



HLL

LATVIJAS REPUBLIKAS PASTĀVĪGĀ PĀRSTĀVniecĪBA
APVIENOTO NĀCIJU ORGANIZĀCIJĀ ŅUJORKĀ

PERMANENT MISSION OF THE REPUBLIC OF LATVIA TO THE UNITED NATIONS

Note No. UN-N-17801

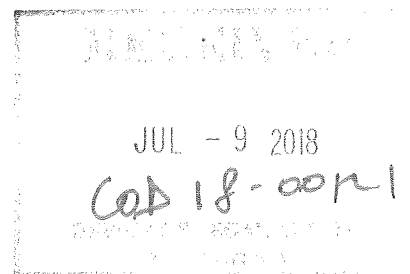
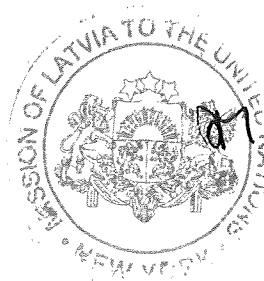
The Permanent Mission of the Republic of Latvia to the United Nations presents its compliments to the United Nations Office of Legal Affairs and has the honour to forward, enclosed herewith, the Note Verbale informing on the implementation of the United Nations General Assembly Resolution 72/112 of 7 December 2018, entitled "Criminal Accountability of United Nations officials and experts on missions".

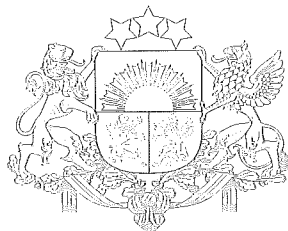
The Permanent Mission of the Republic of Latvia to the United Nations avails itself of this opportunity to renew to the United Nations Office of Legal Affairs the assurances of its highest consideration.

Enclosed – 4 pages

New York, 9 July 2018

United Nations Office of Legal Affairs
New York





LATVIJAS REPUBLIKAS ĀRLIETU MINISTRIJA

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF LATVIA

No. 41 - 14703

The Ministry of Foreign Affairs of the Republic of Latvia presents its compliments to the Office of Legal Affairs of the United Nations, and with reference to the Note of 13 December 2017 LA/COD/50/1 from the Office of Legal Affairs has the honour to enclose the information regarding the implementation of the United Nations General Assembly Resolution 72/112 of 7 December 2017, entitled "Criminal Accountability of United Nations officials and experts on missions".

The Ministry of Foreign Affairs of the Republic of Latvia avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.

Enclosed: Information on the implementation of the United Nations General Assembly Resolution 72/112 of 7 December 2017 on 3 pages.

Riga, 4 June 2018



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

Information on the implementation of the United Nations General Assembly Resolution
72/112 of 7 December 2017

In Paragraph 10 of the United Nations General Assembly Resolution 72/122 of 7 December 2017 on criminal accountability of United Nations officials and experts on mission (hereinafter – Resolution), all States are strongly urged to consider establishing jurisdiction over crimes, particularly those of a serious nature, committed by their nationals while serving as United Nations officials or experts on mission.

Section 4 of The Criminal Law (hereinafter – CL) provides for extraterritorial jurisdiction over offences committed by nationals of the Republic of Latvia, including persons serving on UN missions, outside the territory of the state. A Latvian citizen taking part in a UN international mission as an expert or an official can be held liable under Section 1 of the CL stipulating that Latvian citizens, non-citizens, and foreigners who have a permanent residence permit in the Republic of Latvia, shall be held liable, in accordance with the CL, in the territory of Latvia for an offence committed in the territory of another state or outside the territory of any state irrespective of whether it has been recognised as criminal and punishable in the territory of commitment.

In the cases when an offence has been committed by Latvian soldiers on UN international missions, jurisdiction is established pursuant to Paragraph two, Section 4 of the CL, namely, soldiers of the Republic of Latvia who are located outside the territory of Latvia shall be held liable for criminal offences in accordance with the CL, unless it is otherwise provided for in international agreements binding upon the Republic of Latvia.

