

Translated from Arabic

Observations of Iraq on criminal accountability of United Nations officials and experts on mission

1. In the first part of paragraph 10 of its resolution 73/196, the General Assembly urges States to establish jurisdiction [over crimes]. This of great significance to the sovereignty of States and their ability to apply their national laws in respect of and exercise jurisdiction over crimes committed outside their territorial jurisdiction by their nationals while serving as United Nations officials and experts on mission, in accordance with the principles of personal jurisdiction and the applicability of the criminal code of the State to its nationals who commit crimes abroad. Article 12 of the Iraqi Penal Code (law No. 111 of 1969) provides as follows: “1. The present Code is applicable to any officials or agents of the Republic who commit abroad a felony or misdemeanour set out in the present Code while carrying out their duties or as a consequence thereof. 2 It is also applicable to any official of the Iraqi diplomatic corps who commits abroad a felony or misdemeanour set out in the present Code and who enjoys immunity under international law.”
 2. In the second part of paragraph 10 of the aforementioned resolution, the Assembly urges States and international organizations to provide technical assistance to States requesting such support. Iraq believes that this is very important and should be emphasized, because it allows for the collection of evidence against individuals who commit crimes outside the territorial limits of the State of their nationality that can be used to convict such individuals and prevent them from escaping punishment on the grounds that they are United Nations officials and experts on mission.
 3. There is no problem with regard to the implementation in Iraq of paragraph 12 of the resolution, in particular subparagraphs (a), (b) and (d) thereof, because the provisions of articles 353 and 368 of the Code of Criminal Procedure (law No. 23 of 1971) address in detail judicial assistance and extradition. The principles set out in paragraph 12 of the resolution accord with the provisions of Iraqi law, which addresses those issues from the procedural aspect.
 4. Iraqi lawmakers have seized the initiative with regard to the provisions of paragraph 12 (c) of the resolution by adopting the Protection of Witnesses, Experts, Whistle-Blowers and Victims Act (law No. 58 of 2017), in order to provide such persons and their families with protection, ensure that evidence is collected in a sound manner and preserved, uncover crimes and prevent persons from not coming forward, in accordance with the international conventions ratified by the Republic of Iraq. The aforementioned Act applies to any witness or victim, regardless of whether the crimes were committed by United Nations officials and experts on mission.
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