12, 13, 15, 18 and 20, please note the following:

There is no specific criminal legislation in place in Greece relating to UN officials or experts on mission. However, Greek criminal law adequately covers these categories of persons according to the rules of the first chapter of the general part of the Greek Criminal Code which defines the scope of application of Greek criminal law. Article 5 of this chapter, on crimes committed within the Greek territory (or on Greek vessels and aircrafts), reflects the principle of territoriality, article 6 on crimes committed by Greeks abroad reflects the principle of nationality and article 7 on crimes committed by aliens abroad against a Greek citizen reflects the principle of passive personality. More specifically, article 6 provides for the application of Greek penal laws on acts such laws regard as a felony or misdemeanor, committed by Greek nationals abroad, including nationals who serve as UN officials or experts on mission, if such act is punishable according to the laws of the country where it was committed, or if it was committed in a constitutionally unsettled country. The prosecution of offences of a serious nature (felonies) is not tied to any further requirement. In so far as misdemeanours are concerned, it is necessary to have the victim's complaint requesting prosecution or a request for prosecution by the government of the country where the misdemeanour was committed. Petty violations committed abroad are punished only in cases specifically provided for by law. The competent national court for handling such cases is defined according to articles 123-124 of the Greek Code of Criminal Procedure.

Additionally, Article 8 on crimes committed abroad that are always punishable according to the Greek laws, provides that Greek penal laws apply for the acts committed abroad and enunciated in this provision, for Greeks and aliens alike, irrespective of the laws of the place where the crime was committed. This article reflects the protective principle in its paras. (a)-(e) dealing respectively with (a) treason aimed against the Greek state and terrorist acts, (b) crimes relating to the military service and the obligation to join the armed forces, (c) acts committed by Greeks and aliens under their capacity as officials of the Greek State or of any institution or body of the European Union based in Greece, (d) an act against or addressed to an official of the Greek State or a Greek official of an institution or body of the European Union, in the course of or in connection with the performance of his/her duties and (e) perjury in a proceeding pending before the Greek authorities. Article 8 also reflects the universality principle in its paras. (f)-(k), dealing respectively with (f) piracy, (g) a crime related to currency (h) an act of slave trading, human trafficking or lewd conduct with a minor (i) illegal trafficking of narcotic drugs (j) illegal circulation and trading of obscene publications (k) any other crime covered by special provisions or international conventions to which Greece is a party, providing for the application of the penal laws of Greece.

The jurisdiction *ratione personae* of Greek criminal courts is subject to the jurisdictional immunities recognized in article 2 of the Greek Code of Criminal Procedure which refers also to relevant international agreements as well as customary international law. Greece is a Contracting Party to the Convention on the Privileges and Immunities of the United Nations since the 27<sup>th</sup> of December 1947.

Regarding military personnel, there is no special legislation in Greece about the criminal responsibility of such personnel deployed as United Nations officials or experts on mission. Thus the general provisions of the Greek Penal Code and the Greek Military Penal Code in force for all the military personnel of the Hellenic Armed Forces, apply also to Greek military personnel deployed as United Nations officials or experts on mission.

The criterion determining, in each case, whether the clauses of the common criminal law or of the military criminal law will apply, is the nature of the offence allegedly committed by the military personnel: if it is a military offence, the latter being defined in article 1 of the Greek Military Penal Code as any offence stipulated as such and punished under the provisions of this Code, the Code's pertinent provisions will apply. On the contrary, in case of an offence of the common criminal law, then only the common Greek Penal Code applies. Hereupon, there is no provision for an "a priori" exclusive application to military personnel of either of the two Codes.

Furthermore, according to the second article of the Military Penal Code, the provisions of the latter apply also for acts committed outside Greek territory.

Article 3 of the same Code stipulates that the provisions of the Penal Code apply also to military offences when there are no different regulations in the Military Penal Code. From the aforementioned, it is clearly understood that in lack of special regulations in the Military Penal Code, the clauses of articles 5-11 of the Greek Penal Code presented above in replies to questions 1-4, apply also to military offences of the military personnel (either serving in a UN mission or not).