Moreover, in accordance with Clause “b”, Paragraph 47 and Paragraph 48 of the Model status-of-forces agreement for peace-keeping operations, members of the military component of UN peace-keeping operations are subject to the exclusive jurisdiction of their states as concerns any criminal offence that the military members might commit in the host country. The UN obtains confirmation from its member states that they can exercise their jurisdiction over their national contingent for any criminal offence and violations committed.

In Paragraph 12 of the Resolution, the States are invited to afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at UN disposal. The States are also requested to provide information on mechanisms for offering effective protection for victims of, witnesses to and others who provide information in relation to crimes of a serious nature allegedly committed by UN officials and experts on mission.

As concerns international cooperation in the field of criminal law, we would like note that information exchange is taking place as prescribed by Part C of the Criminal Procedure Law (hereinafter – CPL). Pursuant to Section 673 of the CPL, Latvia requests international co-operation in criminal matters from a foreign state and ensures such co-operation in the extradition of a person for criminal prosecution, trial, or the execution of a judgment, or for the determination of compulsory measures of a medical nature; in the transfer of criminal proceedings; in the execution of procedural actions; in the execution of a security measure not related to deprivation of liberty; in the recognition and execution of a judgment; and in other cases provided for in international treaties.

Pursuant to Section 675, the competent authorities that are specified in laws and regulations governing international co-operation in the field of criminal law send and

received requests for judicial co-operation in criminal matters. In that cooperation, a Latvian competent authority may agree with a foreign competent authority regarding the direct communication between courts, Prosecutor's Offices, and investigating institutions. If an agreement with a foreign state regarding judicial co-operation in criminal matters does not exist, the Minister for Justice and the Prosecutor General have the right, within the framework of the competence specified in this Part of this Law, to submit to the foreign state a request, or to receive a request from the foreign state, for judicial co-operation in criminal matters. The officials referred to in Paragraph three of this Section may request from, or submit to, a foreign state a confirmation that reciprocity will be observed in judicial co-operation in criminal matters, that is, that the co-operation partner will hereinafter provide assistance, observing the same principles.

Furthermore, the CPL allows the use, in criminal proceedings, of information provided by the United Nations bodies and request additional information at their disposal in relation to criminal proceedings initiated. The question about cooperation with UN bodies within the framework of criminal proceedings has been dealt with in the reply on Article 15 of the Resolution.

As regards a mechanism for protecting victims or witnesses who report on criminal offences committed by UN officials or experts on international missions, please note that victims and witnesses in those cases are not granted a privileged status. The said persons are subject to Section 24 of the CPL providing for the protection of a person and property in the case of a threat, Section 96 of the CPL on recognizing a person as a victim, Section 96.1 of the CPL on granting a person the status of specially protected victim, Sections 97, 97.1, 98, 100, 101 of the CPL on the rights of a victim, as well as Sections 109, 110, 111 on the rights and duties of a witness.

In addition, Chapter 17 of the CPL sets out a mechanism for special procedural protection concerning persons involved in criminal proceedings when there is threat to their life, health, and other lawful interests. According to Section 299 of the CPL, special procedural action is the protection of the life, health, and other lawful interests of a victim, witness, and other persons who testify or have testified in criminal proceedings regarding serious or especially serious crimes. Section 300 of the CPL sets out the grounds for special procedural protection. Pursuant to Paragraph one of this Section, the grounds for special procedural protection is a real threat to the life, health or property of a person, real threats expressed, or information that provides sufficient grounds for the person directing the proceedings to believe that a threat may be real in connection with the testimony provided by such person. Furthermore, pursuant to Paragraph two of this Section, a written submission of a threatened person, or the representative or defence counsel thereof, if a threatened person agrees to it, and a proposal of the person directing the proceedings is the grounds for the determination of special procedural protection.