Points (b)-(c): According to the first paragraph of article 193 of the Military Penal Code, individuals who are in the military at the time the act was committed fall under the jurisdiction of the military criminal courts. This general rule does not apply in the cases provided for in paragraph 2 of the same article which include, *inter alia*, military offences committed during leave of absence, holiday or suspension which exceed three months or during defection, as well as capital offences and misdemeanors which under special laws fall under the court of appeals jurisdiction.

Furthermore, according to article 195 of the Military Penal Code, if military personnel and civilians have participated at a crime, the common criminal courts have jurisdiction if the crime pertains to the common criminal law, but if the crime is a military offence, then the case is divided and military courts have jurisdiction for the military personnel while jurisdiction for civilians remains with the common criminal courts. Finally article 197 of the Military Penal Code stipulates that if the offender has committed numerous crimes which fall under both the military and common courts' jurisdiction, they are all judged by the court which has jurisdiction for the more severe offence, excluding defection which is always judged by the military courts. If from the partial acts of a repeated crime, some were committed at a time the offender was in the

military and others were committed when he/she was a civilian, then all crimes are judged by the common criminal courts.

Finally, Greece is ready and continuously endeavors, in accordance with its national law, to afford every possible assistance, support and protection in relation to criminal investigations or criminal or extradition proceedings in respect of crimes committed by UN officials and experts on missions, as foreseen in par. 12 of Resolution 72/112, and to explore all ways and means of enhancing such measures and facilitating the relevant proceedings, bearing in mind due process considerations.

Please see attached excerpts of the relevant national provisions.

"PENAL CODE

BOOK ONE, GENERAL PART CHAPTER ONE: THE PENAL LAW

[...]

II. Territorial limits of penal laws

Article 5

Crimes committed within the Greek territory

1. Greek penal laws apply on all acts committed within the Greek territory, even when committed by aliens.
2. Greek vessels and aircrafts are considered part of the Greek territory wherever they are situated, unless they are subjected to foreign law in accordance with international law.
3. When the act is committed through the internet or other means of communication, the Greek territory is also considered as place of commission, if access is provided to these particular means in its soil, independently of their place of installation.

Article 6

Crimes committed by Greeks abroad

1. Greek penal laws also apply on any act that they regard as a felony or misdemeanour, which has been committed abroad by a Greek, if such act is regarded as a punishable act by the laws of the country where it has been committed, or if it has been committed in a country that is constitutionally unsettled.
2. Prosecution shall also be turned against an alien who was Greek at the time when the act was committed. Moreover, prosecution shall also be turned against a person who acquired the Greek nationality after the act was committed.
3. In so far as misdemeanours are concerned, the victim's complaint requesting prosecution or a request for prosecution by the government of the country where the misdemeanour was committed is necessary in order for the provisions of paragraphs 1 and 2 to be applied.
4. Petty violations committed abroad are punished only in cases specifically provided for by law.

Article 7

Crimes committed by aliens abroad

1. Greek penal laws are also applied against an alien for an act committed abroad that they regard as a felony or misdemeanour, if this act is directed against a Greek citizen and is also considered as a criminal

offence according to the laws of the country where it was committed or if it was committed in a constitutionally unsettled country.

2. The provisions of paragraphs 3 and 4 of the previous article are also applied herein.

#### Article 8

Crimes committed abroad that are always punishable according to the Greek laws

Greek penal laws apply for Greeks and aliens, irrespective of the laws of the place where the crime was committed, for the following acts committed abroad:

- (a) High treason, treason aimed against the Greek state and terrorist acts (article 187A);
- (b) Crimes relating to the military service and the obligation to join the armed forces (special part, Chapter 8);
- (c) A punishable act committed by the above persons under their capacity as officials of the Greek state or of any institution or body of the European Union based in Greece;
- (d) an act against or addressed to an official of the Greek State or a Greek official of an institution or body of the European Union, in the course of or in connection with the performance of his/her duties;
- (e) Perjury in a proceeding pending before the Greek authorities;
- (f) Piracy;
- (g) A crime related to currency (special part, Chapter 9);
- (h) An act of slave-trading, human trafficking or lewd conduct with a minor for pay, travel with the purpose of intercourse or other lewd acts against a minor or underage pornography;
- (i) Illegal trafficking of narcotic drugs;
- (j) Illegal circulation and trading of obscene publications;
- (k) Any other crime covered by special provisions or international conventions that are signed and ratified by the Greek state, providing for the application of the penal laws of Greece.

#### Article 9

Non-prosecution of crimes committed abroad

1. Prosecution of an act committed abroad is excluded: (a) if the perpetrator was tried abroad and found not guilty or, in case he/she was found guilty, has served his/her sentence in its entirety; (b) if, according to the foreign law, the act has fallen under the statute of limitations or the penalty imposed has been prescribed or pardoned; (c) if, according to the foreign law, a complaint by the victim is necessary for prosecution and such complaint was either never made or has been withdrawn.

2. The above provisions are not applied in relation to the acts stipulated in article 8.

Article 10

Calculation of penalties served abroad

A penalty served abroad in whole or in part is subtracted from the subsequent penalty imposed by the Greek courts, if a verdict on guilt is pronounced in Greece for the same act.

Article 11

Recognition of foreign penal decisions

1. If a Greek has been found guilty abroad for an act that, in accordance with the provisions of Greek laws, entails the imposition of supplementary penalties, the competent court of misdemeanours may impose such penalties.

2. The competent court of misdemeanours may also impose the measures of security provided for by the Greek laws to anyone found guilty or innocent abroad.

(...)

Article 16

Place of commission

The act is regarded as having been committed at the place where the perpetrator committed the punishable act or omission in whole or in part, as well as the place where the punishable result occurred or, in cases of attempt, the place where the punishable result should have occurred according to the perpetrator's intent."

**Law Number 2287**

**Validation of the Military Penal Code**

**Article 1**

**Definition of military offence**

A military offence is any act stipulated and punished by the clauses of this code.

**Article 2**

**Territory in which the code is in force**

The clauses of this code also apply for acts committed out of the country's territory.

**Article 3.**

**Force of the penal code clauses**

The clauses of the Penal Code stand as always and apply also to the military offences, when no different regulations are included in the current code.

**Article 193**

**Jurisdiction of military criminal courts**

1. The individuals who are in the military when the act was committed as well as the prisoners of war fall under the jurisdiction of the military criminal courts.
2. Individuals in the military do not fall under the military courts but under the common criminal courts in the following instances:



- a. Non military offences which they commit during a leave of absence, holiday or suspension, when they exceed three months or during defection.
- b. Misdemeanors and petty offences committed during the hearing of any common criminal court, if they are judged immediately according to the clauses of the Common Penal Code.
- c. Offences against the laws for the conduct of public elections or referendums.
- d. The crimes of barratry, piracy and duel as well as crimes committed during a duel.
- e. Offences against the customs and forestal code and the laws about hunting and fishing.
- f. Offences against the law on taxation and market regulation, with the exception of acts contained in article 154 of this code.
- g. Capital offenses and misdemeanors which fall under the court of appeals through special laws.
- h. Crimes committed against bodies of the Hellenic Police when these bodies execute their duties or for reasons relating to them.

**Article 135**

**Participation of military personnel and civilians**

If the crime is committed by both military and civilian individuals then the competent courts are:

- a. The common criminal courts, if the crime pertains to the common criminal law.

- b. Court Martial for military personnel and common criminal courts for civilians, when the crime is military.

**Article 197**

**Competence on related, repeated and enduring crimes**

1. If numerous crimes are committed and some fall under military courts while others fall under common criminal courts, they are judged by the court which has jurisdiction for the most severe crime. Defection is an exemption since it is always judged by military courts.
2. If from the partial acts of a repeated crime, some were committed at a time when the offender was in the military and others when he/she was a civilian, all are judged by the common criminal courts. This clause applies accordingly to enduring crimes too.