As regards Paragraph 13 of the Resolution, we would like to note that soldiers who meet the provision of Paragraph two, Section 16 of the Military Service Law can be conscripted or accepted into military service (also with regard to Clauses 9, 10, 11 of Section 43 of the Military Service Law concerning the termination of a professional service contract), whereby a soldier involved in committing a criminal offence cannot be sent on an operation. At the same time, all soldiers sent on international operations have undertaken pre-mission training which includes topics on soldiers' rights and obligations. As concerns vetting for any prior criminal misconduct while serving with the United Nations, the Armed Forces of the Republic of Latvia, where necessary, will ensure the vetting of personnel to comply with the demands of the UN Resolution and send on such operations the personnel who meet the standards set for a UN official and expert.

In regard to the servicemen of Zemessardze [the National Guard volunteer force], who could also participate in UN operations, the UN recommendations will be taken into

account pursuant to the provisions of Paragraph four, Section 14 of The National Guard of the Republic of Latvia Law.

As regards Paragraph 15 of the Resolution inviting further comments from Member States on resolutions 62/63 and 63/119, and the report of the Group of Legal Experts A/60/980 of 16 August 2006 concerning criminal accountability of United Nations officials and experts on international missions, we would like to inform that the current legislation ensures Latvia's jurisdiction over its nationals who have committed criminal offences and makes it possible to invite UN experts to criminal proceedings.

We would like to note that where information has been received on crimes of a serious nature allegedly committed by UN officials and experts on mission, including where such information has been received from competent UN bodies, action shall be taken pursuant to Section 369 of the CPL stipulating that a reason for initiating criminal proceedings is the submission of information indicating the committing of a possible criminal offence to an investigating institution, Prosecutor's Office, or court (hereinafter – the institution responsible for the progress of criminal proceedings), or the acquisition of such information at an institution responsible for the progress of criminal proceedings.

Within ongoing criminal proceedings, when information on a criminal offence committed by a Latvian national must be obtained from competent UN officials, the competent UN institutions may be invited to take part in the criminal proceedings as witnesses under Section 109 of the CPL and to provide information (testify) regarding the circumstances to be proven in criminal proceedings and the facts and auxiliary facts related to such circumstances. Similarly, pursuant to Paragraph one, Section 113 of the CPL, an official performing criminal proceedings may invite a UN expert as a specialist in criminal proceedings with the aim of using his or her special knowledge or work skills in a specific field.

According to Section 676 of the CPL, evidence that has been acquired as a result of co-operation in criminal matters and in accordance with the criminal procedure established in a foreign state is regarded as equivalent to the evidence acquired in accordance with the procedures provided for in the CPL.

According to Paragraph one, Section 127 of the CPL, evidence in criminal proceedings is any information acquired in accordance with the procedures provided for in the Law, and fixed in a specific procedural form, regarding facts that persons involved in the criminal proceedings use, in the framework of their competence, in order to justify the existence or non-existence of conditions included in an object of evidence. In line with Paragraph 5, Section 124 of the CPL, the conditions included in an object of evidence shall be considered proven, if any reasonable doubts regarding the existence or non-existence thereof have been excluded during the course of proving. Paragraph one, Section 130 of the CPL stipulates that it is admissible to use information regarding facts acquired during criminal proceedings, if such information was obtained and procedurally fixed in accordance with the procedures laid down in the CPL. Paragraph two of this section specifies cases when information regarding facts is inadmissible and unusable in proving.

As to compliance with Paragraph 20 of the Resolution (in the context with Paragraphs 18 and 19 thereof), information could be provided to the UN Secretary-General on the basis of a respective request insofar as it is not contrary to the national law or prejudice national investigations, including pursuant to Paragraph one, Section 375 of the Criminal Procedure Law stipulating that during criminal proceedings, the materials located in the criminal case constitute a secret of the investigation, and the officials who perform the criminal proceedings, as well as the persons to whom these officials present the relevant materials in accordance with the procedures provided for in this Law, shall be permitted to familiarise themselves with such materia